

ILLINOIS POLLUTION CONTROL BOARD  
May 15, 2003

DALEE OIL COMPANY, (9-1-2001 through )	)	
11-30-2001; 7-1-2001 through 9-30-2001; )	)	
11-1-2001 through 8-31-2002), )	)	
	)	
Petitioner, )	)	
	)	
v. )	)	PCB 03-118
	)	PCB 03-119
ILLINOIS ENVIRONMENTAL )	)	PCB 03-150
PROTECTION AGENCY, )	)	(UST Appeal)
	)	(Consolidated)
Respondent. )	)	

ORDER OF THE BOARD (by T.E. Johnson):

On February 20, 2003, the Board, at the parties' request, extended until May 8, 2003, the time period within which DaLee Oil Company may appeal January 3, 2003 determinations of the Illinois Environmental Protection Agency (Agency) in dockets PCB 03-118 and PCB 03-119. On March 20, 2003, the Board, at the parties' request, extended until June 11, 2003, the time period within which DaLee Oil Company may appeal February 6, 2003 determinations of the Agency in docket PCB 03-150. *See* 415 ILCS 5/40(a)(1) (2002); 35 Ill. Adm. Code 105.406.

On May 12, 2003, DaLee Oil Company filed a petition asking the Board to review the Agency's determinations in the three separate dockets. Because the postmark date of the petition is within the extended time for filing, the petition was timely filed. 35 Ill. Adm. Code 101.300(b)(2), 105.404. At issue is the Agency's approval of the reimbursement of requested corrective action costs, with modifications, regarding DaLee Oil Company's underground storage tank site located at Route 177 West, Okawville, Washington County. The costs were incurred for three separate periods: September 1, 2001 through November 30, 2001 for docket PCB 03-118; July 1, 2001 through September 30, 2001 for docket PCB 03-119; and November 1, 2001 through August 31, 2002 for PCB 03-150.

DaLee Oil Company appeals on the grounds that the Agency modification of the requested costs for reimbursement was arbitrary and capricious and failed to recognize that the requested costs were within generally accepted engineering practices and within the range of reasonable charges for such practices. DaLee Oil Company's petitions meet the content requirements of 35 Ill. Adm. Code 105.210. The Board accepts the petitions for hearing.

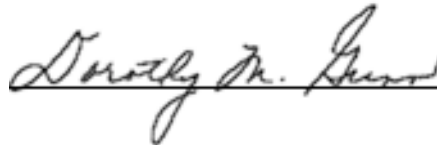
With the three separate petitions, DaLee Oil Company filed a motion to consolidate the three dockets for hearing and consideration. In the motion DaLee Oil Company states the Agency has no objection to consolidation of these matters. The Board grants consolidation of the three dockets for purposes of hearing and consideration.

DaLee 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 DaLee 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, DaLee Oil Company may deem its request granted. *See* 415 ILCS 5/40(a)(2) (2002). Currently, the decision deadline is September 9, 2003 (the 120th day after May 12, 2003). *See* 35 Ill. Adm. Code 105.114. The Board meeting immediately before the decision deadline is scheduled for September 4, 2003.

Unless the Board or the hearing officer orders otherwise, the Agency must file the entire record of its determination by June 11, 2003, which is 30 days after DaLee Oil Company filed the petition. 35 Ill. Adm. Code 105.212(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.

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", written over a horizontal line.

Dorothy M. Gunn, Clerk  
Illinois Pollution Control Board