

At a February 8, 2007 status conference, CLC provided an updated medical evaluation of Mr. Edward Pruim. The evaluation stated that Mr. Edward Pruim was still physically unable to participate in legal proceedings, and that his medical condition should be evaluated again in several months.

On February 9, 2007, the People filed a motion to set hearing date or, alternatively, to sever the parties' claims in this matter. Morris responded on February 23, 2007. CLC responded on February 27, 2007. On March 15, 2007, the Board denied the People's motion based on Mr. Edward Pruim's medical condition.

On May 1, 2007, the People renewed the February 9, 2007 motion and incorporated the motion by reference. On May 11, 2007, Morris filed a motion for extension of time to file a response. To date, CLC has not responded.

**RENEWED MOTION TO SET HEARING DATE
OR, ALTERNATIVELY, FOR SEVERANCE OF CLAIMS**

The People request that the Board set a hearing date, arguing that the Board should not allow Mr. Edward Pruim's medical condition to further delay the final resolution of this matter. Renewed Mot. at 1.

First and foremost, the People argue that the parties should proceed to hearing without Mr. Pruim because further delay is preventing effective enforcement at the Community Landfill of Morris. The People contend that neither respondent has provided compliant closure or post-closure financial assurance since 2000. The People state "although the State also seeks penalties and attorney fees, the critical element in this case is the lack of ANY assurance that the Landfill will be properly closed and maintained by either Respondent." Renewed Mot. at 2 (emphasis in original).

The People claim that closure is past due. The People state that CLC admits that waste was last accepted in Parcel B in 1996. Renewed Mot. at 2. Closure of this parcel, claim the People, should have been completed within 210 days after the last receipt of waste, but is now 10 years overdue. *Id.*

In the People's February 9, 2007 motion, the People set forth three additional arguments in support of setting a hearing date without the presence of Mr. Edward Pruim. First, the People state that Mr. Pruim is not a party, but merely a stockholder and officer of the respondent CLC and that his testimony is not so necessary or unique that his absence at hearing will prejudice either respondent. Mot. at 3.

Second, the People contend that Community Landfill is in a deteriorating condition. Mot. at 6. Third, the People state that Mr. Pruim's actions have no relevance to Morris' failure to secure compliant financial assurance. *Id.*

In conclusion, the People claim that “the State will clearly be prejudiced by failure to either order both Respondents to hearing or to sever this case.” Mot. at 7. The People explain that a Board order requiring Morris to immediately post financial assurance for closure and long term care of the landfill is necessary to effectively enforce the Act and Board regulations. *Id.* at 8.

BOARD ANALYSIS

The Board denies Morris’ motion for extension of time to file a response. The Board and hearing officer have made all of the parties aware of the April 13, 2007 deadline by which CLC was required to file an evaluation of Mr. Pruim. Further, the Board granted the People leave to renew the February 9, 2007 motion, based on Mr. Pruim’s evaluation, over two months ago. Morris had more than adequate notice to expect the pending motion. This enforcement proceeding has been pending for more than 4 years and the Board will not grant any further extensions of time on this issue.

The People urge the Board to set a hearing date, or sever the respondents’ claims so that it may resolve matters concerning Morris. In the March 15, 2007 order, the Board found that:

[S]evering the respondents’ claims would not result in a convenient, expeditious and complete determination of claims. As argued by CLC, conducting two hearings on the same violations concerning the same parties and same facility would waste the resources of the Board and all of the parties involved. People v. CLC and City of Morris, PCB 03-191 (Mar. 15, 2007).

The People argue in the renewed motion that the Board could proceed with a hearing on remedy against Morris and consolidate hearing on remedy against CLC with People v. Community Landfill Co., Robert Pruim, and Edward Pruim, PCB 97-193 and PCB 04-208 (consolidated). The Board is not persuaded that consolidation would provide an expeditious and complete determination of the claims. For the same reasons stated in the March 15, 2007 order, the Board again declines to sever the respondents’ claims.

The Board, however, finds it appropriate at this time to direct the hearing officer to schedule a hearing involving both parties on the issue of remedy. The April 13, 2007 medical evaluation of Mr. Pruim, submitted by CLC, states that Mr. Pruim remains unfit to participate in a hearing before the Board. Neither party has provided any estimate of when Mr. Edward Pruim may be fit to participate at hearing.

The Board is persuaded by several of the People’s arguments. The alleged deteriorating conditions at the Community Landfill and the nonexistence of compliant closure or post-closure financial assurance persuade the Board to grant the People’s motion and proceed to hearing regardless of the availability of Mr. Pruim. Accordingly, the Board grants the People’s motion and directs the hearing officer to proceed expeditiously to hearing.

CONCLUSION

For the reasons set forth above, the Board grants the People's motion to set a hearing date and directs the hearing officer to proceed expeditiously to hearing with both respondents. Morris' motion for an extension of time to file a response is denied.

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 May 17, 2007, by a vote of 4-0.

A handwritten signature in black ink that reads "John T. Therriault". The signature is written in a cursive style with a long horizontal stroke at the end.

John T. Therriault, Assistant Clerk
Illinois Pollution Control Board