

ILLINOIS POLLUTION CONTROL BOARD
January 20, 2005

PEOPLE OF THE STATE OF ILLINOIS)
ex rel. GARY W. PACK, MCHENRY)
COUNTY STATE'S ATTORNEY,)
)
Complainant,)
)
v.) PCB 01-43
) (RCRA Enforcement)
MICHAEL STRINGINI,)
)
Respondent.)

ORDER OF THE BOARD (by T.E. Johnson):

This matter is before the Board on a December 20, 2004 motion to reconsider filed by Michael Stringini (Stringini). On November 4, 2004, the Board issued an order that incorporated the findings of fact and conclusions of law from its October 16, 2003 interim opinion and order that found Stringini in violation of the Environmental Protection Act (Act) and Board regulations, and imposed a civil penalty of \$50,000.

For the reasons articulated below, the Board denies Stringini's motion to reconsider.

BACKGROUND

On August 30, 2000, the People of the State of Illinois (People) filed an eleven-count complaint against Stringini. The People's complaint alleged (1) storing and/or disposing of foundry sand containing lead and hazardous waste without a Resource Conservation and Recovery Act (RCRA) permit; (2) failing to properly store hazardous waste; (3) failing to institute proper site entry controls; (4) failing to conduct property inspections and maintain proper inspection records; (5) failing to keep and maintain proper records at the facility; (6) failing to take hazardous waste release containment measures; (7) failing to make proper emergency and contingency plan arrangements; (8) failing to properly implement a groundwater monitoring program; (9) conducting a solid waste management site without a permit; (10) disposing, treating, storing and abandoning waste without meeting the requirements of the Act; and (11) open dumping. People v. Stringini, PCB 01-43, slip op. at 3 (Oct. 16, 2003).

The People alleged that these violations of the Act and the Illinois Administrative Code occurred at a facility located on McCue Road, south of Illinois Highway 176 in Union, McHenry County, Illinois. Comp. at 2.

The People filed a motion for summary judgment on May 28, 2003. As stated, the Board granted the People's motion on eight counts. People v. Stringini, PCB 01-43 (Oct. 16, 2003). Specifically, the Board found that Stringini violated 415 ILCS 21(a),(e) and (f) (2002); and 35

Ill. Adm. Code 703.121, 703.150, 724.194(a), 725.113(b), 725.114, 725.115(a) and (b), 725.131, 725.173, 725.190, 725.271, 725.273(a) and (b), 725.274, 725.351, and 728.150(a). *Id.* at 18.

On March 23, 2004, the Board held a hearing on the specific issue of civil penalties. Both parties appeared and presented testimony. On November 4, 2004, the Board issued the order at the basis of Stringini's motion to reconsider. In that order, the Board imposed a civil penalty of \$50,000 for the violations found in the October 16, 2003 interim opinion and order. On December 20, 2004, Stingini sent a letter to Hearing Officer Brad Halloran that appears to be seeking a reconsideration of the Board's November 4, 2004 order. The Board will consider this letter a motion to reconsider. To date, the People have not filed any response.

MOTION TO RECONSIDER

Stringini asserts that after he no longer had access to the Zimmerman property and no further deliveries were made, that Slone Valve paid him \$110,000 to continue to recycle their spent silica sand at an indoor location in Sycamore. Mot. at 1. Stringini contends that the \$110,000 is not from the Union gravel pit site but came from Sloan Valve after he was locked out of that site. *Id.* He states that he made no profits from the gravel pit in Union. *Id.* Stringini reiterates that clean silica sand has a value and that brass metals are also valuable, and that if separated they can be sold in truck load quantities. Stringini contends his business was never a scam but a legitimate scrap metal reclaiming operation. *Id.* He claims that all the equipment was left behind at Sycamore and Union, and that the People are aware of this fact. *Id.*

As noted, the People have not filed any response to the motion for reconsideration.

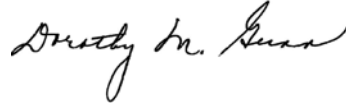
DISCUSSION

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 that were overlooked. 35 Ill. Adm. Code 101.246(d). In Citizens Against Regional Landfill v. County Board of Whiteside, PCB 93-156 (Mar. 11, 1993), the Board stated 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 the 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, 572 N.E. 2d 1154 (1st Dist. 1992).

Stringini has not asserted any evidence that was not available at the time of hearing, nor has he argued any changes in the law. Stringini's primary argument concerns the \$110,000 that the Board referenced in its November 4, 2004 order when considering the economic benefit Stringini received as a result of his delay in compliance. The Board is not persuaded by Stringini's arguments, and will not reconsider the November 4, 2004 Board order. The motion to reconsider is denied.

IT IS SO ORDERED.

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above order on January 20, 2005, by a vote of 5-0.

A handwritten signature in cursive script that reads "Dorothy M. Gunn".

Dorothy M. Gunn, Clerk
Illinois Pollution Control Board