

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

ROCHELLE WASTE DISPOSAL, L.L.C.,

Petitioner,

v.

THE CITY OF ROCHELLE, an ILLINOIS
MUNICIPAL CORPORATION and THE
ROCHELLE CITY COUNCIL,

Respondents.

PCB No. 07-113

NOTICE OF FILING

TO: All Counsel of Record (see attached Service List)

PLEASE TAKE NOTICE that on November 20, 2007, the undersigned filed electronically with the Illinois Pollution Control Board, 100 West Randolph Street, Chicago, Illinois 60601, the Rochelle Waste Disposal's Motion for Leave to File Its Motion For Partial Summary Judgment, a copy of which is attached hereto.

Dated: November 20, 2007

Respectfully submitted,

ROCHELLE WASTE DISPOSAL, L.L.C.

s/Charles F. Helsten
Charles F. Helsten
One of Its Attorneys

Charles F. Helsten
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THE CITY OF ROCHELLE, an ILLINOIS
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Respondents.

**ROCHELLE WASTE DISPOSAL'S MOTION FOR LEAVE TO FILE ITS
MOTION FOR PARTIAL SUMMARY JUDGMENT**

NOW COMES the Petitioner, Rochelle Waste Disposal, L.L.C. ("RWD"), by and through its attorneys, Hinshaw & Culbertson, LLP, and moves this Honorable Board, pursuant to 35 Ill. Adm. Code 101.522, for leave to file its Motion for Partial Summary Judgment, stating as follows:

1. On May 16, 2007, RWD filed a Petition for Review of certain Special Conditions imposed by the City of Rochelle upon Siting Approval for expansion of an existing landfill operated by RWD. Thereafter, on August 1, 2007, RWD filed its Opening Brief.
2. On October 10, 2007, this Honorable Board entered an Order granting Respondent, City of Rochelle, leave to file its Opening Brief by December 3, 2007. The Order further set a deadline of December 17, 2007 for RWD to file its Reply brief, and scheduled the Board's decision to be rendered by January 24, 2008.
3. Petitioner now seeks leave to file a Motion for Partial Summary Judgment as to five (5) of the eight (8) challenged Special Conditions for Siting Approval, in the hope that a summary disposition of these Conditions may avoid an unnecessary waste of Board time and resources. The five (5) Special Conditions which are the subject of RWD's proposed Motion for

Partial Summary Judgment are ripe for disposition as a matter of law, inasmuch as no genuine issues of material facts are present in the record regarding the propriety of their imposition. Accordingly, Petitioner proposes to provisionally file such Motion on or before November 30, 2007, subject to this Honorable Board's ruling on the present Motion for Leave to File.

4. Respondent City of Rochelle, the only other party participating in this Review, has no objection to the Motion for Leave to file a Motion for Partial Summary Judgment, and has agreed to the entry of an Order allowing RWD's filing of the Motion; the City of Rochelle is also in agreement with a proposed deadline of December 10, 2007 for the filing of its Response to the Motion for Summary Judgment, and with a deadline of December 17, 2007 for RWD to file its Reply.

5. This Honorable Board's entry of an order granting RDW's Motion for Leave to File the Motion for Partial Summary Judgment and entering the proposed briefing schedule for the same will not alter the existing briefing schedule, nor will it alter the existing decision date (January 24, 2008). As a result, neither this Honorable Board nor the Respondent will be prejudiced if the instant motion is granted.

6. This motion is not being brought for the purpose of seeking expedited review, but is instead brought in the interest of conserving Board resources, as well as the resources of the parties, through an efficient handling of questions of law. Moreover, if the motion is granted, the remaining contested three (3) Special Conditions will still be briefed in accordance with the Board's previous order, with no extensions being necessitated by the Motion.

7. Pursuant to Section 101.522, "the Board or hearing officer, for good cause shown on a motion after notice to the opposite party, may extend the time for filing any document or

doing any act which is required by these rules to be done within a limited period, either before or after the expiration of time.” 35 Ill. Adm. Code 101.522

8. Inasmuch as there is good cause for this request, and because the granting of the instant Motion does not prejudice any party, and leaves fully intact the Board's previously entered scheduling Order, the Motion falls within the discretion and purview of Rule 101.522.

WHEREFORE, Petitioner, Rochelle Waste Disposal, LLC hereby respectfully requests that this Honorable Board enter an Order:

- i. Granting leave to Petitioner to file its Motion for Partial Summary Judgment by November 30, 2007;
- ii. Setting December 10, 2007 as the deadline for Respondent City of Rochelle to file its Response;
- iii. Setting December 17, 2007 as the deadline for Petitioner Rochelle Waste Disposal to file its Reply; and
- iv. Granting such other and further relief as this Honorable Board deems appropriate.

Dated: November 20, 2007

Respectfully submitted,

ROCHELLE WASTE DISPOSAL, L.L.C.

s/Charles F. Helsten

Charles F. Helsten
One of Its Attorneys

Charles F. Helsten
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AFFIDAVIT OF SERVICE

The undersigned, pursuant to the provisions of Section 1-109 of the Illinois Code of Civil Procedure, hereby under penalty of perjury under the laws of the United States of America, certifies that on November 20, 2007, she served a copy of the foregoing upon:

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| Hon. John McCarthy 45 East Side Square, Suite 301 Canton, IL 61520 jjmccarthy@winco.net | Donald J. Moran Pedersen & Houpt 161 N. Clark St., Suite 3100 Chicago, IL 60601-3142 dmoran@pedersenhaupt.com |
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| Bradley Halloran Illinois Pollution Control Board 100 West Randolph Street Suite 11-500 Chicago, IL 60601 hallorab@ipcb.state.il.us | Mr. Bruce W. McKinney Rochelle City Clerk Rochelle City Hall 420 North 6 th Street Rochelle, IL 61068 bmckinney@rochelle.net |

via electronic mail before the hour of 5:00 p.m., at the addresses listed above.

/s Nicola Nelson

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