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AUG 16 2001

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

STATE OF ILLINOIS
Pollution Control Board

COMMUNITY LANDFILL COMPANY)
and CITY OF MORRIS,)

Petitioners,)

vs.)

ILLINOIS ENVIRONMENTAL)
PROTECTION AGENCY,)

Respondent.)

PCB No. 01-170
(Permit Appeal - Land)

NOTICE OF FILING

TO: Ms. Dorothy Gunn, Clerk
Pollution Control Board
100 W. Randolph Street
Suite 11-500
Chicago, Illinois 60601

Mr. John Kim, Assistant Counsel
Illinois Environmental Protection Agency
1021 North Grand Avenue East
Springfield, Illinois 62794-9276

PLEASE TAKE NOTICE, that on August 16th, 2001, the undersigned filed the original and nine copies of a PERMIT APPEAL with the Office of the Clerk of the Illinois Pollution Control Board, 100 W. Randolph Street, Suite 11-500, Chicago, Illinois 60601, a copy of which is attached and hereby served upon you.



One of the Attorneys for Petitioners

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THIS FILING IS SUBMITTED ON RECYCLED PAPER.

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PERMIT APPEAL

Petitioners, Community Landfill Company (CLC) and City of Morris, by its attorneys, Mark A. LaRose and Scott M. Belt, pursuant to § 40(a) of the Illinois Environmental Protection Act (415 ILCS 5/40(a)) hereby file this Permit Appeal regarding Illinois Environmental Protection Agency's (IEPA), denial of supplemental permit application for the Morris Community Landfill under Permit Log No. 2000-438 dated May 11, 2001, and in support hereof state as follows:

The Parties

1. Petitioner, CLC, is an Illinois private corporation that is the permitted operator of the Morris Community Landfill located on Ashley Road, City of Morris, County of Grundy, Illinois.
2. Petitioner, City of Morris, is an Illinois municipal corporation that is the permitted owner of the Morris Community Landfill located on Ashley Road, City of Morris, County of Grundy, Illinois.
3. The IEPA is an agency of the State of Illinois, empowered to consider, issue or deny various applications for permits pursuant to § 39 of the Illinois Environmental Protection Act.

Description of the Morris Community Landfill

4. The Morris Community Landfill consists of two parcels of land, currently permitted as two disposal units, Parcels A and B, with one IEPA Site Number 0630600001.

5. Parcel A, which is on the east side of Ashley Road in a rural area of the City of Morris, consists of approximately 55 permitted acres. For many years, Parcel A was used by the City of Morris as a municipal solid waste landfill, until the active landfill operations were discontinued in the 1970's. Pursuant to an order from the Appellate Court of Illinois, Third District, Docket No. 3-96-0182 dated June 17, 1996, CLC and the City of Morris filed an application for significant modification on August 5, 1996, permit Log No. 1996-256. Pursuant to Development and Operating Permit Nos. 1974-22-DE and 1974-22-OP, 35 I.A.C. § 814.105(b), a lease with the City of Morris, and supplemental permit 1996-218-SP issued October 11, 1996, CLC continued to operate Parcel A pending the resolution of all permit appeals from the significant modification permit denial dated September 1, 1999. On August 4, 2000 the Agency issued a significant modification permit for the continuing operation of Parcel A, Permit No. 2000-155-LFM.

6. Parcel B of the Morris Community Landfill consists of approximately 64 permitted acres and is located on the west side of Ashley Road in a rural area of the City of Morris. From approximately 1982 to 1996, CLC has operated Parcel B pursuant to the above mentioned development and operating permits and various supplemental permits from IEPA and leases and supplemental leases with the City of Morris. Pursuant to an order from the Appellate Court of Illinois, Third District, Docket No. 3-96-0182 dated June 17, 1996, CLC and the City of Morris filed an application for significant modification on August 5, 1996, permit Log No. 1996-255. Active disposal operations at Parcel B ceased in 1996, and closure of the site has begun. On August 4, 2000,

the Agency issued a significant modification permit for the closure and post closure care of Parcel B, Permit No. 2000-156-LFM.

