

ILLINOIS POLLUTION CONTROL BOARD
JULY 16TH, 2007

ROCHELLE WASTE DISPOSAL,)	
L.L.C.,)	
)	
Petitioner,)	
)	
-vs-)	No. PCB 07-113
)	
THE CITY OF ROCHELLE, an)	
Illinois Municipal)	
Corporation, and THE)	
ROCHELLE CITY COUNCIL,)	
)	
Respondents.)	

REPORT OF PROCEEDINGS, taken before Tamara Manganiello, Registered Professional Reporter and Notary Public, at 42 North 6th Street, Rochelle, Illinois, commencing at the hour of 9:04 a.m., on the 16th day of July, A.D., 2007.

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STATE OF ILLINOIS
Pollution Control Board

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ILLINOIS POLLUTION CONTROL BOARD
100 West Randolph Street
Suite 11-500
Chicago, Illinois 60601
(312) 814-8917
MR. BRADLEY HALLORAN, HEARING OFFICER

A P P E A R A N C E S:

PEDERSEN & HOUP, T,
161 North Clark Street
Suite 3100
Chicago, Illinois 60601
(312) 641-6888
BY: MR. DONALD J. MORAN,

On behalf of the Rochelle City Council;

HINSHAW & CULBERTSON,
100 Park Avenue
P.O. Box 1389
Rockford, Illinois 61105
(815) 490-4900
BY: MR. RICHARD S. PORTER,

On behalf of Rochelle Waste Disposal, LLC;

THE CITY OF ROCHELLE,
233 E. Route 38
Suite 202
P.O. Box 194
Rochelle, Illinois 61068
(815) 562-2677
BY: MR. ALAN COOPER,

On behalf of the City of Rochelle;

HASSELBERG, WILLIAMS, GREBE, SNODGRASS
& BIRDSALL,
125 S.W. Adams Street
Suite 360
Peoria, Illinois 61602
(309) 637-1400
BY: MS. EMILY VIVIAN,

On behalf of the Concerned Citizens of
Ogle County.

1 MR. HALLORAN: Good morning. My name
2 is Bradley Halloran. I'm a hearing officer
3 with the Illinois Pollution Control Board.
4 I'm also assigned to this matter entitled
5 Rochelle Waste Disposal, L.L.C., Petitioner,
6 versus the City of Rochelle, an Illinois
7 municipal corporation, and The Rochelle City
8 Council, PCB 7-113. This is a siting appeal.

9 On July 12th, 2007, the Board
10 issued an order. Basically in summary of
11 what had happened, the concerned citizens of
12 Ogle County filed on, I believe, July 5th,
13 2007, a motion to withdraw their petition and
14 a motion to file an amicus brief. The Board
15 took that under consideration. They granted
16 both motions. With that said, we'll get to
17 the briefing schedule in a little bit.

18 In any event, it's July 16th,
19 2007. Approximately 9:05. The hearing has
20 been scheduled and noticed in accordance with
21 the Illinois Environmental Protection Act and
22 the Pollution Control Board rules and
23 procedures.

24 It will be conducted according to

1 procedural rules found at sections 107.400
2 and 101(F). And I do note for the record we
3 do have members of the public present in the
4 room, probably about ten. And they may or
5 may not wish to give public comment. And
6 some of them I recognize from a few years
7 ago.

8 But in any event the members of
9 the public, at the appropriate time can stand
10 up and give public comment not under oath or
11 they can stand up and give public comment and
12 Tammi will swear them in and they will be
13 subject to cross examination and the Board
14 will weigh it accordingly.

15 In any event, as most of you know,
16 I do not make the ultimate decision in the
17 case. The five members of the Board will
18 take a look at the record, the petition and
19 the post-hearing briefs and make their
20 decision. I think at this time they have to
21 make it by October 18th, 2007.

22 Without further adieu, Mr. Porter,
23 would you please introduce yourself and your
24 client?

1 MR. PORTER: Good morning. Rick
2 Porter on behalf of Rochelle Waste Disposal.

3 MR. HALLORAN: Thank you. Mr. Cooper.

4 MR. COOPER: Alan Cooper on behalf of
5 the applicant, City of Rochelle.

6 MR. HALLORAN: Mr. Moran?

7 MR. MORAN: Donald Moran on behalf of
8 City Council of the City of Rochelle.

9 MR. HALLORAN: Thank you, gentlemen.
10 It's my understanding -- we had a prehearing
11 conference on Thursday and it's my
12 understanding that there will not be any
13 testimony.

