

ILLINOIS POLLUTION CONTROL BOARD  
July 20, 1995

EUGENE W. GRAHAM,	)	
	)	
Petitioner,	)	
	)	
v.	)	PCB 95-89
	)	(UST Fund)
ILLINOIS ENVIRONMENTAL	)	
PROTECTION AGENCY,	)	
	)	
Respondent.	)	

ORDER OF THE BOARD (by J. Yi):

On July 6, 1995, the Illinois Environmental Protection Agency (Agency) filed a motion for leave to file instanter and a motion for clarification. The Agency is not requesting the Board to clarify any statement of fact or any issue of law in its motion for clarification, but instead argues issues raised in petitioner's reply brief and/or raises new arguments. As basis for filing the motion the Agency states that petitioner presented different facts concerning the issues in its reply brief from its post-hearing brief, and, misrepresented facts in the Supplemental Record. The Agency asserts that it would be prejudiced if not allowed to respond.

On July 12, 1995, petitioner filed a response to the motion for clarification. Petitioner argues that the motions should be denied because they are an attempt to file a sur-reply or additional arguments. Petitioner's motion then argues in response to the arguments in the Agency's motion.

The Board grants the motion for leave to file a motion for clarification but denies the motion for clarification. The Agency states no authority which would allow it to file a sur-reply brief and the Agency is not asking for the Board to issue an order of clarification, but is instead asking for the Board to rule in its favor. No prejudice will occur if the Agency is not allowed to respond to petitioner's reply brief since the Agency has already had its opportunity to respond to the arguments in this matter. The record in this matter is closed.

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 20<sup>th</sup> day of July, 1995, by a vote of 6-0.

Dorothy M. Gunn  
Dorothy M. Gunn, Clerk  
Illinois Pollution Control Board