

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

| | | |
|-----------------------------------|---|--------------------|
| PEOPLE OF THE STATE OF ILLINOIS, |) | |
| |) | |
| Complainant, |) | |
| |) | |
| v. |) | |
| |) | PCB No. 11-50 |
| The CITY OF MORRIS, an Illinois |) | |
| municipal corporation, and |) | (Enforcement-Land) |
| COMMUNITY LANDFILL COMPANY, INC., |) | |
| a dissolved Illinois corporation, |) | |
| |) | |
| |) | |
| Respondents. |) | |

NOTICE OF FILING

PLEASE TAKE NOTICE that we have today, March 9, 2020, filed with the Clerk of the Illinois Pollution Control Board Complainant's Response to the City of Morris's Motion to Dismiss for Want of Prosecution. A true and accurate copy of the document so filed is attached herewith and served upon you.

PEOPLE OF THE STATE OF ILLINOIS

KWAME RAOUL
Attorney General of the
State of Illinois

BY: /s/ Christopher Grant
CHRISTOPHER GRANT
Environmental Bureau
Senior Assistant Attorney General
69 W. Washington Street, #1800
Chicago, Illinois 60602
(312) 814-5388
cgrant@atg.state.il.us

CERTIFICATE OF SERVICE

I, CHRISTOPHER GRANT, an attorney, do certify that I caused the foregoing Response to City of Morris's Motion to Dismiss for Want of Prosecution to be served on the persons listed by electronic mail and by placing same with the United States Mail at 100 W. Randolph, Chicago, Illinois, on March 9, 2020.

/s/ Christopher Grant
CHRISTOPHER GRANT

Service List:

City of Morris

c/o Mr. Richard Porter
Hinshaw & Culbertson
100 Park Avenue
Rockford, Illinois 61101
rporter@hinshawlaw.com

Mr. Scott Belt
Scott Belt & Associates
105 E. Main Street
Suite 206
Morris, Illinois 60450
scottbelt@comcast.net

Community Landfill Co.

c/o Mr. Mark Larose
Larose & Bosco
200 N. La Salle Street, Suite 2810
Chicago, Illinois 60601
mlarose@laroseboscoblaw.com

Mr. Bradley P. Halloran
Hearing Officer
Illinois Pollution Control Board
By electronic mail only
Brad.Halloran@illinois.gov

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**COMPLAINANT'S RESPONSE TO
CITY OF MORRIS'S MOTION TO DISMISS FOR WANT OF PROSECUTION**

Now Comes Complainant, PEOPLE OF THE STATE OF ILLINOIS, by KWAME RAOUL, Attorney General of the State of Illinois, and Responds in opposition to Respondent CITY OF MORRIS'S ("Morris") Motion to Dismiss for Want of Prosecution ("Motion"), as follows.

I. BACKGROUND

On February 18, 2011, Complainant filed its Complaint in this matter alleging violations of the Respondents' Illinois EPA-issued permits. The alleged violations in this Illinois Pollution Control Board ("Board") case all relate to failure to comply with groundwater monitoring requirements at the Morris Community Landfill ("Landfill") located in Morris, Grundy County, Illinois.

On June 1, 2011, Respondent Morris filed its Answer and Affirmative Defenses. Morris's affirmative defenses, for the first time before the Board, included a denial that Morris actually "owned" or "operated" the Landfill. This denial had serious implications. First, it demonstrated Morris's intention to abandon its statutory, regulatory, and permitted responsibilities with respect

to the Landfill. Second, because the Landfill's former operator Community Landfill Company had ceased operations in 2010 (*See* Illinois Secretary of State Record for Community Landfill Company, Inc. a true and correct copy of which is attached hereto as Exhibit A), it indicated that Morris intended to abandon the Landfill without taking any further action to ensure its lawful closure. Finally, it directly contradicted Morris's representations to the Board in prior cases.^a

In 2013, during the pendency of this case, Illinois EPA issued a new Violation Notice to the City of Morris that alleged numerous additional violations at the Landfill, including Morris's failure: to close the Landfill, construct final cover, collect and treat leachate, conduct groundwater monitoring, obtain a permit, keep records, provide financial assurance in accordance with the newly revised 415 ILCS 5/21.1,^b and other violations. A true and correct copy of Illinois EPA's 2013 Violation Notice is attached hereto as Exhibit B. Since 2013, Complainant and Morris have engaged in extensive negotiations to resolve all Landfill

