

ILLINOIS POLLUTION CONTROL BOARD
December 6, 1991

PEOPLE OF THE STATE OF ILLINOIS,)
)
 Complainant,)
)
 v.) PCB 90-112
) (Enforcement)
CHICAGO HEIGHTS REFUSE DEPOT, Inc.,)
)
 Respondent.)

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

This matter comes before the Board on a motion for reconsideration filed on November 8, 1991, and memorandum in support of motion for reconsideration filed on November 14, 1991, by the Chicago Heights Refuse Depot, Inc., ("Refuse Depot"). The People of the State of Illinois ("State") filed its motion and memorandum in response to the motion to reconsider on November 21, 1991.

On December 2, 1991, the Refuse Depot filed an emergency motion for leave to file emergency supplemental statement in support of motion for reconsideration, and the emergency supplemental statement. On December 4, 1991, State filed a reply in opposition to the motion for leave to file an emergency supplemental statement.

The Board first addresses the Refuse Depot's motion for leave to file the emergency supplemental statement. The Board's procedural rules allow for the filing of motions for reconsideration within 35 days after the adoption of a final order (35 Ill. Adm. Code 101.246). The Refuse Depot's November 8 and 14 filings clearly fall within the time frame of the rule. The Refuse Depot now seeks to supplement its motion for reconsideration. The procedural rules also allow for replies to responses to motions if permitted by the Board to prevent material prejudice (35 Ill. Adm. Code 101.241(c)). The emergency supplement was not characterized as a reply. Even if the supplement could be construed as a reply, it states no grounds upon which a finding of material prejudice could be based. The supplement solely contains reargument by the Refuse Depot's substitute counsel. The motion for leave to file the emergency supplement is accordingly denied.

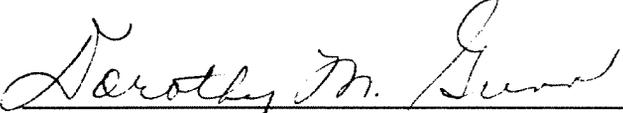
Upon review of the Refuse Depot's motion for reconsideration and memorandum (the November 8 and 14 filings), the Board finds

that the Refuse Depot raises nothing new that would persuade it to reconsider its prior holdings as reflected in the October 10, 1991 Opinion and Order. Accordingly, the Refuse Depot's motion to reconsider is denied.

IT IS SO ORDERED.

Board Member J.D. Dumelle dissented.

I, Dorothy, M. Gunn, Clerk of the Illinois Pollution Control Board, hereby certify that the above Order was adopted on the 6th day, of December, 1991, by a vote of 6-1.



Dorothy M. Gunn, Clerk
Illinois Pollution Control Board