

ILLINOIS POLLUTION CONTROL BOARD
September 21, 1995

MOLINE/DUTCHWAY DRY)	
CLEANERS,)	
)	
Petitioner,)	
)	
v.)	PCB 92-102
)	(UST Fund)
ILLINOIS ENVIRONMENTAL)	
PROTECTION AGENCY,)	
)	
Respondent.)	

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

Pursuant to the June 15, 1995 Board order, Moline/Dutchway Dry Cleaners (Moline) was directed to submit a status report on or before September 13, 1995. In its status report filed on September 18, 1995, Moline states that in June 1995, the parties were awaiting further review of eligibility from the Office of the State Fire Marshal in this matter. Moline further states that on or about June 21, 1995 the United States Environmental Protection Agency (USEPA) withdrew its approval of the Illinois Underground Storage Tank fund. The result of USEPA's disapproval is that Moline is unable to obtain further review of its eligibility for reimbursement.

Moline asserts that the Illinois Environmental Protection Agency denied approval based upon its retroactive application of the amendment to Public Act 87-1088. Moline reports that this issue of retroactive application of Public Act 87-1088 is currently on appeal before the Illinois Supreme Court from a decision in First of America Trust Company v. Armstead, 269 Ill.App.3d 432, 646 N.E.2d 302 (3d Dist. 1995). As such, Moline requests permission to submit within 45 days either a dispositive motion for summary judgment or a request for stay pending the outcome of the above-referenced case.

The Board accepts Moline's status report. To assure that this 1992 matter before the Board is handled as expeditiously as possible, Moline is instructed to inform the Board promptly of any changes in the current status of these proceedings. Moline also is directed to file an updated status report and other appropriate motions with the Board no later than November 6, 1995.

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 _____ day of _____, 1995, by a vote of _____.

Dorothy M. Gunn, Clerk
Illinois Pollution Control Board