

ILLINOIS POLLUTION CONTROL BOARD
March 18, 2004

HANNEL OIL COMPANY)	
(January 1, 2001 to June 30, 2001))	
(July 1, 2000 to December 31, 2000))	
(August 1, 2002 to November 30, 2002),)	
)	
Petitioner,)	
)	
v.)	PCB 03-24
)	PCB 03-25
ILLINOIS ENVIRONMENTAL)	PCB 04-158
PROTECTION AGENCY,)	(UST Appeal)
)	(Consolidated)
Respondent.)	

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

On March 12, 2004, Hannel Oil Company timely filed a petition asking the Board to review a February 23, 2004 determination of the Illinois Environmental Protection Agency (Agency). *See* 415 ILCS 5/40(a)(1) (2002); 35 Ill. Adm. Code 105.402. The Agency approved petitioner's request for reimbursement from the UST Fund, with modifications, for Hannel Oil Company's leaking underground petroleum storage tank facility located at 802 West Morton, Jacksonville, Morgan County.

Hannel Oil Company appeals on the grounds that the costs submitted to the Agency were reasonable costs of corrective action and were of the types eligible for reimbursement. Hannel Oil Company's petition meets the content requirements of 35 Ill. Adm. Code 105.408. The Board accepts the petition for hearing.

On March 12, 2004, Hannel Oil Company also filed a motion to consolidate the newly filed petition in docket PCB 04-158 together with the previously consolidated petitions (PCB 03-24 and PCB 03-25). In support of its motion, Hannel Oil Company asserts that all three 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, Hannel Oil Company filed open waivers of the decision deadlines on the petitions involved in dockets PCB 03-24 and PCB 03-25.

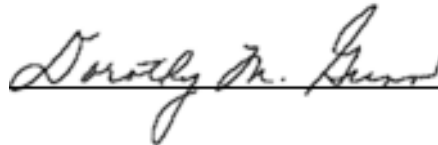
The motion for consolidation of docket PCB 04-158 with consolidated dockets PCB 03-24 and PCB 03-25 is granted. The due date for decision in this consolidated docket will be determined based on the filing date of the earliest petition filed for which Hannel Oil Company has not filed a waiver of the decision deadline, newly filed PCB 04-158.

Hannel Oil Company 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 Hannel Oil Company may extend by waiver (*see* 35 Ill. Adm. Code 101.308). If the Board fails to take final action by the decision deadline, Hannel Oil Company may deem its request granted. *See* 415 ILCS 5/40(a)(2) (2002). Currently, the decision deadline is July 10, 2004 (the 120th day after the filing of PCB 04-158 on March 12, 2004). *See* 35 Ill. Adm. Code 105.114. The Board meeting immediately before the decision deadline is scheduled for July 8, 2004.

Unless the Board or the hearing officer orders otherwise, the Agency must file the entire record of its determination by April 11, 2004, which is 30 days after Hannel Oil Company 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