

ILLINOIS POLLUTION CONTROL BOARD
July 1, 1993

FINKS & AUSTMAN,)	
)	
Petitioner,)	
)	
v.)	PCB 93-83
)	(UST Fund)
ILLINOIS ENVIRONMENTAL)	
PROTECTION AGENCY,)	
)	
Respondent.)	

ORDER OF THE BOARD (by J. Theodore Meyer):

This matter is before the Board on three motions. On June 17, 1993, the law firm of Fellheimer, Travers & Engelman, Ltd. (law firm), filed a motion for leave to withdraw as counsel for petitioner Finks & Austman. The motion states that it is filed pursuant to Supreme Court Rule 13, that on or about June 1, 1993, the law firm terminated its representation of Finks & Austman in all legal matters, and that Finks & Austman has been notified of the law firm's intent to withdraw as counsel. The law firm also filed, on June 17, 1993, a motion to continue the hearing currently set for July 8, 1993.

Initially, the Board notes that its procedural rules specifically provide for an attorney who has appeared in a representative capacity to simply file a notice of withdrawal. (35 Ill. Adm. Code 101.107(d).) Thus, the law firm need not cite Supreme Court Rule 13 in its motion for leave to withdraw. That motion to withdraw is granted. Unless Finks & Austman notifies the Clerk of another address, all future mailings from the Board to Finks & Austman will be sent to the San Diego post office box listed on the law firm's notice of filing of its motion.

However, the Board cannot grant the motion to continue the July 8 hearing. Pursuant to the 120-day statutory decision deadline, the Board must render a decision on this case by September 3, 1993. The last regularly-scheduled Board meeting before that date is August 26, 1993. In the absence of a waiver of the decision deadline by Finks & Austman (see 35 Ill. Adm. Code 101.105), the July 8 hearing must proceed.

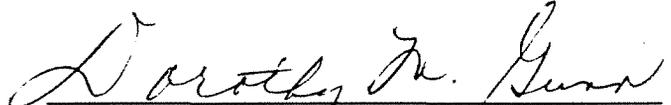
Finally, on June 23, 1993, the Illinois Environmental Protection Agency (Agency) filed a motion to file the record instanter. This petition was filed with the Board on May 6, 1993, and the Agency states that it received notice of the petition on May 6, 1993. Pursuant to 35 Ill. Adm. Code 105.102(a)(4), the Agency record is to be filed with the

Pollution Control Board within 14 days "upon notice of the petition". The record was therefore due to be filed on May 20, 1993. This motion and the record are 34 days late.

The Board is concerned about the delay in filing this record. The Board also notes with concern the absence of any earlier motion requesting an extension of time. However, because the Agency's record is necessary for the decision of this proceeding, the motion to allow filing of the Agency record instanter is hereby granted.

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 1st day of July, 1993, by a vote of 7-0.


Dorothy M. Gunn, Clerk
Illinois Pollution Control Board