

ILLINOIS POLLUTION CONTROL BOARD
December 7, 1995

SIERRA CLUB, MADISON COUNTY)	
CONSERVATION ALLIANCE, and)	
JIM BENSMAN,)	
)	
Petitioners,)	
)	
v.)	PCB 95-174
)	(Pollution Control Facility
CITY OF WOOD RIVER,)	Siting Appeal)
WOOD RIVER PARTNERS, L.L.C.,)	
)	
Respondents.)	

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

On November 14, 1995 the Sierra Club, Madison County Conservation Alliance, and Jim Bensman (petitioners) filed a motion to reconsider the Board's October 5, 1995 opinion and order in this matter. On November 27, 1995 and November 28, 1995, the Board received responses from Wood River Partners, L.L.C. (Wood River Partners) and the City of Wood River (City) respectively. Petitioners filed a reply to respondents' response to petitioners' motion to reconsider on December 1, 1995.

Initially the Board must rule on petitioners' motion for leave to file a reply. Petitioners do not have the right to reply, except as permitted by the Board or hearing officer to prevent material prejudice. (35 Ill. Adm. Code 101.241(c).) To prevent material prejudice the Board hereby grants petitioners' motion for leave to file a reply.

Next the Board must determine whether Wood River Partners' response which exceeds the 15 page limit will be accepted by the Board. Pursuant to the Board's procedural rules, "(n)o brief in support of or in opposition to any motion shall exceed 15 pages without prior approval of the Board or hearing officer". (35 Ill. Adm. Code 101.104(a).) In the interests of a complete and thorough decision, the Board will accept Wood River Partners' response.

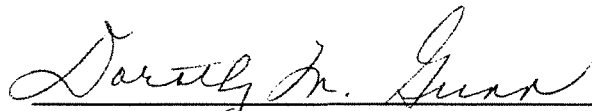
In ruling upon a motion for reconsideration the Board is to consider, but is not limited to, error in the previous decision and facts in the record which may have been overlooked. (35 Ill. Adm. Code 101.246(d).) In Citizens Against Regional Landfill v. The County Board of Whiteside County (March 11, 1993), PCB 93-156, we stated that "[t]he 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 the hearing, changes in the law, or errors in the court's previous application of the existing law". (Korogluyan v. Chicago Title &

Trust Co. (1st Dist. 1992), 213 Ill. App.3d 622, 572 N.E.2d 1154.) The Board finds that the motion for reconsideration does not present the Board with new evidence, a change in the law, or any other reason to conclude that the Board's October 5, 1995 decision was in error. The information which petitioners now submit in its motion to reconsider was "available" at the time of the hearing upon request. Nothing in the motion to reconsider convinces the Board that an "error in the decision" was made. Further, the Board finds that the motion to reconsider does not point to any "facts in the record which are overlooked", or any other reason to conclude that the Board's decision was in error. Therefore, the motion to reconsider is denied.

IT IS SO ORDERED.

Section 41 of the Environmental Protection Act (415 ILCS 5/41 (1994)) provides for the appeal of final Board orders within 35 days of the date of service of this order. The Rule of the Supreme Court of Illinois establish filing requirements. (See also 35 Ill. Adm. Code 101.246, Motions for Reconsideration.)

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, do hereby certify that the above order was adopted on the 7th day of December, 1995, by a vote of 6-0.


 Dorothy M. Gunn, Clerk
 Illinois Pollution Control Board