

ILLINOIS POLLUTION CONTROL BOARD
May 15, 2003

E.G. VOGT OIL COMPANY, INC.,)	
)	
Petitioner,)	
)	
v.)	PCB 00-141
)	(UST Fund)
ILLINOIS ENVIRONMENTAL)	
PROTECTION AGENCY,)	
)	
Respondent.)	

ORDER OF THE BOARD (by W.A. Marovitz):

This matter is before the Board on petitioner E.G. Vogt Oil Company, Inc.'s (E.G. Vogt) motion for continuance of stay filed on April 24, 2003. E.G. Vogt requests an additional 120 days to resolve the matter. Respondent, the Illinois Environmental Protection Agency (Agency) did not file a response to the motion. For the reasons stated below, the Board grants E.G. Vogt's motion, but the continuance is for a final 60 days.

E.G. Vogt originally filed this petition for review of an underground storage tank reimbursement decision on May 25, 2000. The Agency filed the record on February 5, 2002. On May 20, 2002, E.G. Vogt filed a motion to stay and represented that it intended to submit a corrective action reimbursement request to the Agency. On June 4, 2002, the hearing officer assigned to this matter granted the stay for 90 days. On October 28, 2002, counsel for E.G. Vogt represented to the hearing officer that she might withdraw from the case. As of today, counsel for E.G. Vogt is still handling the case. On both December 23, 2002 and January 8, 2003, E.G. Vogt represented to the hearing officer that it still intended to resubmit for consideration early action costs previously denied by the Agency. On April 4, 2003, the hearing officer issued an order after E.G. Vogt failed to appear at a status conference. The hearing officer noted that the Agency stated on April 4, 2003 that E.G. Vogt had failed to resubmit the costs. The hearing officer referred the case to the Board for dismissal for lack of prosecution.

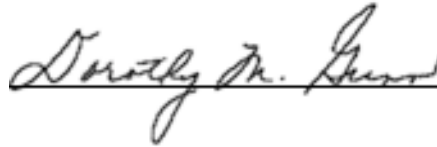
On April 24, 2003, E.G. Vogt filed a motion for continuance of stay. E.G. Vogt states that it has been unable to resubmit previously denied cleanup costs for reimbursement by the Agency because the environmental consultant assisting E.G. Vogt has been called to active military duty regarding the war with Iraq. Mot. at 2.

The Board is not unsympathetic to E.G. Vogt's environmental consultant being unavailable at this time due to being on active military duty. However, E.G. Vogt represented to the hearing officer that it would resubmit the costs back on May 20, 2002, a time when there was no issue of military duty. While the Board allows parties to resolve cases if they can, the Board will dismiss cases if there is no sign of progress in either the negotiation or litigation of a case.

The Board grants E.G. Vogt a final 60 days, until July 14, 2003, to resubmit the costs to the Agency. The hearing officer is directed to schedule a status conference prior to August 1, 2003. If this case is not progressing, the Board will take appropriate steps to bring it to a conclusion.

IT IS SO ORDERED.

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above order on May 15, 2003, by a vote of 7-0.

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

Dorothy M. Gunn, Clerk
Illinois Pollution Control Board