

ILLINOIS POLLUTION CONTROL BOARD  
August 6, 2009

DICKERSON PETROLEUM, INC.,	)	
	)	
Petitioner,	)	
	)	
v.	)	PCB 9-87
	)	PCB 10-5
ILLINOIS ENVIRONMENTAL	)	(UST Appeal)
PROTECTION AGENCY,	)	(Consolidated)
	)	
Respondent.	)	

ORDER OF THE BOARD (by A.S. Moore):

On April 15, 2009, in docket PCB 09-87, Dickerson Petroleum, Inc. (Dickerson) filed a petition asking the Board to review a determination by the Illinois Environmental Protection Agency (Agency). The Agency's determination concerns Dickerson's 45-Day Report and 45-Day Report Addendum regarding an underground storage tank (UST) site located at 823 Upper Cahokia Road, Cahokia, St. Clair County. The Agency determined that Dickerson's UST incident is not subject to the UST regulations. On May 7, 2009, the Board accepted Dickerson's petition as timely filed but found that the petition was deficient because it did not include a statement specifying the date of service of the Agency's final decision or a statement specifying the grounds of Dickerson's appeal. The Board issued an order granting Dickerson 30 days to cure the deficiencies by filing an amended petition on or before June 8, 2009. On May 26, 2009, Dickerson filed an amended petition. In an order dated June 4, 2009, the Board accepted Dickerson's amended petition for hearing, stating that it had cured the defects described in the Board's previous order.

On July 10, 2009, in this docket PCB 10-5, Dickerson timely filed a petition asking the Board to review an Agency determination concerning Dickerson's UST site located at 823 Upper Cahokia Road in Cahokia, St. Clair County. The Agency determined that Dickerson's UST incident is not subject to UST regulations and denied Dickerson's request for reimbursement from the UST Fund for early action activities. In an order dated July 23, 2009, the Board accepted Dickerson's petition for hearing. In the same order, the Board noted that Dickerson had filed a motion to consolidate the two cases with one another (Mot.) but reserved decision on the motion until the expiration of the response period. *See* 35 Ill. Adm. Code 101.500(d).

Section 101.406 of the Board's procedural rules provides that

[t]he Board, upon the motion of any party or upon its own motion, may consolidate two or more proceedings for the purpose of hearing or decision or both. The Board will consolidate the proceedings if consolidation is in the interest of convenient, expeditious, and complete determination of claims, and if consolidation would not cause material prejudice to any part. The Board will not

consolidate proceedings where the burdens of proof vary. 35 Ill. Adm. Code 101.406.

Dickerson's motion to consolidate argues that "[t]he two proceedings concern the same incident, stem from the same facts, and involve the same determination by the Agency." Mot. at 2. Dickerson further argues that "it is convenient for the Board to consolidate the two proceedings in order to expeditiously and efficiently move toward closure of these matters." *Id.*; *see* 35 Ill. Adm. Code 101.406. Dickerson also claims that consolidation would not materially prejudice either party. Mot. at 1.

Section 101.500(d) of the Board's procedural rules provides in pertinent part that, "[w]ithin 14 days after service of a motion, a party may file a response to the motion. If no response is filed, the party will be deemed to have waived objection to the granting of the motion, but the waiver of objection does not bind the Board or the hearing officer in its disposition of the motion." 35 Ill. Adm. Code 101.500(d). Having reviewed the substance of Dickerson's motion, and in the absence of any timely objection to it, the Board grants the motion to consolidate PCB 09-87 and PCB 10-5. The appeals are consolidated for hearing, but not necessarily for the Board's decision. *See* 35 Ill. Adm. Code 101.406. Future filings must reflect the caption of this order.

IT IS SO ORDERED.

I, John Therriault, Assistant Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above order on August 6, 2009 by a vote of 5-0.



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John Therriault, Assistant Clerk  
Illinois Pollution Control Board