^a Prior to this case, Morris has always admitted that it owned the Landfill. Morris first admitted to the Board that it owned and operated the Landfill in a Stipulation filed with the Board in *EPA v. City of Morris*, PCB 1973-107 on May 9, 1973 ("The Respondent owns, operates and controls the landfill"). The Board accepted the Stipulation on November 8, 1973. Morris's assertion of Landfill ownership continued through a series of permit appeals filed before the Board (PCB 00-65, filed 10/5/99; PCB 00-66, filed 10/5/99; PCB 2000-118, filed 1/13/00; PCB 01-48, filed 9/7/00; PCB 01-49, filed 9/7/00; PCB 01-170, filed 8/16/01). In each case, Morris was represented by its own counsel, and used its standing as Landfill owner to challenge conditions of permits issued to it as Landfill "owner".

^b Section 21.1 of the Act was amended to specifically require owners of municipal solid waste landfills to post with Illinois EPA a performance bond or other security for the purpose of insuring closure of the landfill and post-closure care in accordance with the Act and regulations. Public Act 97-887, § 5, effective August 2, 2012. The General Assembly enacted this amendment following the Third District Appellate Court's holding in *City of Morris v. Cmty. Landfill Co.*, 2011 IL App (3d) 090847, ¶ 28, which reversed the Board's opinion in *People of the State of Illinois v. Community Landfill Company, Inc. and City of Morris*, PCB 03-191 (June 18, 2019) (Board found Morris liable for financial assurance violations based on its ownership of the Landfill). "Where statutes are enacted after judicial opinions are published, it must be presumed that the legislature acted with knowledge of the prevailing case law." *People v. Hickman*, 163 Ill. 2d 250, 262 (1994). Such is clearly the case here, that the General Assembly viewed the Board's June 18, 2019 holding in PCB 03-191, as correct.

violations, including both the violations alleged in this Board case and the violations alleged against Morris in Illinois EPA's 2013 Violation Notice, without resorting to costly litigation. As shown by the Hearing Officer Orders in this case, negotiations continued through 2019. In fact, Morris' filing of its Motion to Dismiss is the first time that Morris has informed the People or the Board that it is no longer willing to discuss an amicable settlement of the violations alleged in this case, or the numerous additional violations identified in Illinois EPA's 2013 Violation Notice.

Morris' claim that the State has taken no action to resolve the alleged violations is patently false. As represented to the Board Hearing Officer during Status Hearings and as demonstrated by the numerous interactions between the Parties described herein, at Morris's request Complainant has engaged in extensive efforts to reach an agreed resolution of all Landfill-related issues during the pendency of this Board matter. Morris's Motion has no basis in fact or law, and should therefore be denied.

II. MORRIS' REQUEST FOR DISMISSAL MUST BE DENIED

The Board procedural Rules do not provide a standard for dismissal for want of prosecution. However, courts have stated that while dismissal may be had for "inexcusable delay" or lack of diligence, dismissal is proper *only* where a Plaintiff "manifests an intention to thwart the progress of the action to a conclusion." (Emphasis added.) *City of Crystal Lake v. Sak*, 52 Ill. App. 3d 684, 688 (2d Dist. 1977).

Complainant deferred active litigation of this case at the request of Morris following Illinois EPA's issuance of the 2013 Violation Notice. Complainant was not aggressively "prosecuting" this case, because, as demonstrated by the numerous interactions with Morris, the

State was making every effort to work with Morris, at its request, to resolve all Landfill-related violations amicably. Because Morris cannot demonstrate “inexcusable delay”, particularly where Morris itself sought to resolve the violations without litigation, Morris’s Motion must be denied.

Through its well-established practice, the Board creates a detailed record of the status of these proceedings as contained in the Hearing Officer orders. Not once did Morris complain in any of these Orders about any supposed delay in the litigation of this matter. The following provides a partial summary of Complainant’s actions taken in this matter to date.

