

ILLINOIS POLLUTION CONTROL BOARD
March 20, 2003

BROCK OIL COMPANY,)	
)	
Petitioner,)	
)	PCB 03-61
v.)	PCB 03-62
)	(UST Appeal)
ILLINOIS ENVIRONMENTAL)	(Consolidated)
PROTECTION AGENCY,)	
)	
Respondent.)	

ORDER OF THE BOARD (by N.J. Melas):

On March 10, 2003, petitioner Brock Oil Company (Brock Oil) filed a motion to consolidate (Mot.) two underground storage tank decision appeals. Brock Oil filed the two appeals separately and the Board accepted the appeals for hearing and docketed them as PCB 03-61 and PCB 03-62. The Agency has no objection to this motion to consolidate. For the reasons set forth below, the Board grants Brock Oil's motion and consolidates these two appeals.¹

In its motion to consolidate, Brock Oil states that the petitions in both PCB 03-61 and PCB 03-62 were filed with the Board on January 30, 2003. Mot. at 1. Brock Oil asserts that in each petition the cause is the same and only the sites differ: Normal and Hoopeston. Other than the sites being different, Brock Oil claims the burdens of proof in each appeal are the same and that consolidation of the two proceedings would be in the interest of convenient, expeditious, and complete determination of the claims. Brock Oil concludes that consolidation would not cause material prejudice to any party. Mot. at 2.

The Board notes that the final Agency decisions regarding Brock Oil/Normal and Brock Oil/Hoopeston were issued on the same day, September 25, 2003. Normal Pet. at 1; Hoopeston Pet. at 1. While Brock Oil requests reimbursement of different sums at the Normal and Hoopeston sites, both petitions involve substantially similar subject matter. More specifically, in dispute at each site is Brock Oil's eligibility for reimbursements for costs associated with certain materials, activities, and services incurred by Brock Oil to meet the minimum requirements of the Environmental Protection Act (415 ILCS 5/1 et seq.) and Board regulations. Normal Pet. at 3; Hoopeston Pet. at 3. Brock Oil states that it incurred the costs in producing a "Method 3" Amended Site Classification Work Plan, a corresponding budget, and a Site Classification Completion Report for both the Normal and Hoopeston sites.

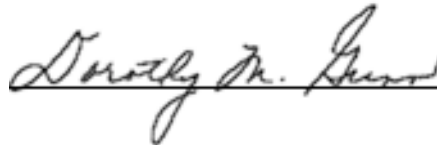
¹ The petition in Brock Oil/Normal v. Illinois Environmental Protection Agency, PCB 03-61 will be cited in this order as: "Normal Pet. at ___." The petition in Brock Oil/Hoopeston v. IEPA, PCB 03-62 will be cited in this order as: "Hoopeston Pet. at ___."

Pursuant to Board rules, the Board will consolidate proceedings if consolidation is in the interest of convenient, expeditious and complete determination of claims, and if the consolidation would not cause material prejudice to any party. 35 Ill. Adm. Code 101.406. The Board finds that consolidation of PCB 03-61 and PCB 03-62 will not materially prejudice any party, and will assist in the expeditious and complete determination of the claims before us. As reflected in the caption above, the Board grants Brock Oil's motion to consolidate. The Board consolidates these appeals for hearing, but not necessarily for decision.

Under Section 101.500(d) of the Board's procedural rules, a party has 14 days after service of a motion to file a response to the motion. 35 Ill. Adm. Code 101.500(d). However, Section 101.500(d) also provides that the Board may grant a motion before expiration of the 14-day response period in order to avoid undue delay. 35 Ill. Adm. Code 101.500(d). Here, because the Agency has no objection to this motion and in the interest of expeditious determination of claims, the Board grants Brock Oil's motion to consolidate.

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 20, 2003, by a vote of 7-0.

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

Dorothy M. Gunn, Clerk
Illinois Pollution Control Board