

ILLINOIS POLLUTION CONTROL BOARD
September 4, 2008

PEOPLE OF WILLIAMSON COUNTY <i>Ex.</i>)	
<i>REL. STATE'S ATTORNEY CHARLES</i>)	
<i>GARNATI AND THE WILLIAMSON</i>)	
<i>COUNTY BOARD,</i>)	
)	
Petitioners,)	
)	
v.)	PCB 08-93
)	(Permit Appeal-Land)
KIBLER DEVELOPMENT CORPORATION,)	
MARION RIDGE LANDFILL, INC. and)	
ILLINOIS ENVIRONMENTAL)	
PROTECTION AGENCY,)	
)	
Respondents.)	

ORDER OF THE BOARD (by N.J. Melas):

In its July 10, 2008 opinion and order, the Board dismissed this May 29, 2008 petition for review filed by the People of Williamson County *ex rel.* State's Attorney Charles Garnati (State's Attorney) and the Williamson County Board (collectively, petitioners). Petitioners sought to appeal the May 15, 2008 modification of a permit for an existing municipal waste and non-hazardous special waste landfill for the Marion Ridge Landfill.

The permit modification was issued by the Illinois Environmental Protection Agency (Agency) to the landfill's owner, Kibler Development Corporation (Kibler), and operator, Marion Ridge Landfill, Inc (Landfill). The Board dismissed the action on the grounds that petitioners lack standing to bring this action, and that the Board therefore has no jurisdiction under Section 40 of the Environmental Protection Act (Act), 415 ILCS 5/40 (2006), to hear this purported third-party appeal of the grant of a permit to a non-hazardous special waste landfill.

On August 14, 2008, the State's Attorney timely filed a motion for reconsideration and supporting brief. The Agency filed a response in opposition on August 25, 2008. Kibler and the Landfill filed their response in opposition on August 29, 2008.

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).

After review of the filings, the Board finds that the State's Attorney has failed to point out any newly-discovered evidence, citation to change in law, or error in the Board's previous application of existing law that would lead the Board to conclude that the July 10, 1008 decision was in error. The Board accordingly denies the motion for reconsideration.

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 5/41(a) (2006); *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, John T. Therriault, Assistant Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above order on September 4, 2008, by a vote of 4-0.

A handwritten signature in black ink that reads "John T. Therriault". The signature is written in a cursive style with a long horizontal flourish extending to the right.

John T. Therriault, Assistant Clerk
Illinois Pollution Control Board