A. Litigation undertaken prior to 2014

After filing the initial complaint in this matter, Complainant sent a proposed Stipulation and Proposal for Settlement to Morris, to which Morris did not respond. After allowing a reasonable period for Morris to respond to Complainant’s offer, Complainant asked the Hearing Officer to require Morris to file its answer. In mid-2011, Complainant began preparing a Motion for Summary Judgment. During the Hearing Officer status calls on at least December 13, 2011, January 26, 2012, April 19, 2012, and June 28, 2012, Morris also represented to the Board that it would be filing a cross-motion for Summary Judgment. In December 2013, Complainant responded to Morris’ discovery, which included interrogatories, document requests, and requests for admission of facts. Morris also notified Complainant of three depositions it intended to take, although Morris subsequently failed to notice up any of the depositions. Because Complainant did not need discovery from Morris to support a motion for summary judgment, Complainant did not issue any discovery during this period. Morris has not sought summary judgment at any time during the pendency of this Board matter.

B. Actions taken following Illinois EPA’s issuance of the 2013 Violation Notice to Morris

On October 30, 2013, Illinois EPA issued its updated violation notice to Morris (*See Ex. B, Illinois EPA's 2013 Violation Notice to Morris*). Thereafter, Morris participated in meetings with Illinois EPA pursuant to Section 31 of the Act, 415 ILCS 5/31. In June 2014, Illinois EPA forwarded an updated referral to the Attorney General's Office, which included the violations alleged in Illinois EPA's 2013 Violation Notice. The August 14, 2014 Hearing Officer Order clearly notes the subsequent referral from Illinois EPA and Complainant's expectation of a filing in Circuit Court.

Following the August 14, 2014 Hearing Officer status, Morris requested a meeting with Complainant to discuss resolution of both the 2014-referred violations and the violations alleged in this case. Accordingly, Complainant agreed to defer a filing in Circuit Court to allow comprehensive discussions with Morris on an agreed resolution of all of the unresolved violations.

On September 18, 2014, Complainant had an initial meeting with Morris to discuss all outstanding violations at the Landfill. Participants included Illinois EPA, the Attorney General's Office, opposing counsel of record, the Mayor of the City of Morris, and Morris's environmental consultant. Progress was made. As a result of the meeting, the Parties agreed that Morris would undertake additional testing of groundwater at the Landfill, and that the Parties would hold subsequent meetings on technical issues. The May 21, 2015 Hearing Officer Order indicates that Complainant, the City of Morris, and Illinois EPA were continuing settlement discussions.

C. Settlement negotiations continued throughout 2016

On January 13, 2016, Complainant held a second technical meeting at Illinois EPA headquarters in Springfield to continue discussions with Morris regarding an agreed resolution of

all violations. Morris's counsel and the Mayor of the City of Morris attended along with their environmental consultants. The Illinois EPA Bureau of Land management participated, and the Parties engaged in meaningful discussions regarding all significant violations cited in the Illinois EPA 2013 Violation Notice, including closure of the Landfill, installation of final landfill cover, leachate collection and treatment, and the continuing requirement for groundwater monitoring, which is the subject matter of this Board case. Complainant scheduled a follow-up meeting for April 2016, but it was postponed because Morris failed to provide additional groundwater testing data in advance of the meeting. After the groundwater data was produced, on July 27, 2016, the Parties held a technical meeting on all alleged violations at Illinois EPA headquarters. At the meeting, the Parties agreed to allow the technical representatives (Illinois EPA's Bureau of Land personnel and Morris's environmental consultant) to continue discussions of unresolved technical issues, including the groundwater monitoring issues that are the subject matter of this Board case.

Also, at the July 27, 2016 meeting, the Parties agreed that the next step was to begin drafting a settlement document for further discussion. Morris's counsel represented that he would begin drafting such a document for review. The September 26, 2016 Hearing Officer Order reflects the understanding of the Parties regarding the progress of settlement and Morris's counsel's agreement to provide proposed settlement terms to Complainant "before the next status conference".

D. Further settlement negotiations during 2017

Morris's counsel did not provide its settlement proposal to Complainant until mid-2017. *See, e.g.*, January 19, 2017, March 13, 2017, June 6, 2017, and September 6, 2017 Hearing

Officer Orders. Illinois EPA and the Attorney General's Office reviewed Morris's proposals and provided their comments to Morris's counsel. As reported in the December 7, 2017 Hearing Officer Order, Morris's counsel were working on a revised proposal in response to the State's comments.