14 But in any event, Mr. Porter,
15 would you please state your intentions on the
16 record?

17 MR. PORTER: That is correct. We will
18 be relying on the underlying record and
19 raising all arguments in the post-hearing
20 briefs.

21 MR. HALLORAN: Thank you, Mr. Porter.
22 Mr. Cooper?

23 MR. COOPER: The City will reserve its
24 right to file a responsive brief. I might

1 also indicate on the record that I just
2 noticed that Ms. Vivian, who represents the
3 CCOC is present.

4 MR. HALLORAN: Okay. Thank you.
5 Mr. Moran?

6 MR. MORAN: Yes. On behalf of the
7 City Counsel, we would also reserve our
8 rights to submit an appropriate legal
9 memorandum or briefing in response to
10 anything the Petitioner may file.

11 MR. HALLORAN: Thank you. Ms. Vivian,
12 I'm not sure when you entered the room, but
13 did you hear me, the Board did move on July
14 12th?

15 MS. VIVIAN: Yes, I did.

16 MR. HALLORAN: Okay. And both motions
17 were granted and we'll discuss the
18 post-hearing briefs regarding the amicus
19 shortly.

20 MS. VIVIAN: Okay. Thank you.

21 MR. HALLORAN: The parties wish to
22 reserve opening statements and we can move on
23 to the public comment?

24 MR. PORTER: Correct.

1 MR. MORAN: Right.

2 MR. HALLORAN: Thank you. At this
3 time, we'll take public comment, whoever
4 wants to step up. I think we have this last
5 seat over to my right. The microphone is on.

6 And whether you want to be sworn
7 under oath and subject to cross, that's your
8 decision. Anybody want to step up and give
9 comment? Frank? Do you wish to be sworn,
10 sir?

11 MR. BEARDIN: Yes, please.

12 (Witness sworn.)

13 MR. HALLORAN: Thank you. You may be
14 seated. Just state your name for the record
15 and proceed.

16 I do remind you that anything you
17 say has to be relevant to the proceedings.

18 MR. BEARDIN: Correct. Thank you,
19 sir. I'm Frank Beardin. I live at Route 2,
20 Box 18143, Highway 38 East, Rochelle,
21 Illinois.

22 I have been involved with these
23 hearings or with this application on and off
24 since 2000. I have some comments I believe

1 that pertain to this and very much so need to
2 be brought to the attention of the Pollution
3 Control Board for help and protection of the
4 citizens of the community.

5 There is evidence and testimony
6 that the landfill operations have not been
7 adequate at the site and that the concern
8 remains into the future with the operator.

9 The past operating record of the
10 operator was taken into account in
11 determining these conditions. Since this
12 application was approved, conditions have
13 been imposed to help ensure proper operation.

14 The technical consultant agrees
15 that the design, operation and location of
16 the expansion is designed and proposed to be
17 operated to be protective of the public
18 health, safety and welfare with the 37
19 special conditions relating to design,
20 operation and location.

21 Without these 37 conditions kept
22 intact, you are allowing this operator to
23 greatly jeopardize the public health, safety
24 and welfare.

1 I trust the Illinois Pollution
2 Control Board will review all the previous
3 violations and operating history which led up
4 to the need for these special conditions that
5 have been imposed.

6 As was reported in the past to
7 Rochelle City Council, Bruce McKinney, by the
8 Ogle County Solid Waste Department, who is
9 responsible for monitoring and enforcement of
10 the Rochelle landfill number two, the
11 operating record and performance of this
12 operator is of great concern to them.

13 The company, Rochelle Waste
14 Disposal, or its predecessor, Rochelle
15 Disposal Services, has always tried to get by
16 by doing the minimum required to comply with
17 permits, laws and regulations. Many times
18 this has only been after they have discovered
19 problems by deviance with the operations.

20 When violations have been found in
21 the past, the response was usually to contest
22 or debate the violations rather than to
23 correct them right away and move on.

24 As you can see, nothing has

1 changed. That is why we are here today
2 considering this appeal because this operator
3 would do everything in its power to
4 circumvent or cancel the permits, laws and
5 regulations and in this instance, special
6 conditions.

7 The citizens of this community
8 appeal to you, the Illinois Pollution Control
9 Board, to do all in your power to help
10 protect us and future generations from an
11 operator who obviously is using you to lessen
12 our protection. As a citizen of this
13 community, I thank you very much for your
14 concern and checking into this issue.

