

ILLINOIS POLLUTION CONTROL BOARD  
March 20, 1997

PEOPLE OF THE STATE OF ILLINOIS, )  
)  
Complainant, )  
)  
v. ) PCB 96-264  
) (Enforcement - RCRA)  
)  
AMERICAN WASTE PROCESSING, LTD., )  
an Illinois corporation, )  
)  
Respondent. )

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

This matter comes before the Board on a motion to reconsider and/or clarify filed by the Illinois Attorney General's Office on behalf of the People of the State of Illinois and the Illinois Environmental Protection Agency (Agency) on February 26, 1997. American Waste Processing, Ltd. (American Waste) filed its response in opposition to complainant's motion to reconsider on March 4, 1997. On January 23, 1997 the Board dismissed this matter without prejudice since the Agency did not serve written notice on American Waste for the dates alleged in the complaint pursuant to Section 31(d) of the Environmental Protection Act (Act) (415 ILCS 5/31(d) (1994)).

Complainant argues in its motion to reconsider and/or clarify that "Section 31(d) does not require that a notice of violations(s) (sic) be duplicated in instances where the violations(s) (sic) which has (sic) been the subject of a previous notice of violation to the respondent is ongoing." (Mot. to Reconsider at 3.) Complainant further states that it met with respondent's attorney on June 25, 1996 to discuss the filing of a complaint. Complainant also argues that on February 14, 1997 it sent American Waste another written notice informing American Waste of the charges alleged and that complainant intended to file another formal written complaint. (*Id.* at 3-4.) In response, American Waste argues that though it met with complainant on June 25, 1996, such meeting did not satisfy the requirements of Section 31(d). American Waste further asserts that though the Agency sent written notice to American Waste on February 14, 1997, compliance with Section 31(d) was not satisfied as of the date of the filing of the original complaint on June 26, 1996. (Response at 2.)

In ruling upon a motion for reconsideration the Board is to consider factors including, but not limited to, error in the previous decision and facts in the record which are 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, the Board 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 the arguments presented in complainants' motion to reconsider and/or clarify do not present the Board with any new evidence, a change in the law, or any other reason to conclude that the Board's decision was in error. In its January 23, 1997 order the Board found that the Agency had not properly informed American Waste of the allegations in the complaint pursuant to Section 31(d). American Waste did not receive written notice of all dates of the alleged violations prior to the filing of the complaint on June 26, 1996. As a result, the Board ordered this matter dismissed and allowed for the filing of another formal complaint with the Board once the required 31(d) notice was served on American Waste. In following the Board's ruling on January 23, 1997, complainant served notice on American Waste on February 14, 1997. Consistent with the remainder of the Board's order, complainant may also file a new complaint. The Board affirms its prior order entered on January 23, 1997 and hereby denies complainants' motion to reconsider and/or clarify the Board's January 23, 1997 order.

IT IS SO ORDERED.

Section 41 of the Environmental Protection Act (415 ILCS 5/41(1994)) provides for the appeal of final Board orders to the Illinois Appellate Court within 35 days of the date of service of this order. The Rules of the Supreme Court of Illinois establish filing requirements.

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, hereby certify that the above order was adopted on the \_\_\_\_\_ day of \_\_\_\_\_, 1997, by a vote of \_\_\_\_\_.

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Dorothy M. Gunn, Clerk  
Illinois Pollution Control Board