

ILLINOIS POLLUTION CONTROL BOARD
December 1, 1994

DOALL COMPANY, DOALL CREDIT)
CORPORATION, and THE)
RAMS-HEAD COMPANY,)
)
Complainants,)
)
v.) PCB 94-256
) (Enforcement)
MOBIL OIL COMPANY, INC.,)
SKOKIE VALLEY ASPHALT)
COMPANY, INC., and)
SEPTRAN, INC.,)
)
Respondents.)

ORDER OF THE BOARD (by M. McFawn):

This matter is before the Board on several filings, including the following: (1) a November 9, 1994 motion for extension of time to respond to the complaint, filed by Skokie Valley Asphalt Company (SVAC); (2) a November 16, 1994 motion to dismiss the complaint accompanied by a motion to file instanter, filed by SVAC; (3) a November 17, 1994 joint motion for extension of time for complainants to respond to Mobil Oil Company's October 11, 1994 motion to dismiss, filed on behalf of Mobil Oil Company (Mobil) and DoAll Company, DoAll Credit Corporation, and the Rams-Head Company (collectively, DoAll); and (4) a November 23, 1994 response by DoAll to SVAC's November 16, 1994 motion for leave to file instanter its motion to dismiss and DoAll's motion for extension of time. We will deal with each of these motions in turn.

November 16, 1994 Motion by SVAC to File Instanter Its Motion to Dismiss the Complaint

On November 16, 1994 SVAC filed a motion to file instanter its motion to dismiss the complaint. In seeking to file instanter, SVAC asserts that it is simply joining in Mobil's motion to dismiss and incorporating the applicable substantive legal arguments of Mobil's motion, and, therefore, petitioner is not prejudiced by SVAC's failure to file within fourteen days as required by Board rule.

DoAll filed a response to SVAC's motion to file instanter and a motion for extension of time on November 23, 1994. DoAll states that it has no objection to SVAC's motion for leave to file instanter, although DoAll does object to the underlying motion to dismiss. DoAll acknowledges that SVAC's motion to dismiss raises issues which are identical to those raised in Mobil's motion to dismiss. Furthermore, DoAll states that, if

SVAC's motion to file instanter is granted, counsel for DoAll and SVAC have agreed to extend DoAll's time to respond to SVAC's motion to dismiss until January 20, 1995. Yet, DoAll requests that the Board grant it an extension until and including December 15, 1994 to respond to SVAC's motion to dismiss.

The Board hereby grants SVAC's motion to file instanter its motion to dismiss. In the interests of judicial economy, complainants are hereby granted an extension to file a response to the motion to dismiss until January 20, 1995, the same date DoAll's response to Mobil's motion to dismiss is now due. (See discussion of the November 17, 1994 joint motion, *supra*.)

November 9, 1994 Motion by SVAC for Extension of Time to Respond to the Complaint

In support of its November 9, 1994 motion for extension of time to respond to the complaint, SVAC states that it has raised whether it is the proper corporate entity to be sued in this action, and the parties are investigating this matter. Furthermore, SVAC represents that DoAll has no objection to the grant of the requested extension. SVAC therefore requests that the Board extend all time limitations by which SVAC must respond until November 28, 1994. Because the Board has granted SVAC's motion to file instanter its motion to dismiss, this motion is moot.

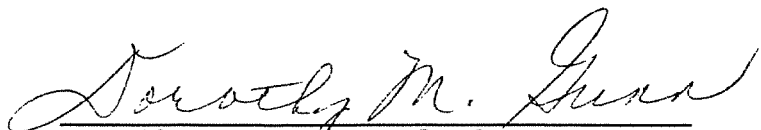
November 17, 1994 Joint Motion for Extension of Time for Complainant's to Respond to Mobil's Motion to Dismiss

The November 17, 1994 joint motion filed by DoAll and Mobil seeks an extension of time for complainants to respond to Mobil's motion to dismiss. In their motion, the parties state that they have commenced settlement negotiations. They therefore request that the Board extend the time for DoAll to respond to Mobil's motion to dismiss until January 20, 1995.

This motion is granted. DoAll's response to Mobil's motion to dismiss is now due on or before January 20, 1995.

IT IS SO ORDERED.

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, hereby certify that the above order was adopted on the 15th day of December 1994, by a vote of 7-0.


 Dorothy M. Gunn, Clerk
 Illinois Pollution Control Board