Standards Under Which the Permit Was Sought

7. The permit application, Permit Log No. 2000-438, submitted an acceptance report for the construction of the separation layer and requested authorization to accept waste for disposal in the newly constructed area in Parcel A. Said permit application was required by the August 4, 2000 significant modification permit, Special Condition, I.2. The permit application was submitted pursuant to § 39 of the Illinois Environmental Protection Act, and sought to demonstrate compliance with the standards set forth in 35 I.A.C. Part 811 and 814.

8. The application under Permit Log No. 2000-438 demonstrated compliance with the particular standards set forth in paragraph 7, above, as well as all other applicable permit language and design elements.

Description of Contaminant Emissions and Proposed Levels of Control

9. The contaminants that the petitioners seek to control with the significant modification application under Permit Log No. 1996-255 include contaminants found in the leachate and the groundwater under Parcel A as a result of many years of historical landfilling operations prior to 1980. These contaminants may include those found in Exhibit 1, attached hereto. These same contaminants may be included in leachate produced since CLC's renewed operation of Parcel A.

10. The petitioners propose to control these contaminants with the following devices on the newly-constructed portion of the Parcel A landfill:

Parcel A Controls

- Twelve groundwater monitoring wells have been installed and are being routinely sampled.
- Gas perimeter probes have been installed and are being routinely sampled with issuance of Permit No. 2001-151 on June 29, 2001.
- A pond and the significant drainage ditches around Parcel A have been installed.
- The 36" thick low permeability soil separation layer was constructed above the previously deposited waste and new waste is proposed to be placed over it. The separation layer greatly reduces infiltration into the previous deposited waste beneath it.
- The corresponding leachate removal system for the constructed separation layer has been installed, and leachate is being removed and managed by a direct sewer connection to the Morris POTW.
- Contingent remediation program to alleviate potential groundwater contamination on the east site of Parcel A has been designed. The two groundwater removal wells have been installed.
- A portion of the materials for the leachate collection trench has been purchased.

The Permit Denial

11. On May 11, 2001, the IEPA mailed the permit denial, Permit Log No. 2000-438, to the City of Morris as owner and CLC as operator. The permit denial under Log No. 2000-438, is attached hereto in its entirety and identified as Exhibit A.

12. Petitioners contest each and every reason or alleged justification for denial of the supplemental permit as set forth in Exhibit A, and to the contrary, states as follows:

- a. Petitioners presently have in place performance bonds from Frontier Insurance Company totaling approximately \$17 million. Those bonds were accepted by the Agency as fully complying with all the regulations as of August 4, 2000, even though the Agency specifically knew that Frontier had

been removed from a list of sureties approved by the U.S. Department of Treasury effective June 1, 2000. Moreover, Frontier Insurance Company continues to be licensed and approved by the Illinois Department of Insurance, and therefore, the bonds at issue comply with the applicable regulations.

- b. The federal court conviction of Robert J. Pruim, President of CLC, in the case of USA v. Pruim, et al., No. 93 CR 682, does not form a sufficient basis under § 39(i) for the denial of the permit because the conviction had nothing to do with the operation of CLC or any other solid waste disposal unit. Moreover, since the date of the conviction, the Agency has considered and either granted or denied numerous permits to the applicant without having conducted any § 39(i) investigation or having raised Robert Pruim's conviction as an impediment to the issuance or denial of any of these permits. This includes the August 4, 2000 significant modification permits that were issued for both Parcel A and Parcel B of the landfill, and includes supplemental permit modifications issued on February 1, 2001 and June 29, 2001. Therefore, if § 39(i) even applies to this seven year-old mail fraud/guilty plea, then the Agency is barred from raising it at this time.

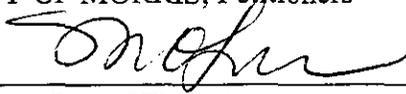
13. Pursuant to § 40(a) of the Illinois Environmental Protection Act, this appeal is timely filed on or before September 13, 2001, because the Board in its June 21, 2001 Order, and pursuant to a joint notice of extension by the parties, granted a 125 day extension from the Agency's May 11, 2001 decision.