E. Settlement negotiations were ongoing in 2018, but were delayed by Morris's hiring of a third law firm to lobby the Illinois EPA concerning technical compliance issues in this case and the 2013 Violation Notice

In 2018, the Parties' continued their ongoing discussions of mutually acceptable terms and conditions for settlement of all the outstanding violations, including the violations alleged in this Board case. That settlement negotiations remained ongoing between the Parties is documented in Hearing Officer Orders dated March 15, 2018, June 13, 2018, September 13, 2018 and December 13, 2018.

In July 2018 the City of Morris brought in a third law firm to represent it, which significantly delayed progress. Specifically, Morris retained the law firm Mahoney, Silverman & Cross, LLC to work around the Illinois Attorney General's Office and to directly contact the leadership of Illinois EPA and lobby on Morris's behalf regarding the technical compliance issues in this case and the Illinois EPA's 2013 Violation Notice. In its Motion, Morris fails to mention that Tom Cross and David J. Silverman, sought a meeting with Illinois EPA's then-Director and its Chief Legal Counsel to discuss all necessary compliance issues at the Morris Community Landfill. Subsequently, in August 2018, that meeting took place without the firm of Mahoney, Silverman & Cross, LLC providing any notice to the Attorney General's Office.

On September 8, 2018, Messrs. Cross and Silverman sent a follow-up letter to Illinois EPA management, which included a proposed settlement agreement that contemplated resolution

of the violations alleged in both this case and the Illinois EPA 2013 Violation Notice. Far from expressing concern about any delay in resolving this Board case, they expressed that the “City of Morris is very interested in formulating a resolution to address closure and post-closure responsibilities for the Community Landfill in Morris.” Notwithstanding the firm’s expressed interest on behalf of Morris, the draft settlement proposal that the Mahoney, Silverman & Cross firm shared was a proposal that had been previously submitted by Morris to resolve all outstanding compliance issues; however, the Illinois EPA and Illinois’ Attorney General had already rejected that proposal. Because of these unorthodox efforts, substantive discussions with Morris on resolution of this case and the additional violations were substantially delayed.

F. Morris indicated that Settlement negotiations were ongoing in 2019

In June 2019, Complainant advised counsel of record of its final decision on a technical remedy for the violations in this case and the additional violations. In response, Morris’s counsel advised that they were seeking a decision on the proposal from the Morris City Council. This representation is recorded in the June 11, 2019, September 25, 2019, and December 17, 2019 Hearing Officer Orders. However, Morris never advised Complainant or the Board that the Morris City Council ever considered or rejected its final settlement demand. Instead, Morris filed its Motion to Dismiss for Want of Prosecution.

III. COMPLAINANT’S EXTENSIVE EFFORTS TO REACH A SETTLEMENT WITH MORRIS, A LOCAL GOVERNMENT, SHOULD NOT BE A BASIS FOR DISMISSING THIS CASE

As described above, rather than “inexcusably delaying” litigation of this matter, Complainant has given Morris a full opportunity to reach a mutually amicable settlement. Settlement of Board cases is encouraged. *People v. Professional Swine Management Co. et al.*,

PCB 10-84 (January 1, 2017) (citing *People v. Archer Daniels Midland Corp*, 140 Ill. App. 3d 823, 825) (The law favors the encouragement of settlement allowing the State and Respondents to reason together conserves resources which would otherwise be expended in litigation).

The Board's forbearance in this matter has allowed for extensive settlement discussions, exploration of contested technical issues, and consideration of potential alternate remedies. The efforts were not totally in vain, as a great deal of information has been voluntarily exchanged during the pendency of this case, and the Parties made great progress on many technical issues, without reaching a final settlement agreement. Unfortunately, and based solely on the filing of Morris's Motion, it appears that settlement efforts have now unequivocally reached an impasse. However, that does not mean that the Board's decision to allow these mutually requested settlement discussions to continue was misplaced. Encouraging extensive technical settlement discussions, so long as they remain ongoing in good faith, is good policy. This is particularly true in the case of municipal entities where costly litigation expenses will be passed on to the public.

Having earlier requested that the State attempt to negotiate a resolution of all compliance issues at the Landfill, Morris now complains that:

- 1) The State did not engage in extensive discovery (Motion, ¶ 7);
- 2) The State did not file a motion for summary judgment (Motion, ¶ 4); and
- 3) The State did not file its Circuit Court complaint (Motion, ¶ 8).

