

ILLINOIS POLLUTION CONTROL BOARD
October 17, 2002

LANNIS WALTERS d/b/a FAT BOY)	
PIZZA (GET & GO),)	
)	
Petitioner,)	
)	
v.)	PCB 01-39
)	(UST Fund)
ILLINOIS ENVIRONMENTAL)	
PROTECTION AGENCY,)	
)	
Respondent.)	

ORDER OF THE BOARD (by T.E. Johnson):

This matter is before the Board on an August 6, 2002 motion to dismiss filed by the Illinois Environmental Protection Agency (Agency). To date, no response to the motion has been filed.

On October 20, 2002, the petitioner, Lannis Walters d/b/a Fat Boy Pizza (Get & Go) (hereinafter "Fat Boy") filed a petition for review of the Agency's July 19, 2000 final decision regarding a facility located at 2108 East Fifth Street, Metropolis, Massac County. In the petition, Fat Boy argued that the Agency decision was arbitrary, capricious and without statutory authority. Counsel for Fat Boy filed a notice of withdrawal on April 29, 2002. Since that time, no other attorney has entered an appearance on Fat Boy's behalf.

In its motion, the Agency asserts that attempts by the Agency and the Board's hearing officer to reach Fat Boy have been unsuccessful. The Agency contends that Fat Boy has failed to participate in scheduled conference calls and has not contacted the hearing officer as directed. The Agency argues that Fat Boy has been non-responsive to the hearing officer and has not made any overtures to the Agency. Thus, asserts the Agency, because no party is proceeding on Fat Boy's behalf,; there is no purpose in keeping this docket active and the case should be dismissed.

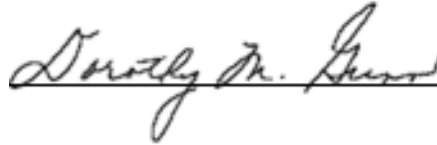
On September 5, 2000, the Board issued an order reserving judgment on the Agency's motion to dismiss, and directed Fat Boy to contact Board Hearing Officer Steve Langhoff, before September 30, 2002. To date, Fat Boy has not contacted the hearing officer or filed a pleading explaining its failure to pursue this case.

Pursuant to Section 101.500(d) of the Board's procedural rules, if no response to a motion is filed within 14 days after service, the party will be deemed to have waived objection. See 35 Ill. Adm. Code 101.500(d).

The Agency's motion to dismiss is granted, and the docket is closed.

IT IS SO ORDERED.

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above order on October 17, 2002, by a vote of 6-0.

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

Dorothy M. Gunn, Clerk
Illinois Pollution Control Board