ILLINOIS POLLUTION CONTROL BOARD
July 1, 2010

NORTH AURORA GAS STATION (f/n/a   )
INTERMART, INC.),   )
)
    Petitioner,   )
)
    v.   )   PCB 10-35
)   (UST Appeal)
ILLINOIS ENVIRONMENTAL   )
PROTECTION AGENCY,   )
)
    Respondent.   )

ORDER OF THE BOARD (by C.K. Zalewski):

On June 17, 2010, the owners of petitioner North Aurora Gas Station (f/n/a Intermart, Inc.) (Gas Station), the Estate of Muhammad Bashi Malik, deceased, and the Estate of Rashida Malik, deceased (together, the Estates) filed a motion to voluntarily dismiss their November 17, 2009 petition.

The petition alleged that the Illinois Environmental Protection Agency (Agency) impermissibly made a *sua sponte* determination that the Estates must pay a deductible of $100,000 (or $85,000 more than the Office of the State Fire Marshal had determined), to receive payment from the Leaking Underground Storage Tank Fund (Fund). The Estates stated they needed support from the Fund to clean up the Gas Station site, which is located at 24 South Lincolnway, North Aurora, Kane County.

On January 20, 2010, the Agency filed a motion for summary judgment. On April 28, 2010, the Estates countered with a response in opposition and a cross-motion for summary judgment, filed after the Estates' motion for a filing extension was granted. The Board has reserved ruling on the motion, based on hearing officer reports that the parties were involved in settlement negotiations. *See* Hearing Officer Orders of May 6 and 21, and June 16, 2010.

The Estates' June 17, 2010 motion to voluntarily dismiss states that the parties have settled the underlying issues. The Board grants the motion for voluntary withdrawal. In granting the Estates' motion, the Board dismisses the Estates' petition (mooting the pending motion for summary judgment) and closes this docket.

IT IS SO ORDERED.

I, John Therriault, Assistant Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above order on July 1, 2010, by a vote of 5-0.

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John Therriault, Assistant Clerk
Illinois Pollution Control Board