

ILLINOIS POLLUTION CONTROL BOARD  
February 27, 1992

KRONON MOTORS SALES, INC., )  
 )  
Petitioner, )  
 )  
v. ) PCB 91-138  
 ) (Underground Storage Tank  
 ) Reimbursement Determination)  
 )  
ILLINOIS ENVIRONMENTAL )  
PROTECTION AGENCY, )  
 )  
Respondent. )

ORDER OF THE BOARD (by R. C. Flemal):

On February 6, 1992, the Board received a Motion to Reconsider the Board's January 9, 1992 decision filed by Kronon Motor Sales (Kronon). On February 20, 1992, the Board received a response from the Illinois Environmental Protection Agency (Agency) opposing the Motion to Reconsider. The Board will grant the Motion to Reconsider in order to clarify the Board's position on the issue of recovery of costs incurred prior to notification of the Emergency Service and Disaster Agency.

In North Suburban Development Corporation v. IEPA (PCB 91-109, December 19, 1991) (North Suburban), the Board held that in cases arising prior to the effective date of HB 1741 pre-notification costs were excluded from reimbursement under the statute. Thus, the Board has determined that costs incurred prior to ESDA notification are not reimbursable at any time.

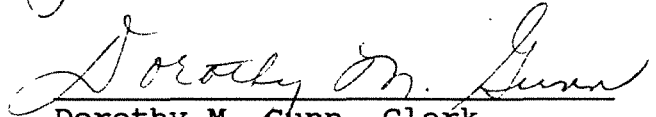
Kronon argues that the Board did not indicate in its January 9, 1992 Order whether HB 1741 is to be applied retroactively or whether the "Board misunderstood this matter to have arisen after the effective date of House Bill 1741." In its Order, the Board cited its decision in North Suburban and indicated that the issue of reimbursement of pre-ESDA notification requirements had been fully discussed there. Kronon has not presented any new information to the Board on this issue; nor does the Board believe it did not understand the factual situation in this case. Therefore, the Board affirms its January 9, 1992 Order.

IT IS SO ORDERED.

Board Member J. Anderson dissents

Section 41 of the Environmental Protection Act, Ill. Rev. Stat. 1989, ch. 111 1/2 par. 1041, provides for appeal of final Orders of the Board within 35 days. The Rules of the Supreme Court of Illinois establish filing requirements.

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, do hereby certify that the above Order was adopted on the 27<sup>th</sup> day of February, 1992, by a vote of 6-1.



Dorothy M. Gunn, Clerk  
Illinois Pollution Control Board