

ILLINOIS POLLUTION CONTROL BOARD
June 21, 2012

PEOPLE OF THE STATE OF ILLINOIS,)
)
)
Complainant,)
)
v.) PCB 97-193
) (Enforcement - Land)
COMMUNITY LANDFILL COMPANY,) (consolidated)
INC,)
)
Respondent.)

PEOPLE OF THE STATE OF ILLINOIS,)
)
)
Complainant,)
)
v.) PCB 04-207
) (Enforcement – Land)
EDWARD PRUIM and ROBERT PRUIM,)
)
)
Respondents.)

ORDER OF THE BOARD (by D. Glosser):

On May 15, 2012, Community Landfill Company, Inc. and Edward Pruum and Robert Pruum (collectively respondents) filed a motion asking the Board to reconsider the April 5, 2012 opinion and order. On June 11, 2012,¹ the People of the State of Illinois filed a response opposing the motion to reconsider.

The Board's April 5, 2012 opinion and order apportioned a \$250,000 civil penalty among the respondents. The Board's opinion and order was in response to the Appellate Court Third District (Court) issuing a mandate in Community Landfill Co. et al. v. IPCB et al., 2011 IL App. (3rd) 091026-U. The Court reviewed the Board's August 20, 2009 opinion and order finding the respondents had violated various provisions of the Environmental Protection Act (Act) (415 ILCS 5/1 et. seq. (2010)) as well as permit conditions and the Board's landfill regulations. The Court "remanded the cause for an apportionment of the penalties." 2011 IL App. (3rd) 091026-U at ¶1. The Board's April 5, 2012 specifically apportioned the penalty as follows: 1) \$25,000 apportionment for CLC-only violations is appropriate given the slight duration, gravity and lack

¹ The hearing officer granted an extension of time to the People to file its response.

of economic benefit from the CLC-only violations; and 2). \$225,000 apportionment jointly and severally is appropriate given the substantial duration, gravity and economic benefit accrued.

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 motion to reconsider merely reargues the positions put forth by respondents and considered by the Board in making the decision on apportionment of the \$250,000 civil penalty. Thus, the respondents have not pointed to newly discovered evidence, changes in the law, or errors in the application of the existing law. Therefore, the motion to reconsider is denied.

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 opinion and order on August 20, 2009, by a vote of 5-0.



John T. Therriault, Assistant Clerk
Illinois Pollution Control Board