

ILLINOIS POLLUTION CONTROL BOARD
October 6, 1994

FIRST COLONIAL BANK-ROSEMONT,)
)
 Petitioner,)
)
 v.) PCB 94-193
) (UST-Fund)
 ILLINOIS ENVIRONMENTAL)
 PROTECTION AGENCY,)
)
 Respondent.)

ORDER OF THE BOARD (by C.A. Manning):

On July 14, 1994, First Colonial Bank-Rosemont (Bank) filed a petition for review of an Illinois Environmental Protection Agency's (Agency) June 9, 1994 rejection of its Leaking Underground Storage Tank (LUST) site soil physical classification and groundwater investigation plan. The Bank's facility is located at 9850 Balmoral, Rosemont, Cook County, Illinois. The Board accepted this matter for hearing on July 21, 1994.

On October 3, 1994 Bank filed a motion to dismiss the appeal without prejudice. In the motion the Bank states that the it submitted an amended plan to the Agency on September 9, 1994. The Agency approved the amended plan on September 14, 1994. Bank states that based on this the parties agreed that the Bank would withdraw this appeal without prejudice and the Agency would withdraw its rejection without prejudice.

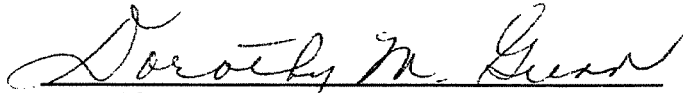
Under Section 40 of the Environmental Protection Act (415 ILCS 5/40 (1992)) an appeal must be filed within 35 days of the date of the Agency's final decision. Therefore, a subsequent petition would be time barred, and the Board cannot dismiss this appeal without prejudice.

The motion to voluntarily dismiss is granted. This matter is hereby dismissed and the docket is closed.

IT IS SO ORDERED.

Section 41 of the Environmental Protection Act (415 ILCS 5/41 (1992)) provides for the appeal of final Board orders within 35 days of the date of service of this order. The Rules of the Supreme Court of Illinois establish filing requirements. (See also 35 Ill. Adm. Code 101.246, Motion for Reconsideration.)

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, hereby certify that the above order was adopted on the 6th day of October, 1994, by a vote of 6-0.


Dorothy M. Gunn, Clerk
Illinois Pollution Control Board