

ILLINOIS POLLUTION CONTROL BOARD
July 10, 2003

ROCHELLE WASTE DISPOSAL, L.L.C.,)	
)	
Petitioner,)	
)	
v.)	PCB 03-218
)	(Pollution Control Facility
CITY COUNCIL OF THE CITY OF)	Siting Appeal)
ROCHELLE, ILLINOIS,)	
)	
Respondent.)	

ORDER OF THE BOARD (by T.E. Johnson):

This matter is before the Board on a June 19, 2003, petition to intervene filed by the Concerned Citizens of Ogle County (CCOC). Petitioner Rochelle Waste Disposal, L.L.C. (Rochelle Waste) filed an objection to the petition to intervene on June 30, 2003.

For the reasons discussed below, the Board denies CCOC's petition to intervene. CCOC may participate either through statements at hearing, public comments or the filing of *amicus curiae* briefs.

BACKGROUND

On May 21, 2003, Rochelle Waste timely filed a petition asking the Board to review an April 24, 2003 decision (as allegedly reconsidered on April 28, 2003) of the City Council of the City of Rochelle, Illinois (City of Rochelle). City of Rochelle's decision denied Rochelle Waste's proposed the lateral and vertical expansion of the Rochelle Municipal Landfill No. 2 at 6513 South Mulford Road, Rochelle, Ogle County. The Board accepted the petition for hearing on June 5, 2003.

In this case, the City of Rochelle denied Rochelle Waste's application for lateral and vertical expansion of the Rochelle Municipal Landfill No. 2. Rochelle Waste Disposal appeals on the grounds that (1) the procedures used by City of Rochelle to reach its siting decision were not fundamentally fair; and (2) the City of Rochelle's decision was against the manifest weight of the evidence as to criteria (i), (ii), (iii), (vi), and (ix). Rochelle Waste also seeks to challenge special conditions that the City of Rochelle included as part of its finding of compliance regarding the remaining criteria. Rochelle Waste waived the decision deadline in this matter until October 28, 2003.

PETITION TO INTERVENE

CCOC is a voluntary association of citizens in the community of Rochelle that claims it would be adversely affected by a decision reversing the finding of the Rochelle City Council. In

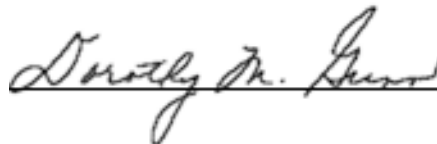
its petition to intervene, CCOC asserts that it participated actively as a party objector in the local regional pollution control facility siting hearings that are the subject of the pending petition to review. Rochelle Waste objects to the petition to intervene, arguing that third parties cannot intervene in cases where the local government denied siting approval.

The Board has previously addressed this issue, and it is well established that third-party objectors are precluded from intervention in an appeal from a denial of siting approval. *See Waste Management v. County Board of Kane County*, PCB 03-104, slip op. at 3 (Feb. 20, 2003); *Land and Lakes Co., et al. v. Village of Romeoville*, PCB 94-195, slip op. at 4 (Sept. 1, 1994); *citing Waste Management of Illinois, Inc. v. PCB*, 160 Ill. App. 3d 434, 513 N.E.2d 592 (2nd Dist. 1987); *McHenry County Landfill, Inc. v. IEPA*, 154 Ill. App. 3d 89, 506 N.E.2d 372 (2nd Dist. 1987). A third party may intervene only when the third party is a state's attorney or the Attorney General's Office intervening to represent the public interest. *See, e.g., Land and Lakes*, slip op. at 3.

CCOC is a third-party objector without the special intervention rights of a state's attorney or the Attorney General's Office representing the public interest. Accordingly, the petition to intervene is denied. CCOC may, however, contribute oral or written statements at hearing in this matter in accordance with Section 101.628 of the Board's procedural rules. 35 Ill. Adm. Code 101.628(a), (b). CCOC may also participate through public comments or *amicus curiae* briefs pursuant to Section 101.110(c), and in accordance with Section 101.628(c). 35 Ill. Adm. Code 101.110(c); 35 Ill. Adm. Code 101.628(c).

IT IS SO ORDERED.

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above order on July 10, 2003, by a vote of 7-0.

A handwritten signature in cursive script that reads "Dorothy M. Gunn". The signature is written in black ink and is positioned above a horizontal line.

Dorothy M. Gunn, Clerk
Illinois Pollution Control Board