

ILLINOIS POLLUTION CONTROL BOARD
July 12, 2007

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

CONCERNED CITIZENS OF OGLE)
COUNTY,)
)
Petitioner,)
)
v.) PCB 07-116
) (Third-Party Pollution Control Facility
THE CITY OF ROCHELLE, THE CITY) Siting Appeal)
COUNCIL OF THE CITY OF ROCHELLE,)
and ROCHELLE WASTE DISPOSAL, L.L.C.,)
)
Respondents.)

ORDER OF THE BOARD (by A.S. Moore):

On July 5, 2007, the Board received from Concerned Citizens of Ogle County (CCOC) two motions: a motion to withdraw petitioner's petition for review (Mot. Withdraw) and a motion for leave to file an *amicus curiae* (Mot. File). For the reasons stated below, the Board grants both motions.

MOTION TO WITHDRAW PETITIONER'S PETITION FOR REVIEW

CCOC states that, on May 16, 2007, it filed with the Board a petition for review of the April 11, 2007 decision by the City Council of the City of Rochelle (City Council) to grant with conditions the City of Rochelle's application to expand the Rochelle Municipal Landfill. Mot. Withdraw at 1-2. CCOC further states that the City on June 28, 2007, responded to CCOC's requests for discovery. *Id.* at 2. CCOC has concluded that those responses do not support the claim that the hearing process before the Rochelle City Council was fundamentally unfair. *Id.* Accordingly, "CCOC seeks to withdraw its Petition for Review in PCB 07-116." *Id.*

The Board grants CCOC's motion to withdraw its petition, dismisses PCB 07-116, and closes that docket. Consequently, PCB 07-116 will no longer appear in the caption of this proceeding.

MOTION FOR LEAVE TO FILE AMICUS CURIAE BRIEF

In its motion for leave to file, CCOC states that "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." Mot. File at 1, citing 35 Ill. Adm. Code 101.110(c), 101.628(c). CCOC argues that it has demonstrated its interest in siting this proposed pollution control facility by obtaining counsel for the local siting hearing and cross-examining witnesses, presenting evidence, and offering a report to the City Council. *Id.* at 1-2. CCOC further argues that its participation "has developed factual bases for the imposition of the various conditions at issue in PCB 07-113" (*Id.* at 3) and that "it would be adversely affected by a decision reversing the correct finding of the [Rochelle] City Council (*Id.* at 2)." CCOC claims that, if it filed an *amicus curiae* brief, it would not materially delay the proceedings. *Id.* at 2. CCOC states that it "contemplates filing its *Amicus Curiae Brief* at the same time the Hearing Officer orders the Respondents to file their post-hearing briefs." *Id.*

The Board grants CCOC's motion for leave to file an *amicus curiae* brief. Any brief filed by CCOC must consist only of argument, must not raise facts that are not in evidence, and must not delay the Board's decision-making.

IT IS SO ORDERED.

I, John T. Therriault, Assistant Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above order on July 12, 2007, by a vote of 4-0.



John T. Therriault, Assistant Clerk
Illinois Pollution Control Board