

ILLINOIS POLLUTION CONTROL BOARD

March 18, 2004

SWEARINGEN AMOCO	)	
(October 1, 1996 to February 28, 1997)	)	
(May 1, 1997 to March 31, 1998)	)	
(October 1, 1997 to October 31, 1998 and	)	
March 1, 1995 to May 31, 1997)	)	
(June 1, 1996 to June 30, 1996)	)	
(July 1, 1996 to August 31, 1996)	)	
(February 1, 2000 to July 31, 2000)	)	
(July 1, 2000 to February 1, 2001),	)	
	)	
Petitioner,	)	
	)	
v.	)	PCB 03-156
	)	PCB 03-157
ILLINOIS ENVIRONMENTAL	)	PCB 03-158
PROTECTION AGENCY,	)	PCB 04-151
	)	PCB 04-152
Respondent.	)	PCB 04-153
	)	PCB 04-154
	)	(UST Appeal)
	)	(Consolidated)

ORDER OF THE BOARD (by J.P. Novak):

On March 9, 2004, Swearingin Amoco timely filed two petitions asking the Board to review two February 3, 2004 determinations of the Illinois Environmental Protection Agency (Agency). On March 11, 2004, Swearingin Amoco timely filed two more petitions asking the Board to review two February 11, 2004 determinations of the Agency. *See* 415 ILCS 5/40(a)(1) (2002); 35 Ill. Adm. Code 105.402. Because the postmark dates of the two March 9, 2004 petitions are within the time for filing, the petitions were timely filed. 35 Ill. Adm. Code 101.300(b)(2), 105.404.

The Agency approved petitioner's requests for reimbursement from the UST Fund, with modifications, for Swearingin Amoco's leaking underground petroleum storage tank facility located at 503 South State Street, Jerseyville, Jersey County. Swearingin Amoco appeals on the grounds that the costs submitted for reimbursement were reasonable and were of the type that are eligible for reimbursement.

The various petitions filed relate to costs for corrective actions undertaken at a single location but over different periods. The petition in docket PCB 04-151 relates to corrective actions undertaken during the period June 1, 1996 through June 30, 1996. The petition in docket PCB 04-152 relates to corrective actions undertaken during the period July 1, 1996 through August 31, 1996. The petition in docket PCB 04-153 relates to corrective actions undertaken

during the period February 1, 2000 to July 31, 2000. The petition in docket PCB 04-154 relates to corrective actions undertaken during the period July 1, 2000 to February 1, 2001.

Swearingin Amoco's petitions meet the content requirements of 35 Ill. Adm. Code 105.408. The Board accepts the petitions for hearing.

On March 11, 2004, Swearingin Amoco filed a motion to consolidate the newly filed petitions (PCB 04-151, PCB 04-152, PCB 04-153, and PCB 04-154) with the previously consolidated petitions (PCB 03-156, PCB 03-157, and PCB 03-158). In support of its motion, Swearingin Amoco asserts that all seven petitions relate to the same leaking underground storage tanks, but reflect different periods of time, and that consolidated consideration and decision on the petitions will result in a more expeditious and complete determination of the issues involved, without prejudice to any party involved. On July 25, 2003, Swearingin Amoco filed open waivers of the decision deadlines on the petitions involved in dockets PCB 03-156, PCB 03-157, and PCB 03-158.

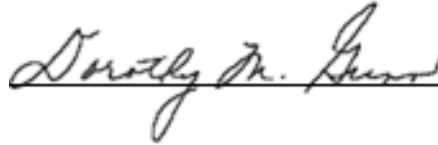
The motion for consolidation of dockets PCB 04-151, PCB 04-152, PCB 04-153, and PCB 04-154 with consolidated dockets PCB 03-156, PCB 03-157, and PCB 03-158 is granted. The due date for decision in this consolidated docket will be determined based on the filing date of the earliest petitions filed for which Swearingin Amoco has not filed waivers of the decision deadline: PCB 04-151 and PCB 04-152.

Swearingin Amoco has the burden of proof. 35 Ill. Adm. Code 105.112(a). Hearings will be based exclusively on the record before the Agency at the time the Agency issued its determination. 35 Ill. Adm. Code 105.412. Hearings will be scheduled and completed in a timely manner, consistent with the decision deadline (*see* 415 ILCS 5/40(a)(2) (2002)), which only Swearingin Amoco may extend by waiver (*see* 35 Ill. Adm. Code 101.308). If the Board fails to take final action by the decision deadline, Swearingin Amoco may deem its request granted. *See* 415 ILCS 5/40(a)(2) (2002). Currently, the decision deadline is July 7, 2004 (the 120th day after the filing of PCB 04-151 and PCB 04-152 on March 9, 2004). *See* 35 Ill. Adm. Code 105.114. The Board meeting immediately before the decision deadline is scheduled for June 17, 2004.

Unless the Board or the hearing officer orders otherwise, the Agency must file the entire record of its determination by April 17, 2004, which is 30 days after Swearingin Amoco filed the petition. 35 Ill. Adm. Code 105.410(a). If the Agency wishes to seek additional time to file the record, it must file a request for extension before the date on which the record is due to be filed. 35 Ill. Adm. Code 105.116. The record must comply with the content requirements of 35 Ill. Adm. Code 105.410(b).

IT IS SO ORDERED.

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above order on March 18, 2004, by a vote of 5-0.

A handwritten signature in cursive script, reading "Dorothy M. Gunn", written over a horizontal line.

Dorothy M. Gunn, Clerk  
Illinois Pollution Control Board