

ILLINOIS POLLUTION CONTROL BOARD  
June 20, 2002

HOME OIL COMPANY,	)	
	)	
Petitioner,	)	
	)	
v.	)	PCB 02-205
	)	(UST Fund)
ILLINOIS ENVIRONMENTAL	)	PCB 02-206
PROTECTION AGENCY,	)	(UST Fund)
	)	(Consolidated)
Respondent.	)	

ORDER OF THE BOARD (by N.J. Melas):

Home Oil Company (Home Oil) initiated these actions by the May 17, 2002 filing of two petitions for review and a motion to consolidate them. In its June 6, 2002 order, the Board consolidated the cases as requested, but directed Home Oil to file an amended petition curing noted deficiencies.

On June 14, 2002, Home Oil Company timely filed an amended petition asking the Board to review the consolidated May 2, 2002 determinations of the Illinois Environmental Protection Agency (Agency). *See* 415 ILCS 5/40(a)(1) (2000); 35 Ill. Adm. Code 105.404. Pursuant to the procedural rules, the decision period recommences on that date with the filing of the amended petition. 35 Ill. Adm. Code 105.114 (b). On June 14, 2002, Home Oil also agreed to waive by ninety (90) days the deadline for decision imposed by statute upon the Board.

The Agency denied Home Oil's request for reimbursement of \$43,180.80 in corrective action costs from the Illinois Underground Storage Tank Fund regarding an underground storage tank site. The site, a previously operated gasoline service station, is located at 2700 W. Main St. in Belleville. Home Oil appeals on the grounds that: (1) the Agency denied costs for work done pursuant to a Corrective Action Plan, dated November 5, 1996, the Agency had approved; (2) the Agency denied costs on the grounds that Home Oil failed to demonstrate they were reasonable where the costs were reasonable and eligible for reimbursement under the Act; and (3) the Agency denied costs on the grounds that supporting documentation was not provided, where Home Oil claims that supporting documentation was in fact provided. Home Oil's amended petition meets the content requirements of 35 Ill. Adm. Code 105.408. The Board accepts the amended petition in these consolidated cases for hearing.

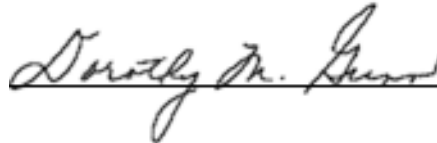
Home Oil has the burden of proof. 35 Ill. Adm. Code 105.112(a). Hearings will be based exclusively on the record before the Agency at the time the Agency issued its

determination. 35 Ill. Adm. Code 105.412. Hearings will be scheduled and completed in a timely manner, consistent with the statutory deadline for decision. Only Home Oil may waive this deadline (*see* 35 Ill. Adm. Code 101.308). If the Board fails to take final action by the extended decision deadline, Home Oil may deem its request granted. *See* 415 ILCS 5/40(a)(2) (2000). Currently, the decision deadline is January 10, 2003. Based on the filing of the amended petition, the original statutory 120-day decision period ends October 12, 2002 (the 120th day after June 14, 2002). *See* 35 Ill. Adm. Code 105.114. Home Oil's June 14, 2002 90-day waiver further extends the decision deadline until January 10, 2003 (the 90th day after October 12, 2002). The Board meeting immediately before the decision deadline is currently December 19, 2002, as meetings in calendar year 2003 have not yet been scheduled.

Unless the Board or the hearing officer orders otherwise, the Agency must file the entire record of its determination by July 15, 2002, which is 30 days after Home Oil filed the petition. 35 Ill. Adm. Code 105.410(a). If the Agency wishes to seek additional time to file the record, 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 June 20, 2002, by a vote of 7-0.

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

Dorothy M. Gunn, Clerk  
Illinois Pollution Control Board