ILLINOIS POLLUTION CONTROL BOARD
October 20, 1994

BTL SPECIALTY RESINS CORPORATION,	)	
Petitioner,	)	
v.	)	PCB 94-160 (Permit Appeal)
ILLINOIS ENVIRONMENTAL PROTECTION AGENCY,	)	
Respondent.	)	

ORDER OF THE BOARD (by M. McFawn):

On September 15, 1994, BTL Specialty Resins Corporation (BTL) filed a motion requesting that the Board reconsider its August 11, 1994 decision dismissing BTL's complaint against the Illinois Environmental Protection Agency (Agency) in this matter. On September 20, 1994, BTL filed a motion to supplement its motion to reconsider. The Agency filed a response to the motion to reconsider on October 7, 1994.

Summarizing its grounds for moving for reconsideration, BTL states:

> The Board confused the question of whether the Agency's waste determination was "made pursuant to the Act or Board rule" with a different (and not relevant) question of whether the Agency was required to issue it.
>
> (Motion for Reconsideration at 4-5.)

This argument is erroneous. Petitioner, not the Board, focuses on the wrong question. The Board merely noted that the Agency is free to issue advisory opinions as to its interpretations of Board regulations. Our opinion and order granting summary judgement did not rely on that fact. Dismissal was premised on the fact that the Agency does not have authority to issue legally binding hazardous waste determinations directly or indirectly, and therefore, the Agency's letter does not have the force and effect of law. Thus, the letter which petitioner requests the Board to review cannot constitute a final Agency determination. Accordingly, we held in our August 11 opinion that our authority under Section 5(d) of the Act does not include the review sought by BTL.

Neither this argument nor any other made by petitioner provides grounds for the Board to grant reconsideration. In ruling on a motion for reconsideration the Board is to consider, but is not limited to, error in the decision and facts in the record which may have been overlooked. (35 Ill. Adm. Code

101.246(d).) In Citizens Against Regional Landfill v. County of Board of Whiteside (March 11, 1993), PCB 93-156, we 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 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, 1158.)"

We find that Petioner's motion for reconsideration presents the Board with no new evidence, a change in the law, or any other reason to conclude that the Board's August 11, 1994 decision was in error. Accordingly, the motion for reconsideration is denied.

IT IS SO ORDERED.

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, hereby certify that the above order was adopted on the 20th day of October 1994, by a vote of 5-0.

Dorothy M. Gunn, Clerk
Illinois Pollution Control Board