

ILLINOIS POLLUTION CONTROL BOARD

May 16, 1996

ESG WATTS, INC., an Iowa Corporation,)	
)	
Petitioner,)	
)	PCB 94-243
v.)	94-306
)	94-307
ILLINOIS ENVIRONMENTAL)	94-308
PROTECTION AGENCY,)	94-309
)	95-133
Respondent.)	95-134
)	(Consolidated)
)	(Permit Appeals - Land)

ORDER OF THE BOARD (by C.A. Manning):

This matter is before the Board on a motion for reconsideration filed by ESG Watts, Inc. (Watts) on April 29, 1996. The Illinois Environmental Protection Agency (Agency) filed a motion to reconsider and for partial modification of a final order on April 29, 1996. Watts filed a response to the Agency's motion on May 14, 1996 and the Agency filed its response to Watts' motion for reconsideration on May 14, 1996.

In ruling upon a motion for reconsideration the Board is to consider, but is not limited to, error in the previous decision and facts in the record which may have been overlooked. (35 Ill. Adm. Code 101.246(d).) In Citizens Against Regional Landfill v. The County Board of Whiteside County (March 11, 1993), PCB 93-156, we stated that "[t]he 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 the hearing, changes in the law, or errors in the court's previous application of the existing law." (Korogluyan v. Chicago Title & Trust Co. (1st Dist. 1992), 213 Ill. App.3d 622, 572 N.E.2d 1154.)

The Board finds that both Watts' motion for reconsideration and the Agency's motion to reconsider and for partial modification of a final order do not present the Board with new evidence, a change in the law, or any other reason to conclude that the Board's decision was in error. The Board also finds that sanctions were properly imposed in this case. As stated by the Fourth District Appellate Court in Grigolet Company v. Pollution Control Board, 613 N.E. 2d 344, 350 (Ill. App. 4th Dist. 1993), the Board has broad discretion in determining whether to impose sanctions for refusal to comply with an order of the Board. Therefore, both motions are denied.

IT IS SO ORDERED

Board Members Emmett Dunham and G. Tanner Girard dissented.

Section 41 of the Environmental Protection Act (415 ILCS 5/41 (1994)) provides for the appeal of final Board orders within 35 days of the date of service of this order. The Rules of the Supreme Court of Illinois establish filing requirements. (See also 35 Ill. Adm. Code 101.246 "Motions for Reconsideration.")

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, hereby certify that the above order was adopted on the _____ day of _____, 1996, by a vote of _____.

Dorothy M. Gunn, Clerk
Illinois Pollution Control Board