

ILLINOIS POLLUTION CONTROL BOARD
May 19, 2011

STOP THE MEGA-DUMP,)
)
Petitioner,)
)
v.) PCB 10-103
) (Third-Party Pollution Control Facility
COUNTY BOARD OF DEKALB COUNTY,) Siting Appeal)
)
ILLINOIS and WASTE MANAGEMENT OF)
ILLINOIS, INC.,)
)
Respondents.)

ORDER OF THE BOARD (by C.K. Zalewski):

This order denies petitioner's contested motion for reconsideration of the Board's March 17, 2011 opinion and order affirming site location suitability approval for expansion of an existing landfill.

In a 74-page March 17, 2011 opinion and order, the Board ruled on the June 11, 2010 petition for review filed by the voluntary group of citizens known as Stop the Mega-Dump (STMD or petitioner). STMD asked the Board to review a May 10, 2010 decision of the County Board of DeKalb County, Illinois (County) *See* 415 ILCS 5/40.1(b) (2008); 35 Ill. Adm. Code 107.204. The County granted the application of Waste Management of Illinois, Inc. (Waste Management) for expansion of the DeKalb County Landfill, subject to conditions contained in the County's Resolution # 2010-31. The Board affirmed the County's decision, finding that the proceedings were fundamentally fair and that the decision was not against the manifest weight of the evidence on the challenged criteria (i), (iii), and (vi) contained in Section 39.2(a) of the Environmental Protection Act (Act) (415 ILCS 5/39.2(a) (2008)).¹

On April 20, 2011, STMD filed a timely motion for reconsideration of the Board's March 17, 2011 opinion and order. The County and Waste Management filed separate responses in opposition to reconsideration on May 4, 2011.

In ruling on a motion for reconsideration, the Board will consider factors including new

¹ In a separate petition for review filed June 14, 2010, Waste Management challenged one of these conditions which would require Waste Management to fund and maintain improvements to the shoulder and slope of Somonauk Road. While the Board initially consolidated the two appeals, the Board later vacated the consolidation order at Waste Management's request. Waste Management of Illinois, Inc. v. DeKalb County Board, PCB 10-104 (Aug. 19, 2010). The Board's March 17, 2011 opinion and order did not address the merits of that appeal; Waste Management has yet to present its case on the PCB 10-104 petition at hearing.

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 STMD has 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 March 17, 2011 decision was in error. Moreover, as respondents point out, the Board further finds that the Board did not "overlook" any of STMD's arguments; the Board addressed all arguments made. The Board accordingly denies STMD's motion for reconsideration.

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.

I, John T. Therriault, Assistant Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above order on May 19, 2011, by a vote of 5-0.



John T. Therriault, Assistant Clerk
Illinois Pollution Control Board