

ILLINOIS POLLUTION CONTROL BOARD
March 9, 1995

KALO GASOLINE COMPANY,)
)
 Petitioner,)
)
 v.) PCB 95-41
) (UST-Appeal)
 ILLINOIS ENVIRONMENTAL)
 PROTECTION AGENCY,)

KALO GASOLINE COMPANY,)
)
 Petitioner,)
)
 v.) PCB 95-74
) (UST-Fund)
 ILLINOIS ENVIRONMENTAL) (Consolidated)
 PROTECTION AGENCY,)
)
 Respondent.)

ORDER OF THE BOARD:

On March 3, 1995, Kalo Gasoline Company (Kalo) filed a petition for review of an Illinois Environmental Protection Agency (Agency) final reimbursement determination from the Underground Storage Tank Fund. The Agency disapproved Kalo's application for reimbursement on January 27, 1995. The final determination concerns Kalo's facility located at 1490 East Oakton Street, Des Plaines, Cook County, Illinois. This matter is accepted for hearing.

Kalo's had previously filed another UST case, PCB 95-41. PCB 95-41 is presently scheduled for decision on the Board's June 15, 1995 meeting as is this case (see below). The Board accordingly consolidates the two cases for hearing. The Board makes no finding as to whether these cases will be consolidated for purposes of final decision.

The hearing 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

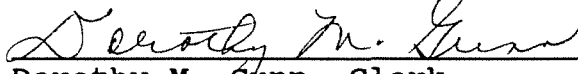
Board of the time and location of the hearing at least 40 days in advance of hearing so that public notice of hearing may be published. After hearing, the hearing officer shall submit an exhibit list, a statement regarding credibility of witnesses and all actual exhibits to the Board within five days 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 in PCB 95-74 is now July 1, 1995 (120 days from March 3, 1995); the Board meeting immediately preceding the decision deadline is scheduled for June 15, 1995. On March 2, 1995, Kalo's filed a wavier of the decision deadline date in PCB 95-41 to June 16, 1995; the Board meeting immediately preceding the decision deadline is scheduled for June 15, 1995. Accordingly, the Board would intend to decide both cases at its June 15, 1995 meeting, absent waivers.

If after appropriate consultation with the parties, the parties fail to provide an acceptable hearing date or if after an attempt the hearing officer is unable to consult with the parties, the hearing officer shall unilaterally set a hearing date 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.

This order will not appear in the Board's opinion volumes.

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 9th day of March, 1995, by a vote of 4-0.


 Dorothy M. Gunn, Clerk
 Illinois Pollution Control Board