

ILLINOIS POLLUTION CONTROL BOARD
August 21, 2003

PRIME TIME CITGO, INC. and)	
ALPHONSUS OLIEH,)	
)	
Petitioner,)	PCB 03-188
)	PCB 03-217
v.)	(UST Appeals)
)	(Consolidated)
ILLINOIS ENVIRONMENTAL)	
PROTECTION AGENCY,)	
)	
Respondent.)	

ORDER OF THE BOARD (by N.J. Melas):

On June 5, 2003, the Board, at the parties' request, extended until August 11, 2003, the time period within which Prime Time CITGO, Inc. and Alphonsus Olieh (petitioners) may appeal an April 4, 2003 determination of the Illinois Environmental Protection Agency (Agency). *See* 415 ILCS 5/40(a)(1) (2002); 35 Ill. Adm. Code 105.406. On August 11, 2003, petitioners filed a petition asking the Board to review the Agency's determination. The Agency approved reimbursement of requested costs of corrective action, with modifications, regarding petitioners' underground storage tank site located at 420 North Farnsworth, Aurora, Kane County. Petitioners appeal on the grounds that under the circumstances of this case, certain costs disallowed by the Agency are indeed reasonable necessary costs of corrective action that are reimbursable under the Environmental Protection Act (Act) (415 ILCS 5/ *et seq.* (2002)). Petitioners' petition meets the content requirements of 35 Ill. Adm. Code 105.408. The Board accepts the petition for hearing and docketed this matter as PCB 03-217.

Included with the August 11, 2003 petition in docket PCB 03-217 was a motion to consolidate dockets PCB 03-188 and PCB 03-217. On June 5, 2003, in docket PCB 03-188, the Board accepted a separate appeal for hearing that was filed by the petitioners. The petition in PCB 03-188 concerns the Agency's denial of an amendment to the petitioners' High Priority Corrective Action Plan Budget. The petitioners' motion asserts that both appeals involve the same facts, corrective action costs, and questions of law, so both would be most efficiently handled together. The Board hereby grants consolidation of the two dockets PCB 03-188 and PCB 03-217.

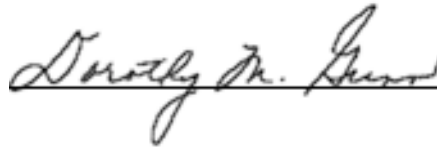
Petitioners have the burden of proof. 35 Ill. Adm. Code 105.112(a). Hearings will be based exclusively on the record before the Agency at the time the Agency issued its determination. 35 Ill. Adm. Code 105.412. Hearings will be scheduled and completed in a timely manner. In both dockets, petitioners have waived the decision deadline (*see* 415 ILCS 5/40(a)(2) (2002)), which only petitioners may extend by waiver (*see* 35 Ill. Adm. Code 101.308).

Unless the Board or the hearing officer orders otherwise, the Agency must file the entire record of its determination by September 10, 2003, which is 30 days after petitioners 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).

Accordingly, this order accepts PCB 03-217 for hearing, grants the petitioners' motion to consolidate, and consolidates these appeals for hearing.

IT IS SO ORDERED.

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above order on August 21, 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