15 MR. HALLORAN: Thank you, sir. You
16 may remain seated. Any cross --

17 MR. PORTER: No.

18 MR. HALLORAN: -- from any of the
19 parties.

20 MR. COOPER: No.

21 MR. MORAN: No.

22 MR. HALLORAN: Could you spell your
23 last name, please?

24 MR. BEARDIN: Beardin, B-E-A-R-D-I-N.

1 MR. HALLORAN: Thank you so much,
2 Mr. Beardin. You may step down.

3 MR. BEARDIN: Thank you.

4 MR. HALLORAN: Anybody else would like
5 to step up? Yes, ma'am? Would you like to
6 be under oath and subject to cross?

7 MS. STAHLHEBER: Yes.

8 MR. HALLORAN: Please raise your right
9 hand and Tammi will swear you in.

10 (Witness sworn.)

11 MS. STAHLHEBER: My name is Janet
12 Stahlheber, S-T-A-H-L-H-E-B-E-R. Do you want
13 my address?

14 MR. HALLORAN: Please.

15 THE WITNESS: 1107 10th Avenue,
16 Rochelle. Okay. I've been following this
17 expansion proposal for some time and I've
18 looked over all of the conditions that are
19 being contested.

20 As far as number eight is
21 concerned, there are -- for the past 15 years
22 there have been ongoing problems in the area
23 concerning the control of litter. And my
24 question is why is this landfill operator

1 unwilling to do -- to take care of the
2 litter? And I contend that it's more likely
3 unwillingness rather than inability.

4 The notion that loaded trash
5 hauling trucks do not traverse Highway 38
6 east of Mulford Road is ridiculous. All one
7 has to do is sit out here and count the
8 number of trucks coming from the east and, of
9 course, spreading litter.

10 Now, supposedly, the agreement
11 says that they're supposed to come from 39
12 over to Mulford Road. Well, that doesn't
13 happen. They traverse a lot of public roads.
14 And I don't know who is supposed to sit at
15 the corner of Mulford and Highway 38 to see
16 which direction they come from.

17 And on number 13 concerning the
18 closing of the Unit 1, the operator insists
19 that they can't do it in six years.
20 Interestingly enough, it seems that with
21 enough equipment and manpower, it could
22 probably be done in even less time.

23 Number 22, the leachate leakage --
24 try and say that ten times -- has been cited

1 as an ongoing problem with this landfill.
2 And it would take only one torrential
3 rainstorm to overwhelm the inadequate
4 drainage system resulting in our water supply
5 being poisoned.

6 Number 23, as far as the berms are
7 concerned, think about all of the prevailing
8 winds around here and the way the litter
9 blows all over every place and I think we
10 need to maintain those berms.

11 Number 26, concerning methane,
12 there are numerous citations by the Ogle
13 County Solid Waste Department for methane
14 problems. And, also, odor is a conditioning
15 problem. Just on the 4th of July I had
16 reports from people who had gone up -- gone
17 east on 38 and turned north on Mulford Road
18 and said it just smelled absolutely awful.

19 Number 33, concerning the maximum
20 height and lateral expansion of the landfill,
21 I don't understand why that is even a
22 question when you agree to specific
23 dimensions or state them in your application,
24 and then contend that a condition requiring

1 that you adhere to these dimensions is
2 unfair.

3 Number 34, the same as above, it's
4 part of the application. The annual daily
5 average of 1000 tons with a maximum 1500 tons
6 per day on any given day was part of the
7 application, and why that needs to be a
8 problem or needs to be contested, I don't
9 understand.

10 MR. HALLORAN: Thank you. Mr. Porter,
11 any cross?

12 MR. PORTER: No cross. Thank you.

13 MR. HALLORAN: Thank you. Mr. Cooper?

14 MR. COOPER: No.

15 MR. HALLORAN: Mr. Moran?

16 MR. MORAN: No, thank you.

17 MR. HALLORAN: Thank you. Ms.

18 Stahlheber, you may step down. Thank you so
19 much.

20 MS. STAHLHEBER: Thank you.

21 MR. HALLORAN: Would you like to be
22 under oath, ma'am?

23 MS. KERSTEN: Yes.

24 (Witness sworn.)

1 MR. HALLORAN: You may have a seat and
2 state your name and spell it for Tammi,
3 please.

4 MS. KERSTEN: My name is Shirley
5 Kersten, K-E-R-S-T-E-N, Kersten. My address
6 is 3114 Elva Road, that's E-L-V-A, Rochelle,
7 Illinois, 61068.

8 Enough is enough. Give them an
9 inch and they take a mile. In this case, the
10 Rochelle City Council have gone way beyond
11 their call of duty in not only giving them an
12 inch, but giving them a mile, many miles, in
13 fact, all over northern Illinois. And they
14 are not satisfied with that.

