

ILLINOIS POLLUTION CONTROL BOARD
July 10, 1997

RIVERVIEW FS,)	
)	
Petitioner,)	
)	PCB 97-226
v.)	(UST - Reimbursement)
)	
ILLINOIS ENVIRONMENTAL)	
PROTECTION AGENCY,)	
)	
Respondent.)	

DISSENTING OPINION (by J. Theodore Meyer):

I dissent from the majority opinion in this matter because past Board practice has allowed non-attorneys to represent corporations in UST Reimbursement proceedings before the Board. To change horses in mid-stream without prior notification is unfair and impractical. As an Illinois Appellate Court has stated, an administrative agency cannot change an interpretation of law without notice to those parties affected by the change. Alton Packaging Corp. v. Pollution Control Board, 145 Ill. App. 3d 1090, 497 N.E.2d 864 (5th Dist. 1986).

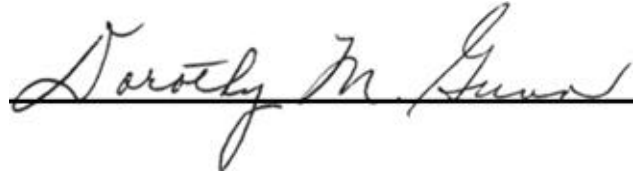
In addition, public policy dictates that administrative agencies be less adversarial than court proceedings, and more "user-friendly" in terms of a non-attorney's ability to appear before the Board. As a member of the House of Representatives of the Illinois General Assembly when the Act was passed, as a co-sponsor of the bill and as a member of the Executive Committee that approved the bill, I know that the legislative intent of the Act was to encourage citizen participation in environmental matters. With regard to the Board's role in facilitating environmental cases in Illinois, the Act clearly intended the Board to be easily available to Illinois citizens. The Act was to be part of a new, more accessible way of governing; while the ramifications of the majority opinion in this matter harks back to an antiquated system of closed government proceedings, accessible only to specially educated lawyers and lawmakers.

For these reasons, I respectfully dissent.



J. Theodore Meyer

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, hereby certify that the above dissenting opinion was filed on the 11th day of July 1997.

A handwritten signature in cursive script that reads "Dorothy M. Gunn". The signature is written in black ink and is positioned above a solid horizontal line.

Dorothy M. Gunn, Clerk
Illinois Pollution Control Board