

ILLINOIS POLLUTION CONTROL BOARD
March 23, 1989

A.R.F. LANDFILL CORPORATION,)
)
 Petitioner,)
)
 v.) PCB 89-15
)
COUNTY OF LAKE,)
)
 Respondent.)

ORDER OF THE BOARD (by J.D. Dumelle):

This matter comes before the Board upon a March 7, 1989 motion for leave to appear as amicus curiae filed by the Prairie Holdings Company Corporation and fifteen individuals residing in Lake County ("Residents"). A.R.F. Landfill Corporation ("A.R.F.") filed a response to the motion on March 15, 1989. For the reasons set forth herein, the Board grants Prairie Holdings' motion to file an amicus brief.

Prairie Holdings Corporation ("Prairie") is an Illinois corporation formed by some of the individual Residents. Prairie owns approximately 670 acres of real estate (commonly known as the "Heartland Triangle") located less than one-third of a mile from the proposed regional pollution control facility. As individual owners and through Prairie, the Residents have been working with the Lake County Board to preserve the rural character and open space of Lake County. Prairie purchased the Heartland Triangle to make sure the property is developed in a manner compatible with the rural character of the surrounding area. The Residents participated in the hearing on the application before the Lake County Board. They state that, as nearby landowners, they can provide a perspective on the proposed facility not necessarily addressed by the parties which would aid the Board in rendering its decision. Thus, Prairie Holdings requests leave to appear as an amicus curiae and to file a brief amicus curiae in this case.

A.R.F. opposes Prairie Holdings' motion. A.R.F. cites McHenry County Landfill, Inc. v. Pollution Control Board, 154 Ill. App. 3d 89, 506 N.E.2d 372 (2d Dist. 1982), and Waste Management of Illinois v. County of Lake, PCB 87-75 (July 16, and December 7, 1987) for the proposition that a third party is not permitted to appear as an amicus curiae in a local siting appeal. A.R.F. argues further that Prairie Holdings has no special interest and is being adequately represented by Lake County. Finally, A.R.F. argues that Prairie Holdings has had its opportunity to present its arguments and, therefore, should not be given a "second bite at the apple."

Consistent with the decision in Waste Management, cited above, wherein the Board stated:

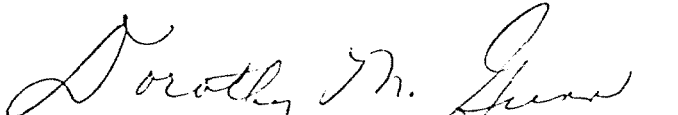
It is the general practice of the courts that the granting or denial of a motion for leave to file a brief as amicus curiae lies wholly within the discretion of the court. Generally, the motion will be granted where the movant establishes the necessity or advisability of aiding the court in consideration of the case in which it is presented. The Board sees no reason to differ in this approach.

Waste Management, p. 2,

the Board will grant Prairie Holdings' motion. Prairie Holdings may file an amicus brief at a time determined by the hearing officer. However, the Board notes that acceptance of the amicus brief in no way bestows any of the rights and privileges of party status upon Prairie Holdings. See Waste Management v. Pollution Control Board, PCB 87-75, Board Orders July 16, October 15, and December 17, 1987.

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 23rd day of March, 1989, by a vote of 7-0.


Dorothy M. Gunn, Clerk
Illinois Pollution Control Board