

ILLINOIS POLLUTION CONTROL BOARD
July 23, 2009

JOHN TARKOWSKI,)	
)	
Petitioner,)	
)	
v.)	PCB 09-62
)	(Hearing Request Under
ILLINOIS ENVIRONMENTAL)	415 ILCS 5/34(d))
PROTECTION AGENCY,)	
)	
Respondent.)	

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

On May 31, 2009, John Tarkowski¹ filed a letter requesting that the Board consider the letter a “Motion to Reconsider” the Board’s May 21, 2009 order dismissing Mr. Tarkowski’s request for hearing. Mr. Tarkowski’s letter provides a litany of reasons why he believes the Board’s May 21, 2009 order was incorrect. However, Mr. Tarkowski’s latest filing still does not correct the statutorily required service on the Illinois Environmental Protection Agency (IEPA) for his filings in this docket. Mr. Tarkowski is clearly required to serve the IEPA with any documents he files with the Board, and file proof of such service with the Board. As the Board stated in the May 21, 2009 order:

The Board’s procedural rules implement the provisions of Section 32 of the Act (415 ILCS 5/32 (2006)) and require that parties to adjudicatory proceedings serve all documents they file with the Clerk’s office and proof of that service must be filed with the Clerk’s Office. 35 Ill. Adm. Code 101.304(a). The Board’s rules provide that “service may be effectuated by U.S. Mail or other mail delivery service, in person, by messenger, or as prescribed in Section 101.302(d).” 35 Ill. Adm. Code 101.304(c). Section 101.304(d) provides in part that:

A proceeding is subject to dismissal, and parties are subject to sanctions in accordance with Section 101.800 of this Part, if service is not timely made. Proof of proper service is the responsibility of the party filing and serving the document. An affidavit of service or certificate of service must accompany all filings of all parties. 35 Ill. Adm. Code 101.304(d). Jack Tarkowski v. IEPA, PCB 09-62 (May 21, 2009).

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.

¹ The Board has been referring to Mr. Tarkowski as “Jack” however in his most recent filing, he informs the Board his first name is “John”; therefore, the Board corrects the caption in this case.

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 Mr. Tarkowski has provided no new evidence or a change in the law that would indicate that the Board’s May 21, 2009 order dismissing the request was in error. Therefore the motion to reconsider is denied.

IT IS SO ORDERED.

I, John Therriault, Assistant Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above order on July 23, 2009 by a vote of 5-0.



John Therriault, Assistant Clerk
Illinois Pollution Control Board