Notably, Morris's consideration of the State's final settlement demand apparently continued through at least December 17, 2019, when Morris advised the Hearing Officer that the City Council was still deliberating. Aggressively litigating this matter, while settlement discussions of this case and the additional violations were ongoing, would have been wasteful of

public resources. If Morris had decided to reject the State's final technical demands (as appears to now be the case), it should have so advised Complainant AND the Board. However, complaining at this point in the case that Complainant did not aggressively pursue litigation after Morris had requested and engaged in extensive settlement discussions is simply disingenuous.

IV. MORRIS IS NOT ENTITLED TO DISMISSAL WITH PREJUDICE

In its prayer for relief, Morris requests that the Board dismiss this matter with prejudice. (Motion, p. 5.) However, with the possible exception of sanctions for discovery abuses (not present in this case), a dismissal for want of prosecution is *always* without prejudice. (Emphasis added.) *In re Marriage of Tiballi*, 2014 IL 116319, ¶ 21. A dismissal for want of prosecution is not on the merits, and lacks the finality to be "with prejudice" *Dick Lashbrook Corp. v. Pinebrook Foundations, Inc.*, 134 Ill. App. 3d 56, 62 (3d Dist. 1985).

Accordingly, in the unlikely event that the Board finds that Complainant's forbearance during settlement discussions in this matter constitutes "inexcusable delay" and grants dismissal, it must be "without prejudice" to Complainant's right to raise the groundwater monitoring and permit violations alleged in this matter in another forum.

V. CONCLUSION

Complainant, at the express request of Morris, has diligently engaged with Morris in extensive efforts to resolve the complex and challenging technical issues that exist in this Board case and those involved in the Illinois EPA's 2013 Violation Notice. Until the unexpected filing of Morris's Motion, it appeared that these negotiations were ongoing, as evidenced in the December 17, 2019 Hearing Officer Order. Because Complainant has been diligent in moving this case and the additional violations alleged in the Illinois EPA's 2013 Violation Notice

towards an amicable resolution, it has not “manifest[ed] an intention to thwart the progress of th[is] action to a conclusion.” *City of Crystal Lake v. Sak*, 52 Ill. App. 3d at 688. Accordingly, the Board should deny Morris’s Motion and set this matter for further proceedings as appropriate.

Moreover, granting Morris’ Motion would set a bad precedent and discourage settlement agreements with governmental entities involving complicated technical compliance issues, like those involved in this case and the additional violations alleged in the Illinois EPA’s 2013 Violation Notice. With this important policy consideration in mind, the Board should deny Morris’s Motion.

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board deny Respondent CITY OF MORRIS’S Motion to Dismiss for Want of Prosecution.

Respectfully Submitted,

PEOPLE OF THE STATE OF ILLINOIS
KWAME RAOUL
Attorney General of the
State of Illinois

MATTHEW J. DUNN, Chief
Environmental Enforcement/Asbestos Litigation Division

ELIZABETH WALLACE, Chief
Environmental Bureau
Assistant Attorney General

BY: /s/ Christopher Grant
CHRISTOPHER GRANT
Senior Assistant Attorney General
Environmental Bureau
69 W. Washington St., 18th Floor
Chicago, Illinois 60602
(312) 814-5388

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**COMPLAINANT'S RESPONSE TO
CITY OF MORRIS'S MOTION TO DISMISS FOR WANT OF PROSECUTION**

EXHIBIT A



Office of the Secretary of State Jesse White
CYBERDRIVEILLINOIS.COM

Corporation/LLC Search/Certificate of Good Standing

Corporation File Detail Report

File Number 52589924

Entity Name COMMUNITY LANDFILL CO.

Status DISSOLVED

Involuntary Dissolution on Friday, 14 May 2010

Entity Information

Entity Type CORPORATION

Type of Corp DOMESTIC BCA

Incorporation Date (Domestic) Thursday, 10 December 1981

State ILLINOIS

Duration Date PERPETUAL

Agent Information

Name

MARK A LAROSE

Address

200 N LASALLE STE 3810
CHICAGO , IL 60601

Change Date

Wednesday, 9 June 2004

Annual Report

Filing Date

00/00/0000

For Year

2009

Officers

President

Name & Address

ROBERT PRUIM 13432 WESTVIEW DR PALOS HEIGHTS IL 60463

[Return to Search](#)

[Reinstate your Dissolved Corporation](#)

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**COMPLAINANT'S RESPONSE TO
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EXHIBIT B



