

ILLINOIS POLLUTION CONTROL BOARD

July 10, 2003

ROYER OIL COMPANY (1-1-1998 through))	
9-30-1998; 6-1-1997 through 12-31-1997;))	
3-11-1996 through 5-31-1996),))	
)	
Petitioner,))	
)	
v.))	PCB 03-180
)	PCB 03-186
ILLINOIS ENVIRONMENTAL))	PCB 03-187
PROTECTION AGENCY,))	(UST Appeal)
)	(Consolidated)
Respondent.))	

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

On April 17, 2003, the Board, by three separate orders entered at the parties' request, extended the time period within which Royer Oil Company (Royer) may appeal three determinations of the Illinois Environmental Protection Agency (Agency). *See* 415 ILCS 5/40(1)(1)(2002; 35 Ill. Adm. Code 105.406. The Board assigned docket number PCB 03-180 to the Agency determination of February 25, 2003, and granted Royer until July 1, 2003, to appeal that determination. The Board assigned docket number PCB 03-186 to an Agency determination of March 3, 2003, and granted Royer until July 8, 2003, to appeal that determination. The Board assigned docket number PCB 03-187 to a second Agency determination of March 3, 2003, and granted Royer until July 8, 2003, to appeal that determination. *See* 415 ILCS 5/40(a)(1) (2002); 35 Ill. Adm. Code 105.406.

On July 1, 2003, Royer filed a petition in docket PCB 03-180 asking the Board to review the Agency's February 25, 2003 determination. The Agency approved the requested reimbursement of corrective action costs incurred during the period January 1, 1998 through September 30, 1998, with modifications, regarding Royer's underground storage tank (UST) site located at 200 South Third Street, Greenville, Bond County. Royer appealed on the grounds that the costs submitted to the Agency for reimbursement were reasonable corrective action costs and were the types of costs eligible for reimbursement. On July 7, 2003, Royer filed for leave to amend its petition, in order to correct an inadvertent error, together with an amended petition. The motion for leave to file is granted. Royer's amended petition meets the content requirements of 35 Ill. Adm. Code 105.408. The Board accepts the amended petition for hearing.

On July 7, 2003, Royer filed two separate petitions in dockets PCB 03-186 and PCB 03-187 asking the Board to review the Agency's March 3, 2003 determinations. In docket PCB 03-186, the Agency approved the requested reimbursement of corrective action costs incurred during the period June 1, 1997 through December 31, 1997, with modifications, regarding Royer's Greenville UST site. In docket PCB 03-187, the Agency approved requested reimbursement of corrective action costs incurred during the period March 1, 1996, through May

31, 1996, with modifications, regarding that site. Royer appealed each on the grounds that the costs submitted to the Agency for reimbursement were reasonable corrective action costs and were the types of costs eligible for reimbursement. Royer's petitions meet the content requirements of 35 Ill. Adm. Code 105.408. The Board accepts the petitions for hearing.

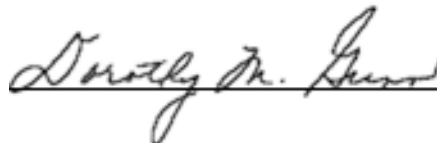
Royer also asks the Board to consolidate the three appeals for hearing. Petition at 1. Royer states that factual and legal issues in the appeals are closely related and that consolidation will result in a more expeditious and complete determination of the issues involved. *Id.* at 2. The Board notes that the appeals involve the same parties, the same Bond County leaking UST site, and issues of Royer's cleanup and cleanup cost reimbursement from the UST Fund. The Agency has not objected to consolidation. The Board grants Royer's motion to consolidate. The appeals are consolidated for hearing, but not necessarily for Board decision. *See* 35 Ill. Adm. Code 101.406. Future filings must reflect the amended caption of this order.

Royer 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 Royer may extend by waiver. *See* 35 Ill. Adm. Code 101.308. If the Board fails to take final action by the decision deadline, Royer may deem its request granted. *See* 415 ILCS 5/40(a)(2) (2002). Currently, the decision deadline in docket PCB 03-180 is October 29, 2003 (the 120th day after July 1, 2003). The decision deadline in dockets PCB 03-186 and PCB 03-187 is November 4, 2003 (the 120th day after July 7, 2003). *See* 35 Ill. Adm. Code 105.114. The decision deadline for these consolidated cases is the earlier of the two dates: October 29, 2003. The Board meeting immediately before the decision deadline is scheduled for October 16, 2003.

Unless the Board or the hearing officer orders otherwise, the Agency must file the entire record of its determination in all three cases by July 31, 2003, which is 30 days after Royer filed the first petition. 35 Ill. Adm. Code 105.410(a). If the Agency wishes to seek additional time to file any of the records, 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 July 10, 2003, by a vote of 7-0.

A handwritten signature in cursive script, reading "Dorothy M. Gunn", written in black ink over a horizontal line.

Dorothy M. Gunn, Clerk
Illinois Pollution Control Board