

ILLINOIS POLLUTION CONTROL BOARD
August 20, 1987

A.R.F. LANDFILL, INC.,)
)
 Petitioner,)
)
 v.) FCB 87-51
)
 LAKE COUNTY,)
)
 Respondent.)

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

During the Board's review of the record, it became apparent that the County record failed to include the document(s) evidencing Lake County's denial of site approval. The Board notes that a transcript of the Lake County Board's special meeting held March 24, 1987, was introduced into the record as A.R.F. exhibit No. 2 at hearing held June 24, 1987. Also, a copy of the record of proceedings for that special meeting was attached as an exhibit to Lake County's answer to A.R.F.'s motion to compel response which was filed June 3, 1987. Although these documents can be found in the Board's files, the Board is not inclined to assume that the County's Certificate of Record is complete for purposes of Board review, as well as any subsequent appellate review. Therefore, the Board directs the Lake County Clerk to submit three copies of the report of proceedings of the March 24, 1987 special meeting and any other documents evidencing the County's final action in this proceeding, seven copies of the transcript of the March 24, 1987 hearing, and seven copies of an amended certificate of record which notes such documents. The County Clerk is granted until September 2, 1987 to comply with this Order. Requests for extension of this date are not favored as the Board's decision is due September 17, 1987.

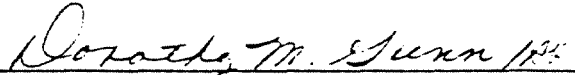
Also before the Board is a July 28, 1987 motion for leave to file brief as amicus curiae filed by William Alter. In support of his motion Mr. Alter alleges that he participated at the hearing held by the County on A.R.F. Landfill, Inc.'s application, that at hearing he presented a motion to dismiss A.R.F.'s application for lack of jurisdiction, that that motion was opposed by both the County and A.R.F., and that neither of the parties will present arguments on this issue before the Board. Also, Mr. Alter desires to present arguments regarding his particular property as it relates to criterion three.

On August 12, 1987, A.R.F. responded to Alter's motion. A.R.F. did not enunciate an objection to the filing or acceptance of such amicus curiae brief, but rather responded to the merits.

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 Board in consideration of the case in which it is presented. The Board sees no reason to differ in this approach. The Board believes that Alter has satisfied that standard. Therefore Alter's motion is granted. The Board notes that the granting of this motion is consistent with the Board's Order of May 14, 1987. Acceptance of the brief as amicus curiae in no way bestows any of the rights or privileges of party status upon Mr. Alter.

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 20th day of August, 1987 by a vote of 6-0.


Dorothy M. Gunn, Clerk
Illinois Pollution Control Board