

**BEFORE THE ILLINOIS POLLUTION CONTROL BOARD**

ROCHELLE WASTE DISPOSAL, L.L.C., )  
 )  
 Petitioner, )  
 )  
 v. )  
 ) PCB 07-113  
 THE CITY OF ROCHELLE, an Illinois ) (Third-Party Pollution Control Facility  
 municipal corporation, and THE ) Siting Appeal)  
 ROCHELLE CITY COUNCIL, )  
 )  
 Respondents. )

**NOTICE OF FILING**

TO: See Attached Service List

**PLEASE TAKE NOTICE THAT** on the 5th day of July, 2007, Emily R. Vivian, one of the attorneys for Petitioner, CONCERNED CITIZENS OF OGLE COUNTY, filed a Motion for Leave to File an Amicus Curiae Brief, via electronic filing as authorized by the Clerk of the Illinois Pollution Control Board.

Respectfully submitted,

CONCERNED CITIZENS OF OGLE  
COUNTY

By: /s/ Emily R. Vivian  
One of Its Attorneys

David L. Wentworth II  
Emily R. Vivian  
Hasselberg, Williams, Grebe,  
Snodgrass & Birdsall  
124 SW Adams, Suite 360  
Peoria, IL 61602  
Telephone: (309) 637-1400  
Facsimile: (309) 637-1500

STATE OF ILLINOIS        )  
                                  )  
COUNTY OF PEORIA        )        SS

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of the Motion for Leave to File an Amicus Curiae Brief was served upon the following persons via email and regular mail on the 5<sup>th</sup> day of July, 2007, before 5:00 p.m., with all fees thereon fully prepaid and addressed as follows:

Mr. Bradley P. Halloran, Hearing Officer  
Illinois Pollution Control Board  
James R. Thompson Center  
100 W. Randolph, Suite 11-500  
Chicago, IL 60601  
halloranb@ipcb.state.il.us

Mr. Charles F. Helsten  
Hinshaw & Culbertson  
100 Park Avenue  
Rockford, IL 61101  
chelsten@hinshawlaw.com

Mr. Donald J. Moran  
Pedersen & Houpt  
161 North Clark Street  
Suite 3100  
Chicago, IL 60601  
dmoran@pedersenhaupt.com cooplaw

Mr. Alan Cooper  
City Attorney  
233 East Route 38, Suite 202  
P.O. Box 194  
Rochelle, IL 61068  
cooplaw@rochelle.net

*/s/ Emily R. Vivian*  
\_\_\_\_\_

Emily R. Vivian

David L. Wentworth II  
Emily R. Vivian  
Hasselberg, Williams, Grebe,  
Snodgrass & Birdsall  
124 SW Adams, Suite 360  
Peoria, IL 61602  
Telephone: (309) 637-1400  
Facsimile: (309) 637-1500

**BEFORE THE ILLINOIS POLLUTION CONTROL BOARD**

ROCHELLE WASTE DISPOSAL, L.L.C., )	)	
	)	
Petitioner, )	)	
	)	
v. )	)	
	)	PCB 07-113
THE CITY OF ROCHELLE, an Illinois )	)	(Third-Party Pollution Control Facility
municipal corporation, and THE )	)	Siting Appeal)
ROCHELLE CITY COUNCIL, )	)	
	)	
Respondents. )	)	

**MOTION FOR LEAVE TO FILE AN AMICUS CURIAE BRIEF**

NOW COMES Concerned Citizens of Ogle County (“CCOC”), by and through its attorneys, David L. Wentworth II and Emily R. Vivian of Hasselberg, Williams, Grebe, Snodgrass & Birdsall, and for its Motion for Leave to File an *Amicus Curiae Brief*, state and allege as follows:

1. That, pursuant to Section 101.110(c), and in accordance with Section 101.628(c) of the General Rules of the Illinois Pollution Control Board (35 Ill. Adm. Code, Part 101), an *Amicus Curiae Brief* can be filed in any adjudicatory proceeding by an interested person, provided permission is granted by the Board, and that the filing will not delay the decision-making of the Board.
2. That CCOC is an interested party as set forth in Section 101.628(c) of the Board Rules, and, accordingly, permission should be granted allowing CCOC to file an *Amicus Curiae Brief*.
3. CCOC participated actively in the local pollution control facility siting public hearings before the City Council of the City of Rochelle (the “City Council”) which are the subject of the Petition to Review filed by Rochelle Waste Disposal, L.L.C. in the instant case.

CCOC was the only objector at said proceedings represented by legal counsel; CCOC cross-examined witnesses; CCOC presented affirmative expert evidence in opposition to the application for siting approval; and CCOC filed a detailed report with the City Council.

4. That CCOC is a voluntary unincorporated association of citizens in the community of Ogle County, and it would be adversely affected by a decision reversing the correct finding of the City Council.

5. That participation of CCOC in filing a brief would not materially delay these proceedings, and that this motion is expeditiously brought well in advance of the time for filing any post-hearing briefs.

6. That CCOC contemplates filing its *Amicus Curiae Brief* at the same time the Hearing Officer orders the Respondents to file their post-hearing briefs.

7. That on May 16, 2007, CCOC filed a Petition for Review with the Board, alleging, in part, fundamental unfairness in the granting of local siting authority by the City Council.

8. On June 7, 2007, the Board accepted the Petition for Review and consolidated the matter with Rochelle Waste Disposal, L.L.C.'s case, PCB 07-113, seeking to have conditions stripped from the approval.

9. That on June 18, 2007, CCOC issued written discovery to the City Council.

10. That on June 28, 2007, CCOC received the City Council's responses to its discovery requests.

11. That although there were indications of fundamental unfairness during the hearing process, after receiving the responses to written discovery, CCOC did not find anything to substantiate such indications.

12. That on July 5, 2007, CCOC filed a Motion to Withdraw Petitioner's Petition for Review.

13. That if CCOC's Motion to Withdraw Petitioner's Petition for Review is granted, CCOC will lose its party status and will be unable to participate as a party in PCB 07-113.

14. That because of CCOC's active participation in the local siting proceedings, CCOC has developed factual bases for the imposition of the various conditions at issue in PCB 07-113.

WHEREFORE, Concerned Citizens of Ogle County respectfully prays that the Illinois Pollution Control Board grant its Motion, thereby giving CCOC permission to file an *Amicus Curiae Brief* in this matter subject to the briefing schedule established by the Hearing Officer pursuant to Section 101.610(k).

Respectfully submitted,

CONCERNED CITIZENS OF OGLE  
COUNTY

By: /s/ Emily R Vivian  
One of Its Attorneys

David L. Wentworth II  
Emily R. Vivian  
Hasselberg, Williams, Grebe,  
Snodgrass & Birdsall  
124 SW Adams Street, Suite 360  
Peoria, IL 61602-1320  
Telephone: (309) 637-1400  
Facsimile: (309) 637-1500

W:\DLWL\Land Use-Zoning\Ogle\PCB Appeal\Motion for Amicus Brief.doc