WHEREFORE, the Petitioners respectfully pray that the Board:

1. Require the Agency to answer, appear as respondent, and file a complete administrative record in an expedited matter;
2. Set this matter for expedited hearing and other proceedings (e.g. discovery) as authorized or required by §§ 32, 33(a) and 40 of the Illinois Environmental Protection Act and the applicable rules of the Board; and
3. Following said hearing or other procedures, reverse the Agency's permit denial and order that the supplemental permit be issued for Morris Community Landfill, Site Number 0630600001, Permit Log. No. 2000-438 to allow waste disposal in this constructed area.

Respectfully submitted,

COMMUNITY LANDFILL COMPANY and
CITY OF MORRIS, Petitioners

By: 

One of Their Attorneys

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The following list of contaminants as well as additional parameters may or may not be found in the leachate, groundwater, gas condensate from the landfill operations:

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- Alkalinity (total)
- BETX
- Bicarbonate
- Biological Oxygen Demand (BOD)
- Chemical Oxygen Demand (COD)
- Fecal Coliform
- Oil (hexane-soluble or equivalent)
- Ph
- Total Dissolved Solids (TDS)
- Total Organic Carbon (TOC)
- Total Organic Halogens (TOX)
- Aluminum (Dissolved & Total)
- Ammonia [as Nitrogen]
- Antimony (Dissolved & Total)
- Arsenic (Dissolved & Total)
- Barium (Dissolved & Total)
- Beryllium (Dissolved & Total)
- Boron (Dissolved & Total)
- Cadmium (Dissolved & Total)
- Calcium (Dissolved & Total)
- Chloride (Dissolved & Total)
- Chromium (Dissolved & Total)
- Cobalt (Dissolved & Total)
- Copper (Dissolved & Total)
- Cyanide (Total as Cn^-)
- Fluoride (Dissolved & Total)
- Iron (Dissolved & Total)
- Lead (Dissolved & Total)
- Magnesium (Dissolved & Total)
- Manganese (Dissolved & Total)
- Mercury (Dissolved & Total)
- Nickel (Dissolved & Total)

Nitrate [as Nitrogen] (Dissolved & Total)
Potassium (Dissolved & Total)
Selenium (Dissolved & Total)
Silver (Dissolved & Total)
Sodium (Dissolved & Total)
Sulfate (Dissolved & Total)
Thallium (Dissolved & Total)
Tin (Dissolved & Total)
Vanadium (Dissolved & Total)
Zinc (Dissolved & Total)
Gross alpha
Radium-226
Radium-228
Strontium-90
Tritium
2,4-D; 2,4-dichlorophenoxy-acetic acid
Acetone; 2-Propanone
Acrolein
Acrylonitrile; 2-Propenenitrile
Alachor
Aldicarb; Temik
Aldrin; Aldrex
Atrazine
Benzene*
Benzo (a) pyrene
Benzoic Acid
bis (2-chloroethoxy) methane
bis (chloromethyl) ether
Bromobenzene; Phenyl bromide
Bromochloromethane; Chlorobromomethane
Bromodichloromethane; Dibromochloromethane
Bromoform; Tribromomethane
Bromomethane; Methyl bromide
Butanol (probably means 2-Butanol; sec-Butyl alcohol)
Butanol, 1; n-Butyl alcohol
Butanone, 2-; Methyl ethyl ketone; MEK
Butylbenzene, n-; 1-Phenylbutane

