

ILLINOIS POLLUTION CONTROL BOARD  
March 7, 2002

VOGUE TYRE & RUBBER COMPANY,	)	
	)	
Petitioner,	)	
	)	
v.	)	PCB 96-10
	)	(UST Appeal)
ILLINOIS ENVIRONMENTAL	)	
PROTECTION AGENCY,	)	
	)	
Respondent.	)	

ORDER OF THE BOARD (by G.T. Girard):

On February 1, 2002, the Illinois Environmental Protection Agency (Agency) filed a motion to dismiss. Petitioner has not filed a response to the motion. The Agency seeks dismissal of this proceeding “for lack of prosecution” of the appeal. For the reasons discussed below the Board denies the motion to dismiss.

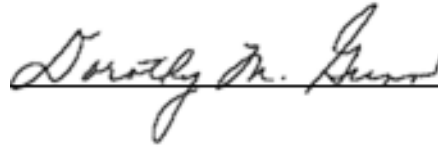
On July 18, 1995 petitioner filed a petition for review of the Agency’s final decision. On January 2, 1996, petitioner filed a motion of stay indicating that this appeal could become moot based on a request for insurance coverage. Mot. at 2. The Board granted that stay and since that motion was granted numerous other requests for stay have been granted. Petitioner has continued to participate in status calls with the hearing officer. Petitioner has indicated that a federal matter related to the insurance coverage is pending and resolution of that matter may moot this proceeding.

The Agency maintains that even if the Board grants the motion to dismiss, petitioner can resubmit the reports at issue in this case when requesting reimbursement from the leaking underground storage tank reimbursement fund. Mot. at 4. The Agency argues that even if the federal matter is resolved in the near future there could be additional appeals and this appeal would still be pending. Mot. at 3-4. For these reasons the Agency asks that the Board dismiss this matter.

At this time, the Board will deny the motion to dismiss. Petitioner has continued to participate in status conference and has remained in touch with the hearing officer in this matter. Therefore, the Board will deny the motion to dismiss. However, the next status conference in this matter is March 20, 2002. At that status conference petitioner shall give a date certain by which the pending federal matter shall be resolved, or the hearing officer shall set this matter for hearing.

IT IS SO ORDERED.

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above order on March 7, 2002, by a vote of 7-0.

A handwritten signature in cursive script, reading "Dorothy M. Gunn", is written over a solid horizontal line.

Dorothy M. Gunn, Clerk  
Illinois Pollution Control Board