

ILLINOIS POLLUTION CONTROL BOARD  
August 7, 1997

MARILYN J. RICHEY,	)	
	)	
Complainant,	)	
	)	PCB 97-148
v.	)	(Enforcement - UST)
	)	
TEXACO REFINING AND MARKETING,	)	
INC.,	)	
	)	
Respondent.	)	

ORDER OF THE BOARD (by G.T. Girard):

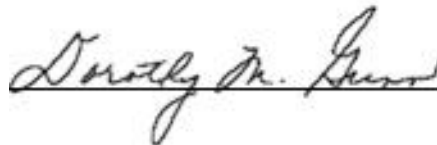
On June 2, 1997, respondent filed a motion to dismiss or in the alternative to stay this proceeding. The Board received a response from complainant (Resp.) on July 14, 1997. The Board accepts the response from the complainant even though the response was filed beyond the seven days allowed by rule. See 35 Ill. Adm. Code 103.140(c). The Board allows this response because respondent did not properly serve the motion on complainant's attorney.

The motion to dismiss is denied. Respondent argues that the Board lacks subject matter jurisdiction in this cost recovery proceeding. However, the Board has found that the Board does have the authority to hear cost recovery cases. See, Lake County Forest Preserve District v. Ostro, PCB 92-80 (March 31, 1994); Herrin Security Bank v. Shell Oil Company, PCB 94-178 (September 1, 1994); and Streit v. Oberweis Dairy, Inc., PCB 95-122 (September 7, 1995). The Board finds nothing in respondent's motion which convinces us to revisit this issue.

The Board also denies the motion to stay. Complainant indicates that the reimbursement claim has been dismissed and is no longer pending. Resp. at 3. The Board finds that this case is not duplicitous and the matter should proceed.

IT IS SO ORDERED.

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, hereby certify that the above order was adopted on the 7th day of August 1997, by a vote of 6-0.



Dorothy M. Gunn, Clerk  
Illinois Pollution Control Board