

ILLINOIS POLLUTION CONTROL BOARD
October 1, 1992

COUNTY OF OGLE,)	
)	
Complainant,)	
)	
v.)	AC 92-64
)	(92-R-1002)
ROCHELLE DISPOSAL SERVICE,)	(Administrative Citation)
INC., and CITY OF ROCHELLE,)	
ILLINOIS,)	
)	
Respondent.)	

ORDER OF THE BOARD (by J. C. Marlin):

This action was initiated on September 4, 1992 by the filing of an administrative citation (AC) by the County of Ogle (County). The AC charges Rochelle Disposal Services (Rochelle Disposal) and the City of Rochelle (City) with violation of Section 21(o)(5). Rochelle Disposal filed a petition for review on September 18, 1992.

The pending motion is Rochelle Disposal's September 18, 1992 motion to strike and dismiss the complaint. The County filed a response to Rochelle Disposal's motion on September 22, 1992.

The basis for Rochelle Disposal's motion is that it is not a proper party to this action. Rochelle Disposal argues that it is not a proper party to this action because the City is the person which holds the permits for this site. Rochelle Disposal also points out that it was previously dismissed as a party to AC 89-68 pursuant to stipulation. There is no dispute that the City holds all permits at the site, or that Rochelle Disposal conducts waste disposal operations at the site on the City's behalf pursuant to contract. The County argues that Section 21(p)¹ of the Act, under which Rochelle Disposal is charged, is not by its terms limited to holders of permits. The Section in pertinent part provides that "no person shall conduct a sanitary landfill operation which is required to have a permit under subsection (d) of this Section, in a manner which results in any of the following conditions".

The preamble to the contract between the City and Rochelle Disposal provides that it is "for the operation of the City owned

¹ Section 21 of the Act was amended by Public Act 87-752, effective January 1, 1992. As a result, the two subsections enforceable through the administrative citation process have been changed from 21(p) and 21(q) to 21(o) and 21(p) respectively. The County's response reflects the pre-amendment section numbers.

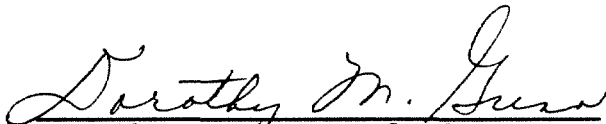
landfill". Article I goes on to provide that Rochelle Disposal is to "furnish all equipment and labor necessary for the collection of garbage within the City...together with the landfill operation necessary to dispose of all the solid waste in conformance with" the Act and Board regulations, as well as other requirements (City, September 22, 1992 Response to Motion, Contract, p. 1).

The Board agrees with the County that, under the circumstances of this case, Rochelle Disposal is properly a party to this action as a person conducting a waste operation at a permitted site. The Board reached the same result in two prior cases involving these parties. County of Ogle v. Rochelle Disposal Service and City of Rochelle AC 92-26 (June 4, 1992) and County of Ogle v. Rochelle Disposal Service and City of Rochelle AC 91-45 (June 4, 1992).

The motion to strike and dismiss the complaint is hereby 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 10th day of October, 1992, by a vote of 7-0.


 Dorothy M. Gunn, Clerk
 Illinois Pollution Control Board