

ILLINOIS POLLUTION CONTROL BOARD
October 21, 2010

CHICAGO COKE COMPANY,)	
)	
Petitioner,)	
)	
v.)	PCB 10-75
)	(Permit Appeal - Air)
ILLINOIS ENVIRONMENTAL)	
PROTECTION AGENCY,)	
)	
Respondents.)	

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

The Board on September 2, 2010 denied a motion to dismiss filed by Illinois Environmental Protection Agency (Agency) in this air permit appeal. Chicago Coke Company (Chicago Coke) filed a petition for review on March 29, 2010. On September 24, 2010, the Agency filed a motion asking the Board to reconsider the September 2, 2010 (Mot.). Chicago Coke filed a response in opposition on October 8, 2010 (Resp.).

The Agency argues that the Agency's decision at issue in the permit appeal was not a final decision made pursuant to the Environmental Protection Act (Act) (415 ILCS 5/1 *et. seq.* (2008)) or Board regulations. Mot. at 2. The Agency argues that the Board's finding that the Agency's decision was a final decision and that the Board has jurisdiction over the petition under Section 5(d) of the Act (415 ILCS 5/5(d) (2008)) is in error. *Id.*

Chicago Coke argues that the motion to reconsider should be denied as the Board's decision on September 2, 2010 was correct. Resp. at 1. Chicago Coke asserts that the Agency attempts to reargue previous claims and attempts to raise new claims in the motion to reconsider; however, the Agency does not demonstrate how the Board's decision was in error. Resp. at 2.

In ruling on a motion for reconsideration, the Board will consider factors including new evidence or a change in the law, to conclude that the Board's decision was in error. 35 Ill. Adm. Code 101.902. In Citizens Against Regional Landfill v. County Board of Whiteside, PCB 93-156 (Mar. 11, 1993), we observed that "the intended purpose of a motion for reconsideration is to bring to the court's attention newly discovered evidence which was not available at the time of hearing, changes in the law or errors in the court's previous application of the existing law." Korogluyan v. Chicago Title & Trust Co., 213 Ill. App. 3d 622, 627, 572 N.E.2d 1154, 1158 (1st Dist. 1992). The Board finds that the Agency has provided no new evidence or a change in the law that would indicate that the Board's September 2, 2010 order accepting the petition for review was in error. Therefore the motion to reconsider is denied.

IT IS SO ORDERED.

I, John T. Therriault, Assistant Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above order on October 21, 2010, by a vote of 5-0.

A handwritten signature in black ink that reads "John T. Therriault". The signature is written in a cursive style with a long horizontal flourish extending to the right.

John T. Therriault, Assistant Clerk
Illinois Pollution Control Board