15 Now that certain conditions are
16 expected of them due to their negligence of
17 safety and welfare for the people in the
18 past, which they, in all good conscience,
19 should abide by without a second thought,
20 they are still pushing for more, more money
21 and more power regardless of the safety,
22 health and welfare of the people.

23 If enough is enough, then in this
24 case enough is too much. Thank you.

1 MR. HALLORAN: Thank you. Any cross?

2 MR. PORTER: No, thank you.

3 MR. HALLORAN: Thank you. Mr. Cooper?

4 MR. COOPER: No.

5 MR. HALLORAN: Mr. Moran?

6 MR. MORAN: None.

7 MR. HALLORAN: Thank you. You may
8 step down. Thank you so much.

9 Anybody else would like to step up
10 and give comment?

11 Would you like to be sworn in,
12 ma'am?

13 MS. HILL: No, sir.

14 MR. HALLORAN: Okay. Thank you.

15 THE WITNESS: My name is Ellen Hill,
16 H-I-L-L. My address is 7607 South Woodlawn
17 Road.

18 During the hearings it was made so
19 obvious that the landfill or the dump,
20 whichever you want to call it, was being
21 operated so poorly that the City Council's
22 engineering group recommended 37 conditions
23 that would hopefully force the landfill
24 operator to finally operate this dump in a

1 manner that would create a healthier and
2 safer environment for the surrounding
3 community. Myself, my children, my
4 grandchildren and soon a great-grandchild are
5 part of that surrounding community.

6 The Hearing Officer and City
7 Council have recognized the problem and
8 recommended these conditions to protect us.
9 Please don't let these violators convince you
10 to sell us out. Rochelle never should have
11 put their landfill that close to Creston's
12 village limits in the first place. Thank
13 you.

14 MR. HALLORAN: Thank you. You may
15 step down. Anyone else?

16 Good morning. Would you like to
17 be under oath?

18 MR. THUESTAD: Yes.

19 (Witness sworn.)

20 MR. THUESTAD: To the best of my
21 ability.

22 The present application for the
23 expansion of the Rochelle Municipal Landfill
24 was approved with 37 conditions --

1 MR. HALLORAN: Sir, I'm sorry, could
2 you state your name and spell it for the
3 record? Thank you.

4 THE WITNESS: Excuse me. Roger
5 Thuestad, T-H-U-E-S-T-A-D. And I reside 7756
6 Locust Road.

7 The present application for the
8 expansion of the Rochelle Municipal Landfill
9 was approved with 37 conditions attached to
10 it.

11 Due to the past performance and
12 numerous violations at this site, Patrick
13 Engineering, who designed this expansion,
14 proposed these 37 conditions to help protect
15 the surrounding community. The Hearing
16 Officer also agreed with these conditions.

17 These 37 conditions could very
18 well have been the determining factor on how
19 and why members voted to approve this
20 application. It would be wrong at this point
21 in time to start retracting conditions when
22 Council members and residents thought they
23 had this added protection.

24 The bottom line is the operator --

1 excuse me, the bottom line of the operator is
2 not the primary concern of the surrounding
3 community, but rather the health, safety and
4 welfare of this community. Thank you.

5 MR. HALLORAN: Thank you, sir. Any
6 cross?

7 MR. PORTER: No.

8 MR. HALLORAN: Mr. Cooper?

9 MR. COOPER: No.

10 MR. HALLORAN: Mr. Moran.

11 MR. MORAN: No, thank you.

12 MR. HALLORAN: You may step down, sir.
13 Thank you. Anybody else that would like to
14 come up and state their peace?

15 Would you like to be under oath,
16 sir?

17 MR. McDERMITT: Yes, please.

18 MR. HALLORAN: Okay. Please raise
19 your right hand.

20 (Witness sworn.)

21 MR. HALLORAN: State your name and
22 spell it for the record.

23 MR. McDERMITT: My name is Hugh
24 McDermitt. I reside at 207 School Avenue,

1 Rochelle. And I have attended most all of
2 the hearings over the years that we've had
3 them. And each time there's been a concern
4 about the proper operation/housekeeping of
5 the landfill. It's always been an issue.

6 And up until this time, it's
7 never -- I don't think ever really been
8 addressed and it has now. And Mr. McCarthy
9 (sic), the Hearing Officer, Patrick
10 Engineering and the City Council agreed that
11 they needed to put some teeth in the
12 operation -- oversight of the operation. And
13 that was done this time.

14 And I think what they agreed to do
15 is good. It's something that needs to be
16 done. And they need to be watched to see
17 that, you know, this type of operation
18 doesn't continue.

