

ILLINOIS POLLUTION CONTROL BOARD
September 17, 2009

PEOPLE OF THE STATE OF ILLINOIS,)	
)	
Complainant,)	
)	
v.)	PCB 03-191
)	(Enforcement -Land)
COMMUNITY LANDFILL COMPANY,)	
INC. and the CITY OF MORRIS,)	
)	
Respondents.)	

ORDER OF THE BOARD (by S.D. Lin):

In its June 18, 2009 opinion and order, the Board assessed penalties against both respondents for violations of the Environmental Protection Act (Act), 415 ILCS 5/1 *et seq.* (2008) and the Board's rules requiring the posting of financial assurance for the proper closure and post-closure care of the Morris Community Landfill (Landfill). The action was brought by the People of the State of Illinois. Site permits for the Landfill, issued by the Illinois Environmental Protection Agency, list Community Landfill Company, Inc. (CLC) as the operator, and the City of Morris (City or Morris) as the owner. The Landfill is a special waste and municipal solid waste landfill located at 1501 Ashley Road, in Morris, Grundy County.

The respondents each timely filed a separate motion for reconsideration; the City's motion was filed July 22, 2009 and CLC's was filed on July 27, 2009. The People timely filed a response in opposition to the City's motion for reconsideration on August 5, 2009. Pursuant to the August 25, 2009 hearing officer order granting the People's motion for extension of time, the People timely filed a response in opposition to CLC's motion on August 26, 2009. Pursuant to the August 25 hearing officer order, on August 31, 2009 the City filed a reply in opposition to the Agency's response to its motion. The Board denies the motion for leave to file accompanying the reply as unnecessary.

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. The Board has stated 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." Citizens Against Regional Landfill v. County Board of Whiteside, PCB 92-156, slip op. at 3 (Mar. 11, 1993) (sanctions ruling in landfill siting appeal affirmed on reconsideration), citing the general rule set out in Korogluyan v. Chicago Title & Trust Co., 213 Ill. App. 3d 622, 627, 572 N.E.2d 1154, 1158 (1st Dist. 1992) (review of trial court ruling on motion to reconsider).

After review of the filings, the Board finds that the respondents have produced no new evidence, citation to change in law, or convincing arguments that the Board misapplied exiting


law that would lead the Board to conclude that the June 18, 2009 decision was in error. The Board accordingly denies each respondent's motion for reconsideration.

The Board notes that the pendency of the timely-filed motions for reconsideration stayed the effect of the June 18, 2009 order until final disposition of those motions in today's order. See 35 Ill. Adm. Code 101.520 (c), citing 35 Ill. Adm. Code 101.300(d)(2). Accordingly, the 60 day timeframe for performance of the terms of the Board's order begin to run anew today. Accordingly, each respondent's deadline date for performance is now November 16, 2009.

IT IS SO ORDERED.

Section 41(a) of the Environmental Protection Act provides that final Board orders may be appealed directly to the Illinois Appellate Court within 35 days after the Board serves the order. 415 ILCS 5/41(a) (2008); see also 35 Ill. Adm. Code 101.300(d)(2), 101.906, 102.706. Illinois Supreme Court Rule 335 establishes filing requirements that apply when the Illinois Appellate Court, by statute, directly reviews administrative orders. 172 Ill. 2d R. 335. The Board's procedural rules provide that motions for the Board to reconsider or modify its final orders may be filed with the Board within 35 days after the order is received. 35 Ill. Adm. Code 101.520; see also 35 Ill. Adm. Code 101.902, 102.700, 102.702.

I, John T. Therriault, Assistant Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above order on September 17, 2009, by a vote of 5-0.

A handwritten signature in black ink, reading "John T. Therriault", with a long horizontal flourish extending to the right.

John T. Therriault, Assistant Clerk
Illinois Pollution Control Board