

ILLINOIS POLLUTION CONTROL BOARD
December 3, 2009

FOX MORaine, LLC,)	
)	
Petitioner,)	
)	
v.)	PCB 07-146
)	(Pollution Control Facility
UNITED CITY OF YORKVILLE, CITY)	Siting Appeal)
COUNCIL,)	
)	
Respondent,)	
)	
KENDALL COUNTY,)	
)	
Intervenor.)	

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

On November 4, 2009, Fox Moraine, LLC (Fox Moraine) filed a motion asking the Board to reconsider the Board's October 1, 2009 decision affirming United City of Yorkville's (Yorkville) decision to deny siting of a pollution control facility pursuant to Section 39.2 of the Environmental Protection Act (Act) (415 ILCS 5.39.2 (2008)). On November 18, 2009, Yorkville responded in opposition to the motion to reconsider.

On December 1, 2009, Fox Moraine filed a motion for leave to file a reply. The Board's rules provide that the Board will not grant a motion until a 14-day response period has elapsed, unless undue delay or material prejudice would result. The Board finds that undue delay will result and therefore grants the motion for leave to file a reply.

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 Fox Moraine has provided no new evidence or a change in the law that would indicate that the Board's October 1, 2009 opinion and order was in error. Therefore the motion to reconsider is denied.

IT IS SO ORDERED.

Board Member C.K. Zalewski abstains

I, John T. Therriault, Assistant Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above opinion and order on December 3, 2009, by a vote of 4-0.

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

John T. Therriault, Assistant Clerk
Illinois Pollution Control Board