

ILLINOIS POLLUTION CONTROL BOARD

August 9, 2007

PEOPLE OF THE STATE OF ILLINOIS,	)	
	)	
Complainant,	)	
	)	
v.	)	PCB 07-16
	)	(Enforcement - Water)
CSX TRANSPORTATION, INC.,	)	
	)	
Respondent.	)	

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

On July 23, 2007, the People of the State of Illinois (People) filed a motion asking the Board to reconsider a July 12, 2007 opinion and order. On August 6, 2007, CSX Transportation, Inc. (CSX) filed a response in opposition to the motion. The Board’s July 12, 2007 opinion and order found that CSX had violated Sections 12(a), (d) and 21(a) of the Environmental Protection Act (415 ILCS 5/12(a), (d), and 21(a) (2006)). The Board directed CSX to cease and desist from further violations and found that a civil penalty was not warranted. The People ask the Board to reconsider the decision not to impose a civil penalty.

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 People have provided no new evidence or a change in the law that would indicate that the Board’s July 12, 2007 decision not to impose as civil penalty was in error. 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) (2006); *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 August 9, 2007, 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.

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John T. Therriault, Assistant Clerk  
Illinois Pollution Control Board