

ILLINOIS POLLUTION CONTROL BOARD
January 23, 1992

WASTE HAULING, INC.)	
)	
Petitioner,)	
)	
v.)	PCB 91-223
)	(Landfill Siting
MACON COUNTY BOARD,)	Review)
)	
Respondent.)	

ORDER OF THE BOARD (by M. Nardulli):

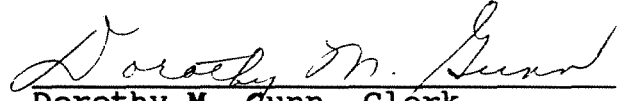
This matter is before the Board on petitioner Waste Hauling, Inc.'s January 9, 1992 appeal of a hearing officer order. The hearing officer order at issue, entered January 3, 1992, denied the Organization for Environments and Residents' Safety's (OFEARS) motion to intervene, but granted OFEARS amicus curiae status. OFEARS filed a response to Waste Hauling's appeal on January 17, 1992. The Macon County Board filed its response on January 21, 1992.

Waste Hauling objects to the portion of the hearing officer's order which allows OFEARS to participate in this proceeding as an amicus. Waste Hauling contends that the proper function of an amicus is to act as an impartial party who has no interest in the actual outcome of the action. Waste Hauling maintains that because the members of OFEARS objected (at the local level) to Waste Hauling's application for expansion of its landfill, it is apparent that OFEARS is not an impartial party. In response, OFEARS states that amicus practice has moved from "friendship" to partisanship, and that the granting of amicus status is discretionary with the court (in this case, the Board). The Macon County Board states that it believes that the hearing officer acted within the scope of his authority, and that the order allowing amicus status should be affirmed.

The Board's past practice has been to allow participants at the local level in landfill siting cases to participate before the Board as amici. (Clean Quality Resources, Inc. v. Marion County Board, PCB 90-216 (February 28, 1991); Laidlaw Waste Systems v. McHenry County Board, 90 PCB 135 (PCB 88-27, June 16, 1988).) The hearing officer's order allowing OFEARS amicus status is affirmed, and Waste Hauling's appeal 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 3rd day of January, 1992, by a vote of 5-0.


Dorothy M. Gunn, Clerk
Illinois Pollution Control Board