

ILLINOIS POLLUTION CONTROL BOARD
October 20, 2011

CHEVRON ENVIRONMENTAL)
MANAGEMENT COMPANY,)
)
Petitioner,)
)
v.) PCB 11-66
) (Motion to Reconsider Dismissal)
ILLINOIS ENVIRONMENTAL)
PROTECTION AGENCY,)
)
Respondent.)

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

On March 3, 2011, the Illinois Environmental Protection Agency (Agency) partially denied reimbursement to Chevron Environmental Management Company (Chevron) for certain cleanup costs associated with an underground storage tank (UST) at 22 West Irving Park Road, Roselle, DuPage County. On April 7, 2011, Chevron and the Agency requested that the Board extend the time period in which Chevron could appeal the Agency's denial of reimbursement until July 6, 2011. On April 21, 2011, the Board granted the request for extension.

In a letter dated May 25, 2011 sent to John Sherill, manager of the Financial Management Unit at the Agency's Bureau of Land, Chevron set forth the reasons it opposed the Agency's partial denial of UST cleanup costs. No notice of appeal was filed with the clerk of the Board.

On July 21, 2011, the Board dismissed the case because of Chevron's failure to timely file an appeal by the July 6th deadline. On August 25, 2011, Chevron filed a Petition for Review of Order of the Board, maintaining that the May 25th letter sent to the Agency functioned as an effective notice of appeal.

Section 40(a)(1) of the Environmental Protection Act allows a party to appeal a decision of the Agency by filing such an appeal "by written notice provided to the Board" within 35 days of the date of the decision or within the agreed to 90-day extension of the appeal period. 415 ILCS 5/40(a)(1) (2010). No such written notice was filed with the Board.

In ruling on a motion for reconsideration, the Board will consider factors which include but are not limited to new evidence or a change in the law, to conclude that the Board's decision was in error. 35 Ill. Adm. Code 101.902; Perbio Science, AB v. IEPA, PCB 01-52 (Jan. 18, 2001). 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 Chevron's letter to John Sherill dated May 25, 2011, did not satisfy the provisions of the Act relating to proper filing with the Board and therefore Chevron did not timely appeal the Agency's UST determination of March 3, 2011. Chevron has provided no new evidence or a change in the law that would indicate that the Board's July 21, 2011 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 October 20, 2011, by a vote of 5-0.

A handwritten signature in black ink that reads "John T. Therriault". The signature is written in a cursive style with a long horizontal flourish extending to the right.

John Therriault, Assistant Clerk
Illinois Pollution Control Board