Electronic Filing: Received, Clerk's Office 03/09/2020

ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

1021 NORTH GRAND AVENUE EAST, P.O. BOX 19276, SPRINGFIELD, ILLINOIS 62794-9276 • (217)782-2829
PAT QUINN, GOVERNOR LISA BONNETT, DIRECTOR

217/524-3300
TDD 217/782-9143

October 30, 2013

City of Morris
Mayor Richard Kopczick
700 N. Division Street
Morris, Illinois 60450

7009 2820 0001 7486 9649
CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Re: **Violation Notice, M-2013-01016**
0630600001 – Grundy County
Morris/Community Landfill
Compliance File

Dear Mayor Kopczick:

This constitutes a Violation Notice pursuant to Section 31(a)(1) of the Illinois Environmental Protection Act, 415 ILCS 5/31(a)(1), and is based on an inspection completed on May 23, 2013 and a financial record review completed on October 10, 2013 by representatives of the Illinois Environmental Protection Agency ("Illinois EPA").

The Illinois EPA hereby provides notice of alleged violations of environmental laws, regulations, or permits as set forth in the attachments to this notice. The attachments include an explanation of the activities that the Illinois EPA believes may resolve the specified alleged violations, including an estimate of a reasonable time period to complete the necessary activities. Due to the nature and seriousness of the alleged violations, please be advised that resolution of the violations may also require the involvement of a prosecutorial authority for purposes that may include, among others, the imposition of statutory penalties.

A written response, which may include a request for a meeting with representatives of the Illinois EPA, must be submitted via certified mail to the Illinois EPA within 45 days of receipt of this notice. If a meeting is requested, it shall be held within 60 days of receipt of this notice. The response must include information in rebuttal, explanation, or justification of each alleged violation and a statement indicating whether or not you wish to enter into a Compliance Commitment Agreement ("CCA") pursuant to Section 31(a) of the Act. If you wish to enter into a CCA, the written response must also include proposed terms for the CCA that includes dates for achieving each commitment and may include a statement that compliance has been achieved for some or all of the alleged violations. The proposed terms of the CCA should contain sufficient detail and must include steps to be taken to achieve compliance and the necessary dates by which compliance will be achieved.

The Illinois EPA will review the proposed terms for a CCA provided by you and, within 30 days of receipt, will respond with either a proposed CCA or a notice that no CCA will be issued by the Illinois EPA. If the Illinois EPA sends a proposed CCA, you must respond in writing by either

EPA - DIVISION OF RECORDS MANAGEMENT

RELEASABLE

NOV 12 2013

4302 N. Main St., Rockford, IL 61103 (815)987-7760
595 S. State, Elgin, IL 60123 (847)608-3131
2125 S. First St., Champaign, IL 61820 (217)278-5800
2009 Mall St., Collinsville, IL 62234 (618)346-5120

9511 Harrison St., Des Plaines, IL 60016 (847)294-4000
5407 N. University St., Arber 113, Peoria, IL 61614 (309)693-5462
2309 W. Main St., Suite 116, Marion, IL 62959 (618)993-7200
100 W. Randolph, Suite 10-300, Chicago, IL 60601 (312)814-6026

PLEASE RECYCLE PAPER

agreeing to and signing the proposed CCA or by notifying the Illinois EPA that you reject the terms of the proposed CCA.

If a timely written response to this Violation Notice is not provided, it shall be considered a waiver of the opportunity to respond and meet, and the Illinois EPA may proceed with referral to a prosecutorial authority.

Written communications should be directed to:

Illinois EPA – Bureau of Land#24
Attn: Brian White
1021 North Grand Avenue East
Post Office Box 19276
Springfield, IL 62794-9276

Please include the Violation Number **M-2013-01016** and the Site Identification Number **0630600001** on all written communications.

The complete requirements of the Illinois Environmental Protection Act and any Illinois Pollution Control Board regulations cited herein or in the inspection report can be viewed at:

<http://www.ipcb.state.il.us/SLR/TheEnvironmentalProtectionAct.asp>

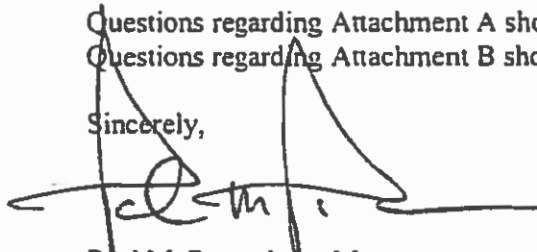
and

<http://www.ipcb.state.il.us/SLR/PCBandIEPAEnvironmentalRegulations-Title35.asp>

Questions regarding Attachment A should be directed to **Mark Retzlaff** at **847/294-4070**.