Butylbenzene, sec-; (1-Methylpropyl)benzene
Butylbenzene, tert-; (1,1-Dimethylethyl)benzene
Butylbenzyl phthalate
Carbofuran
Carbon disulfide
Carbon tetrachloride*
Chloroane*
Chlorobenzene; Monochlorobenzene
Chlorodibromomethane; Dibromochloromethane
Chloroethane; ethyl chloride
Chloroethyl vinyl ether, 2-; (2-
Chloroethoxy)ethene
Chloroform; Trichloromethane
Chloronaphthalene, 2-
Chlorotoluene, o-
Chlorotoluene, p-
Cresol, p-; cresol, 4-
Cumene; (1-Methylethyl)benzene;
Isopropylbenzene
Cymene; p-Isopropyltoluene, Tolcymene
Dalapon
DDT; 1,1'-(2,2,2-Trichloroethylidene)bis[4-
chlorobenzene]
bis (2-ethylhexyl) phthalate; Di (2-ethylhexyl)
phthalate
Di-n-butyl phthalate; Dibutyl phthalate
Dibromo-3-chloropropane, 1,2-; (DBCP)
Dibromomethane; Methylene bromide
Dichloro-2-butene, trans-1,4-
Dichlorobenzene, 1,2-; o-Dichlorobenzene
Dichlorobenzene, 1,3-; m-Dichlorobenzene
Dichlorobenzene, 1,4-; p-Dichlorobenzene
Dichlorodifluoromethane;
Difluorodichloromethane; Freon 12
Dichloroethane, 1,1-; Ethylidene chloride
Dichloroethane, 1,2-; Ethylene dichloride*
Dichloroethylene, 1,1-
Dichloroethylene, 1,2-

Dichloroethylene, cis-1,2-
Dichloroethylene, trans-1,2-
Dichloromethane; Methylene chloride
Dichloropropane, 1,2-
Dichloropropane, 1,3-; Trimethylene dichloride
Dichloropropane, 2,2-; Isopropylidene chloride
Dichloropropene, 1,1-; 1,1-Dichloropropylene
Dichloropropene, 1,3-; 1,3-Dichloropropylene
Dichloropropene, cis-1,3-
Dichloropropene, trans-1,3-
Dieldrin
Diethyl phthalate
Difluorobenzene, 1,4-; p-Difluorobenzene
Dimethyl phthalate
Dimethylphenol, 2,4-
Dinoseb
Endosulfan
Endrin
Ethyl acetate
Ethyl alcohol; Ethanol
Ethyl methacrylate
Ethylbenzene
Ethylene dibromide (EDB); 1,2-Dibromoethane
Heptachlor*
Heptachlor Epoxide*
Hexachlorobutadiene
Hexachlorocyclopentadiene
Hexanone, 2-; Methyl butyl ketone
Iodomethane; Methyl iodide
Isophorone
Lindane; gamma-BHC; 1,2,3,4,5,6-
Hexachlorocyclohexane
Methoxychlor
Methyl chloride; chloromethane
Methyl-2-pentanone, 4-; Methyl isobutyl ketone
Naphthalene
Nitrobenzene
Nitrophenol, 4-; p-Nitrophenol

Parathion; O,O-Diethyl phosphorothioic acid

PCBs; Polychlorinated biphenyls (as decachlorobiphenyl)*

Pentachlorophenol*

Phenanthrene

Phenol

Picloram

Propanol, 1-; n-Propyl alcohol

Propanol, 2-; Isopropyl alcohol

Propylbenzene, n-; 1-Phenylpropane

Silvex; 2-(2,4,5-trichlorophenoxy)propionic acid; 2,4,5-TP

Simazine

Styrene; Ethenylbenzene

Tetrachloroethane, 1,1,1,2-

Tetrachloroethane, 1,1,2,2-

Tetrachloroethylene; Tetrachloroethene, 1,1,2,2-*

Tetrahydrofuran; Tetramethylene oxide

Toluene; Methylbenzene

Toxaphene

Trichlorobenzene, 1,2,3-

Trichlorobenzene, 1,2,4-

Trichloroethane, 1,1,1-; Methylchloroform

Trichloroethane, 1,1,2-

Trichloroethylene, Trichloroethene

Trichlorofluoromethane; Fluorotrchloromethane; Freon 11

Trichlorophenoxyacetic acid, 2,4,5-; 2,4,5-T

Trichloropropane, 1,2,3-

Trimethylbenzene, 1,2,4-; Pseudocumene

Trimethylbenzene, 1,3,5-; Mesitylene

Vinyl acetate; Ethenyl ester acetic acid

Vinyl chloride; Chloroethene*

Xylene, m-

Xylene, o-

Xylene, p-

Xylenes (totals)

Methane

Non-Methane Organic Compounds