

ILLINOIS POLLUTION CONTROL BOARD
December 4, 2003

REPUBLIC BANK OF CHICAGO, as Trustee)
of Trust #2234, ARISTOTLE HALIKIAS,)
LENA HALIKIAS, MICHAEL HALIKIAS,)
NIKOLAS HALIKIAS, NOULA HALIKIAS,)
and PATRICIA HALIKIAS, as beneficiaries)
of Trust #2234,)
Complainants,)
v.) PCB 04-69
(Citizens UST Enforcement)
SUNOCO, INC. (R & M),)
Respondent.)

ORDER OF THE BOARD (by G. T. Girard):

On October 21, 2003, Republic Bank of Chicago as Trustee of Trust #2234, Aristotle Halikias, Lena Halikias, Michael Halikias, Nikolas Halikias, Noula Halikias, and Patricia Halikias, as beneficiaries of Trust #2234 (complainants), filed a complaint against Sunoco, Inc. (R&M) (respondent). *See* 415 ILCS 5/31(d) (2000); 35 Ill. Adm. Code 103.204. Complainants alleges that respondent violated Sections 21(a), (d)(2), (e), 57.1(a), 57.5, 57.6, and 57.7 of the Environmental Protection Act (Act) (415 ILCS 5/21(a), (d)(2), (e), 57.1(a), 57.5, 57.6, and 57.7 (2002) and implementing regulations of the Board and the Office of the State Fire Marshal. Complainants further alleges that respondent violated these provisions by allowing the release of petroleum-related substances from underground storage tanks. The complaint concerns property located at 960 North McLean Boulevard, Elgin, Cook County.

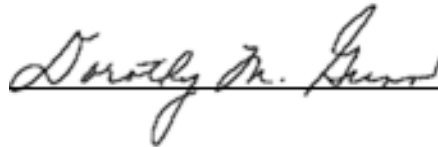
Section 31(d) of the Act (415 ILCS 5/31(d) (2002)) allows any person to file a complaint with the Board. Section 31(d) further provides that “[u]nless the Board determines that such complaint is duplicative or frivolous, it shall schedule a hearing.” *Id.*; *see also* 35 Ill. Adm. Code 103.212(a). A complaint is duplicative if it is “identical or substantially similar to one brought before the Board or another forum.” 35 Ill. Adm. Code 101.202. A complaint is frivolous if it requests “relief that the Board does not have the authority to grant” or “fails to state a cause of action upon which the Board can grant relief.” *Id.* Within 30 days after being served with a complaint, a respondent may file a motion alleging that the complaint is duplicative or frivolous. 35 Ill. Adm. Code 103.212(b). Respondent has filed no motion. There is no evidence before the Board that indicates that the allegations of the complaint in counts I through III are duplicative or frivolous. However, in count IV, complainants alleges violations of the regulations of the Office of the State Fire Marshal and the Board lacks the authority to enforce the regulations of the Office of the State Fire Marshal. Therefore, the allegations in count IV relating to violations of the Office of State Fire Marshal are frivolous and the Board strikes those allegations.

The Board accepts the complaint for hearing. *See* 415 ILCS 5/31(d) (2000); 35 Ill. Adm. Code 103.212(a). A respondent's failure to file an answer to a complaint within 60 days after receiving the complaint may have severe consequences. Generally, if respondent fails within that timeframe to file an answer specifically denying, or asserting insufficient knowledge to form a belief of, a material allegation in the complaint, the Board will consider respondent to have admitted the allegation. 35 Ill. Adm. Code 103.204(d). The Board directs the hearing officer to proceed expeditiously to hearing.

IT IS SO ORDERED.

Board Member N.J. Melas abstained.

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above order on December 4, 2003, by a vote of 4-0.

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