Questions regarding Attachment B should be directed to **Brian White** at **217/782-9887**.

Sincerely,



Paul M. Purseglove, Manager
Field Operations Section
Bureau of Land

PMP:MR:dv01016

cc: Division File
Des Plaines Region File
Mark Retzlaff
Robert Mathis, Jr.
Deanne Virgin

ATTACHMENT A

1. Pursuant to Section 21(a) of the [Illinois] Environmental Protection Act (415 ILCS 5/21(a)), no person shall cause or allow the open dumping of any waste.

A violation of Section 21(a) of the [Illinois] Environmental Protection Act (415 ILCS 5/21(a)) is alleged for the following reason: **Acceptance of wastes without necessary permits. Based on an Agency file review from a June 16, 2010 inspection report, and the fact that Parcels A and B are developed and accepted waste.**

2. Pursuant to Section 21(d)(1) of the [Illinois] Environmental Protection Act (415 ILCS 5/21(d)), no person shall conduct any waste-storage, waste-treatment, or waste-disposal operation without a permit granted by the Agency or in violation of any conditions imposed by such permit, including periodic reports and full access to adequate records and the inspection of facilities, as may be necessary to assure compliance with this Act and with regulations and standards adopted thereunder... This subsection (d) shall not apply to hazardous waste.

A violation of Section 21(d)(1) of the [Illinois] Environmental Protection Act (415 ILCS 5/21(d)) is alleged for the following reason: **Facility does not have a valid permit in place for the Landfill.**

3. Pursuant to Section 21(d)(2) of the [Illinois] Environmental Protection Act (415 ILCS 5/21(d)), no person shall conduct any waste-storage, waste-treatment, or waste-disposal operation: In violation of any regulations or standards adopted by the Board under this Act. This subsection (d) shall not apply to hazardous waste.

A violation of Section 21(d)(2) of the [Illinois] Environmental Protection Act (415 ILCS 5/21(d)) is alleged for the following reason: **Facility does not have a written closure plan and related supporting documents.**

4. Pursuant to Section 21(o)(6) of the [Illinois] Environmental Protection Act (415 ILCS 5/21(o)), no person shall conduct a sanitary landfill operation which is required to have a permit under subsection (d) of this Section [21], in a manner which results in failure to provide final cover within time limits established by Board regulations.

The prohibitions specified in this subsection (o) shall be enforceable by the Agency either by administrative citation under Section 31.1 of this Act or as otherwise provided by this Act. The specific prohibitions in this subsection do not limit the power of the Board to establish regulations or standards applicable to sanitary landfills.

A violation of Section 21(o)(6) of the [Illinois] Environmental Protection Act (415 ILCS 5/21(o)) is alleged for the following reason: **Failure to provide final cover within time limits.**

5. Pursuant to Section 21(o)(7) of the [Illinois] Environmental Protection Act (415 ILCS 5/21(o)), no person shall conduct a sanitary landfill operation which is required to have a permit under subsection (d) of this Section [21], in a manner which results in acceptance of wastes without

necessary permits.

The prohibitions specified in this subsection (o) shall be enforceable by the Agency either by administrative citation under Section 31.1 of this Act or as otherwise provided by this Act. The specific prohibitions in this subsection do not limit the power of the Board to establish regulations or standards applicable to sanitary landfills.

A violation of Section 21(o)(7) of the [Illinois] Environmental Protection Act (415 ILCS 5/21(o)) is alleged for the following reason: **Acceptance of wastes without necessary permits. Based on an Agency file review from a June 16, 2010 inspection report, and the fact that Parcels A and B are developed and accepted waste.**

6. Pursuant to Section 21(o)(11) of the [Illinois] Environmental Protection Act (415 ILCS 5/21(o)), no person shall conduct a sanitary landfill operation which is required to have a permit under subsection (d) of this Section [21], in a manner which results in failure to submit reports required by permits or Board regulations.

The prohibitions specified in this subsection (o) shall be enforceable by the Agency either by administrative citation under Section 31.1 of this Act or as otherwise provided by this Act. The specific prohibitions in this subsection do not limit the power of the Board to establish regulations or standards applicable to sanitary landfills.

