

ILLINOIS POLLUTION CONTROL BOARD  
July 8, 1999

CHARTER HALL HOMEOWNER'S	)	
ASSOCIATION and JEFF COHEN,	)	
	)	
Complainants,	)	
	)	
v.	)	PCB 98-81
	)	(Enforcement - Citizens, Noise)
OVERLAND TRANSPORTATION	)	
SYSTEM, INC. and D.P. CARTAGE, INC.,	)	
	)	
Respondents.	)	

ORDER OF THE BOARD (by K.M. Hennessey):

On June 10, 1999, respondents moved the Board to reconsider and modify its May 6, 1999 order in this matter (Motion). See Charter Hall Homeowner's Association and Jeff Cohen v. Overland Transportation System, Inc. and D.P. Cartage, Inc. (May 6, 1999), PCB 98-81, slip op. at 15-17. Complainants filed a response on June 24, 1999, (Response) in which they oppose the Motion.

A motion to reconsider may be brought "to bring to the [Board's] attention newly discovered evidence which was not available at the time of the hearing, changes in the law or errors in the [Board's] previous application of existing law." Citizens Against Regional Landfill v. County Board of Whiteside County (March 11, 1993), PCB 92-156, slip op. at 2, citing Korogluyan v. Chicago Title & Trust Co., 213 Ill. App. 3d 622, 627, 572 N.E.2d 1154, 1158 (1st Dist. 1991); see also 35 Ill. Adm. Code 101.246(d) (allowing the Board to consider, on a motion to reconsider or modify, errors in its decision and facts in the record that it has overlooked).

In the Motion, respondents fail to show that the Board erred or overlooked facts in its May 6, 1999 decision. Nor do respondents present any change in the law or newly discovered evidence. Accordingly, the Board denies the Motion.

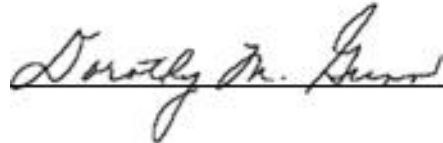
The Board notes that complainants assert that the filing of the Motion does not stay any compliance dates in the Board's May 6, 1999 order. Response at 14. The Board disagrees. The Board's May 6, 1999 order required respondents to satisfy certain obligations within a specified number of days of the date of the order. For example, the Board required respondents to complete an airtight barrier within 120 days of the date of the order and to pay a \$15,000 civil penalty within 30 days of the date of the order. See Charter Hall, PCB 98-81, slip op. at 15-17. However, a "timely-filed motion for reconsideration or modification stays the effect of the final order until final disposition of the motion." 35 Ill. Adm. Code 101.246(c). Respondents timely filed the Motion, which stayed the effect of the May 6, 1999

order until today's ruling on the Motion. Accordingly, the time periods in the Board's May 6, 1999 order now run anew.

IT IS SO ORDERED.

Board Member M. McFawn abstained.

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, hereby certify that the above order was adopted on the 8th day of July 1999 by a vote of 4-0.

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

Dorothy M. Gunn, Clerk  
Illinois Pollution Control Board