

ILLINOIS POLLUTION CONTROL BOARD
February 15, 2007

PEORIA DISPOSAL COMPANY,)	
)	
Petitioner,)	
)	
v.)	PCB 06-184
)	(Pollution Control Facility Siting
PEORIA COUNTY BOARD,)	Appeal)
)	
Respondent.)	

ORDER OF THE BOARD (by N.J. Melas):

Today the Board considers two motions filed by the Peoria Disposal Company (PDC). The first is a motion for summary judgment, filed November 20, 2006. The second is PDC's motion for reconsideration of a Board order. For the reasons set forth below, the Board denies both PDC's motions.

MOTION FOR SUMMARY JUDGMENT

The Board's procedural rules provide that "no fewer than 30 days prior to the regularly scheduled Board meeting before the noticed hearing date, a party may move the Board for summary judgment for any and all part of the relief sought." 35 Ill. Adm. Code 101.516(a). Board meetings were scheduled for December 21, 2006 and January 4, 2007, and the hearing began January 8, 2007, making PDC's motion timely. The Board's rules also provide that "any party wishing to cancel a hearing pending decision on a motion for summary judgment must file a motion to cancel hearing pursuant to Section 101.510 of this Part." 35 Ill. Adm. Code 101.516(c). PDC filed no motion to cancel hearing.

Because the hearing has already been held in this matter, the motion is now moot. The Board will make a final decision on the merits in accordance with the decision deadline, which is currently May 17, 2007.

MOTION FOR RECONSIDERATION

On November 6, 2006, the Peoria County Board (County) moved for leave to supplement the record on appeal (Mot.), filed the three documents it requested leave to incorporate into the record, and filed a second amended index. The three documents the County sought to incorporate into the record were: (1) a supplemental staff report; (2) one page of findings generated by County staff at the May 3, 2006 county board meeting (findings page); and (3) 6 proposed findings of fact. On December 21, 2007, the Board granted the County's motion to supplement the record, but ordered the County to file a clean copy of the April 6 proposed findings. The County filed a clean copy on January 8, 2007.

On January 5, 2007, Peoria Disposal Company (PDC) filed a motion to reconsider the Board's December 21, 2006 order granting the motion to supplement. PDC requested that the Board reconsider its order only as to the single findings page.

A motion to reconsider may be brought "to bring to the [Board's] attention newly discovered evidence which was not available at the time of the hearing, changes in the law or errors in the [Board's] previous application of existing law." Citizens Against Regional Landfill v. County Board of Whiteside County, PCB 92-156, slip op. at 2 (Mar. 11, 1993), citing Korogluyan v. Chicago Title & Trust Co., 213 Ill. App. 3d 622, 627, 572 N.E.2d 1154, 1158 (1st Dist. 1991); *see also* 35 Ill. Adm. Code 101.902. A motion to reconsider may specify "facts in the record which were overlooked." Wei Enterprises v. IEPA, PCB 04-23, slip op. at 5 (Feb. 19, 2004). "Reconsideration is not warranted unless the newly discovered evidence is of such conclusive or decisive character so as to make it probably that a different judgment would be reached." Patrick Media Group, Inc. v. City of Chicago, 255 Ill. App. 3d 1, 8, 626 N.E.2d 1066, 1071 (1st Dist. 1993).

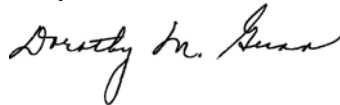
PDC moves the Board for reconsideration of the Board's December 21, 2006 ruling on the County's motion to supplement the record with the findings page, "based on certain inconsistencies in the Board's Order and the various filings of the parties." Mot. at 1. In the motion for reconsideration, PDC has presented no newly discovered evidence, changes in the law, or errors in the Board's application of existing law that warrants reconsideration of the Board's December 21, 2006 order.

CONCLUSION

Today the Board denies PDC's motion for summary judgment as moot. The Board also denies PDC's motion for reconsideration of the Board's December 21, 2006 order because PDC failed to meet the standard for reconsideration.

IT IS SO ORDERED.

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above order on February 15, 2007, by a vote of 4-0.



Dorothy M. Gunn, Clerk
Illinois Pollution Control Board