

ILLINOIS POLLUTION CONTROL BOARD
October 16, 2003

CITY OF KANKAKEE,)
)
Petitioner,)
)
v.) PCB 03-125
) (Third-Party Pollution Control Facility
COUNTY OF KANKAKEE, COUNTY) Siting Appeal)
BOARD OF KANKAKEE, and WASTE)
MANAGEMENT OF ILLINOIS, INC.,)
)
Respondents.)

MERLIN KARLOCK,)
)
Petitioner,)
)
v.) PCB 03-133
) (Third-Party Pollution Control Facility
COUNTY OF KANKAKEE, COUNTY) Siting Appeal)
BOARD OF KANKAKEE, and WASTE)
MANAGEMENT OF ILLINOIS, INC.,)
)
Respondents.)

MICHAEL WATSON,)
)
Petitioner,)
)
v.) PCB 03-134
) (Third-Party Pollution Control Facility
COUNTY OF KANKAKEE, COUNTY) Siting Appeal)
BOARD OF KANKAKEE, and WASTE)
MANAGEMENT OF ILLINOIS, INC.,)
)
Respondents.)

KEITH RUNYON,)	
)	
Petitioner,)	
)	
v.)	PCB 03-135
)	(Third-Party Pollution Control Facility
COUNTY OF KANKAKEE, COUNTY)	Siting Appeal)
BOARD OF KANKAKEE, and WASTE)	
MANAGEMENT OF ILLINOIS, INC.,)	
)	
Respondents.)	

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

On September 8, 2003, petitioner Michael Watson (Watson) filed a motion asking the Board to reconsider portions of the Board’s August 7, 2003 opinion and order. The County of Kankakee (County) filed a response to Watson’s motion on September 23, 2003, and Waste Management of Illinois (Waste Management) filed responses to Watson’s motion on September 24, 2003. On October 10, 2003, Watson filed a motion for leave to file a reply to the County and Waste Management’s responses. The Board grants the motion for leave to file a reply.

On September 12, 2003, Waste Management filed a motion asking the Board to reconsider the Board’s August 7, 2003 opinion and order and on September 15, 2003, Waste Management filed a motion to submit corrected pages. The Board will grant the motion to submit corrected pages. On September 25, 2003, Merlin Karlock filed a response to Waste Management’s motion. On September 26, 2003, the County filed a response and Watson filed a response.

August 7, 2003 Board Opinion and Order

On August 7, 2003, the Board determined Waste Management failed to properly notify all landowners pursuant to Section 39.2(b) of the Environmental Protection Act (Act) (415 ILCS 5/39.2(b) (2002)), and, therefore, the County lacked jurisdiction to review the siting application. Since the County lacked jurisdiction, the Board vacated the decision by the Kankakee County Board granting siting for the expansion of the facility owned and operated by Waste Management. The Board also found that pursuant to Section 39.2(n) of the Act (415 ILCS 5/39.2 (2002)) Watson was responsible for paying for the preparation of the record on appeal.

DISCUSSION

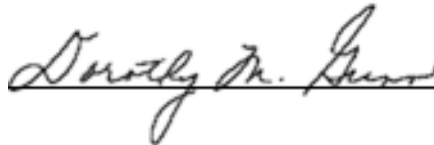
In ruling on a motion for reconsideration, the Board will consider factors including new evidence or a change in the law, to conclude that the Board’s decision was in error. 35 Ill. Adm. Code 101.902. In Citizens Against Regional Landfill v. County Board of Whiteside, PCB 93-

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). Neither the motion filed by Watson nor the motion filed by Waste Management present new evidence or a change in the law that would indicate that the Board's decision was in error. Therefore, both motions to reconsider are 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 5/31(a) (2002)); *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, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above order on October 16, 2003, by a vote of 7-0.

A handwritten signature in cursive script, reading "Dorothy M. Gunn", written over a horizontal line.

Dorothy M. Gunn, Clerk
Illinois Pollution Control Board