

ILLINOIS POLLUTION CONTROL BOARD
November 6, 1997

RAYMOND S. HARA,)	
)	
Petitioner,)	
)	
v.)	PCB 98-62
)	PCB 98-67
ILLINOIS ENVIRONMENTAL)	(UST - Reimbursement)
PROTECTION AGENCY,)	
)	
Respondent.)	

ORDER OF THE BOARD (by C.A. Manning):

On October 22, 1997, Raymond S. Hara (petitioner) filed a petition for review of the September 17, 1997, Illinois Environmental Protection Agency (Agency) final reimbursement determinations from the Underground Storage Tank Fund. Accompanying his petition for review, petitioner included two final determination letters (letter) issued by the Agency. The first letter contains the Agency determination covering the invoicing period from February 7, 1993, to November 13, 1993. The total amount at issue regarding the first letter is \$866,457.50. The second letter contains the Agency determination covering the invoicing period from February 3, 1994, to January 23, 1995. The total amount at issue regarding the second letter is \$26,486.50.

On November 5, 1997, the Agency filed a "Motion to Assign New and Additional Docket Number" pertaining to petitioner's appeal of the Agency's two final reimbursement decisions. In its motion, the Agency indicates that apparently it issued two final reimbursement decisions on September 17, 1997. The final determinations concern petitioner's site located at 5701-57 West Touhy, Niles, Cook County, Illinois. To reflect the fact that there are two separate appeals, the Agency asks the Board to open a new docket. The Agency requests that PCB 98-62 address the Agency's final determination covering the invoicing period from February 7, 1993, to November 13, 1993, and that the Board open a second docket to address the Agency's final determination covering the invoicing period from February 3, 1994, to January 23, 1995. The Agency maintains that petitioner has no objection to this motion.

Where a single petition seeks to appeal more than one final Agency determination, the Board customarily creates separate dockets for each appeal. Accordingly, the Board grants the Agency's motion to open a new docket. PCB 98-62 shall reference the reimbursement appeal sought by petitioner covering the invoicing period from February 7, 1993, to November 13, 1993. New docket PCB 98-67 shall reference the reimbursement appeal requested by petitioner covering the invoicing period from February 3, 1994, to January 23, 1995. The \$75

filing fee which accompanied the petition has been credited to PCB 98-62. An additional fee is required for PCB 98-67 pursuant to Section 7.5 of the Environmental Protection Act (Act) (415 ILCS 5/7.5 (1996)) and 35 Ill. Adm. Code 101.120, on or before November 20, 1997. In the event petitioner fails to pay the filing fee, the Board will dismiss PCB 98-67.

Subject to the timely payment of the filing fee in PCB 98-67, dockets PCB 98-62 and PCB 98-67 are each accepted for hearing. The hearings must be scheduled and completed in a timely manner, consistent with Board practices and the applicable statutory decision deadline, or the decision deadline as extended by a waiver. (Petitioner may file a waiver of the statutory decision deadline pursuant to 35 Ill. Adm. Code 101.105.) The Board will assign a hearing officer to conduct hearings consistent with this order, and the Clerk of the Board shall promptly issue appropriate directions to that assigned hearing officer.

The assigned hearing officer shall inform the Clerk of the Board of the time and location of the hearings at least 30 days in advance of hearings so that a 21-day public notice of hearing may be published. After the hearings, the hearing officer shall submit an exhibit list, a statement regarding credibility of witnesses, and all actual exhibits to the Board within five days of the hearing.

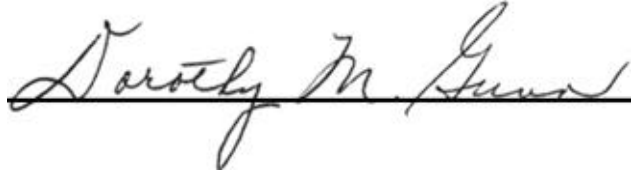
Any briefing schedule shall provide for final filings as expeditiously as possible and, in time-limited cases, no later than 30 days prior to the decision due date, which is the final regularly scheduled Board meeting date on or before the statutory or deferred decision deadline. Absent any future waivers of the decision deadline, the statutory decision deadline is now February 19, 1998 (120 days from October 22, 1997); the Board meeting immediately preceding the decision deadline is scheduled for February 19, 1998.

If after appropriate consultation with the parties, the parties fail to provide acceptable hearing dates or if after an attempt the hearing officer is unable to consult with the parties, the hearing officer shall unilaterally set hearing dates in conformance with the schedule above. The hearing officer and the parties are encouraged to expedite this proceeding as much as possible. The Board notes that Board rules (35 Ill. Adm. Code 105.102) require the Agency to file the entire Agency record of the reimbursement application within 14 days of notice of the petition. Finally, the Board refers the Agency's motion for extension of time to file its record, filed on October 30, 1997, to the hearing officer for consideration.

IT IS SO ORDERED.

Board Member K.M. Hennessey abstained.

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, hereby certify that the above order was adopted on the 6th day of November 1997, by a vote of 6-0.

A handwritten signature in cursive script that reads "Dorothy M. Gunn". The signature is written in black ink and is positioned above a solid horizontal line.

Dorothy M. Gunn, Clerk
Illinois Pollution Control Board