19 Now, as the size of the material
20 coming into the landfill increases, the
21 problems are going to increase. There's
22 going to be the potential for more trash on
23 the highway. There's going to be the
24 potential for more smell. And so we need to

1 make sure that that landfill is operated
2 properly. I thank you very much.

3 MR. HALLORAN: Thank you, sir. You
4 may remain seated for a minute. Mr. Porter?

5 MR. PORTER: No questions. Thank you.

6 MR. HALLORAN: Mr. Cooper?

7 MR. COOPER: I have no question, but I
8 think Mr. McDermitt probably should spell his
9 last name for the court reporter.

10 MR. HALLORAN: I'm sorry. I missed
11 that. Thank you.

12 MR. McDERMITT: What's that?

13 MR. HALLORAN: Spell your last name
14 for the court reporter.

15 MR. McDERMITT: I'm sorry.

16 M-C-D-E-R-M-I-T-T.

17 MR. HALLORAN: Thank you, Mr.
18 McDermitt. Thank you, Mr. Cooper.
19 Mr. Moran?

20 MR. MORAN: No questions.

21 MR. HALLORAN: Thank you. You may
22 step down.

23 Would you like to be under oath,
24 ma'am?

1 MS. THUESTAD: No, thank you. Just a
2 comment. I'm Laronda Thuestad. I live at
3 7756 South Locust Road in Rochelle. And I
4 have been one of those people who have been
5 here at all of the hearings. I've taken
6 vacation days so I could be here because I
7 feel it's that important.

8 And we are here today to discuss
9 the 37 conditions that are attached to the
10 application of the landfill expansion.

11 Those conditions were added to
12 help ensure the health and safety of the
13 community. We do not need to take a step
14 backwards and say that those 37 conditions
15 are not necessary.

16 Those conditions were added by
17 people that thought and felt that each one of
18 them were extremely necessary. The City
19 Council voted yes on all of those conditions
20 as they thought all of them to be necessary.

21 This is not the time to reverse
22 the decision to keep our community safe. I
23 urge the Pollution Control Board to uphold
24 the original decision and keep all 37

1 conditions in place.

2 MR. HALLORAN: Thank you, ma'am.
3 Could you spell your last name for the
4 record, please?

5 THE WITNESS: T-H-U-E-S-T-A-D.

6 MR. HALLORAN: Thank you. You may
7 step down. Thanks. Anybody else like to
8 step up and state their peace?

9 All right. I think for now we're
10 going to go off the record for a moment.
11 We're going to talk about the post-hearing
12 briefing schedule and then we'll come back
13 on.

14 (Whereupon, after a short
15 break was had, the
16 following proceedings
17 were held accordingly.)

18 MR. HALLORAN: We're back on the
19 record. We were talking about the briefing
20 schedule and actually we set most of the
21 briefing schedule on June 15, 2007.

22 To that end, the opening brief by
23 Rochelle Waste Disposal is due to be filed
24 August 1st, 2007. Responsive briefs are due

1 to be filed on or before August 31st, 2007.

2 A reply, if any, is due to be
3 filed on or before September 14th, 2007.

4 We're setting the amicus brief due
5 date for August 31st, 2007. And I'm also
6 setting public comment for August 1st, 2007.

7 With that said, again, anybody
8 else would like to step up and make a
9 comment?

10 If not, the parties, they wish to
11 reserve their closing statement?

12 MR. COOPER: Correct.

13 MR. MORAN: Correct.

14 MR. PORTER: That's correct.

15 MR. HALLORAN: All right. I think
16 that concludes the hearing. The hearing will
17 not proceed to tomorrow. The hearing is
18 concluded at this moment. Thanks for all
19 coming out and have a great day.

20 (Which were all the proceedings
21 had in the above-entitled cause
22 on this date.)

23

24

1 STATE OF ILLINOIS)
) SS.
2 COUNTY OF WILL)

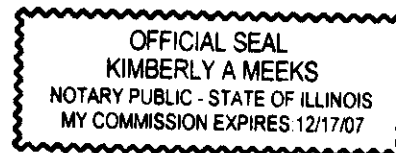
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I, Tamara Manganiello, RPR, do hereby
certify that I reported in shorthand the proceedings
held in the foregoing cause, and that the foregoing
is a true, complete and correct transcript of the
proceedings as appears from my stenographic notes so
taken and transcribed under my personal direction.

Tamara Manganiello
TAMARA MANGANIELLO, RPR
License No. 084-004560

SUBSCRIBED AND SWORN TO
before me this 25th day
of July, A.D., 2007.

Kimberly A Meeks
Notary Public



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