

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

RUSSELL OIL COMPANY, INC.,)	
Petitioner,)	
)	
v.)	PCB 07-137
)	(UST Appeal)
ILLINOIS ENVIRONMENTAL)	
PROTECTION AGENCY,)	
Respondent.)	

MOTION TO DISMISS

NOW COMES the Respondent, the Illinois Environmental Protection Agency (“Illinois EPA”), by one of its attorneys, James G. Richardson, Assistant Counsel and Special Assistant Attorney General, and, pursuant to 35 Ill. Adm. Code 101.500, hereby moves that this appeal be dismissed by the Illinois Pollution Control Board. In support of this motion, the Illinois EPA states as follows:

1. When the Petition for Review was filed in this case, United Science Industries, Inc. (“USI”) was the environmental consultant performing remediation activities at the Petitioner’s facility.

2. On September 15, 2009, USI filed for Chapter 11 Bankruptcy in the United States Bankruptcy Court for the Southern District of Illinois, Proceeding Number 09-41525. The case was converted to Chapter 7 Bankruptcy on September 28, 2010, and Donald M. Samson was appointed trustee of the bankruptcy estate on September 29, 2010. The case is still pending.

3. Since this filing, the Petitioner has not made any effort to either litigate this case or to settle this case with the Illinois EPA. As it does not appear that this situation will change, this case cannot be concluded by either adjudication on its merits or agreed settlement.

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4. To ensure that parties potentially interested in USI's involvement with this facility are not prejudiced by this Motion, the Motion is being provided to the owner/operator of the facility as identified in Illinois EPA records, the trustee of the bankruptcy estate, and counsel for Marshall and Ilsley Bank, which acquired Southwest Bank and is the secured party with interest in payments from the Illinois EPA.

For the reasons stated herein, the Illinois EPA respectfully requests that this appeal be dismissed by the Illinois Pollution Control Board.

Respectfully submitted,

ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

/s/ James G. Richardson

James G. Richardson
Special Assistant Attorney General

Dated: March 31, 2011

CERTIFICATE OF SERVICE

I, the undersigned attorney at law, hereby certify that on March 31, 2011 I served true and correct copies of a MOTION TO DISMISS upon the persons and by the methods as follows:

[Electronic Filing]

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