A violation of Section 21(o)(11) of the [Illinois] Environmental Protection Act (415 ILCS 5/21(o)) is alleged for the following reason: **The Agency has not received the required reports.**

7. Pursuant to Section 21(o)(13) of the [Illinois] Environmental Protection Act (415 ILCS 5/21(o)), no person shall conduct a sanitary landfill operation which is required to have a permit under subsection (d) of this Section [21], in a manner which results in failure to submit any cost estimate for the site or any performance bond or other security for the site as required by this Act or Board rules.

The prohibitions specified in this subsection (o) shall be enforceable by the Agency either by administrative citation under Section 31.1 of this Act or as otherwise provided by this Act. The specific prohibitions in this subsection do not limit the power of the Board to establish regulations or standards applicable to sanitary landfills.

A violation of Section 21(o)(13) of the [Illinois] Environmental Protection Act (415 ILCS 5/21(o)) is alleged for the following reason: **The Agency has not received current closure cost estimates or evidence of a performance bond.**

8. Pursuant to 225 ILCS 230/1004 of the Solid Waste Site Operator Certification Law, no person shall cause or allow the operation of a landfill permitted or required to be permitted by the Agency unless the landfill has on its operational staff at least one natural person certified as competent by the Agency under the provisions of this Act [Solid Waste Site Operator Certification Law].

(a) For landfill sites which accept non-hazardous solid waste other than clean construction or demolition debris, the landfill shall have a Class A Solid Waste Site Operator certified by the Agency who is responsible for directing landfill operations or supervising other operational staff in performing landfill operations.

A violation of 225 ILCS 230/1004 [Solid Waste Site Operator Certification Law] is alleged for the following reason: **Landfill does not have a certified operator for the site.**

9. Pursuant to 35 Ill. Adm. Code 745.181, Chief Operator Requirements:

- a) The individual who is chief operator of a waste disposal site, as defined pursuant to Section 745.102(c), shall have prior conduct certification.
- b) The owner or other named permittee shall designate one or more chief operators for each waste disposal site.
 - 1) One certified chief operator may serve in that capacity for multiple waste disposal units located at one waste disposal site.
 - 2) One certified chief operator shall not serve in that capacity for units located at two or more waste disposal sites.
 - 3) A certified waste operator need not be present during all hours a site is operating, provided that the chief operator retains responsibility for site operations during the period of absence, and can be contacted by waste disposal site personnel during the absence.

A violation of 35 Ill. Adm. Code Section 745.181 is alleged for the following reason: **Facility does not have a Chief Operator.**

10. Pursuant to 35 Ill. Adm. Code 745.201, Prohibitions [under Prior Conduct Certification]:

- a) No person shall operate a waste disposal site unless the site chief operator has prior conduct certification.
- b) No site owner or other named permittee shall cause or allow operation of a waste disposal site unless the site chief operator has prior conduct certification.
- c) No person shall own or operate a waste disposal site if the person has had prior conduct certification denied, cancelled or revoked, unless the person has a current, valid prior conduct certification.
- d) No person shall serve as an officer or director of the owner or operator of a waste disposal site if the person has had prior conduct certification denied,

cancelled or revoked, unless the person has a current, valid prior conduct certification.

- e) No person shall serve as an employee at a waste disposal site if the person has had prior conduct certification denied, cancelled or revoked, unless the person has a current, valid prior conduct certification.

A violation of 35 Ill. Adm. Code 745.201 is alleged for the following reason: **Facility does not have a certified chief operator and because the landfill does not have a chief operator with prior conduct certification.**

- 11. Pursuant to 35 Ill. Adm. Code 811.110(d)(1), Written Closure Plan, the operator shall maintain a written plan describing all actions that the operator will undertake to close the unit or facility in a manner that fulfills the provisions of the Act, of this Part and of other applicable Parts of 35 Ill. Adm. Code: Chapter I. The written closure plan shall fulfill the minimum information requirements of 35 Ill. Adm. Code 812.114.

A violation of 35 Ill. Adm. Code 811.110(d)(1) is alleged for the following reason: **Written Closure Plan was not available at the time of the inspection.**

- 12. Pursuant to 35 Ill. Adm. Code 811.110(e), the owner or operator of a MSWLF unit shall begin closure activities for each MSWLF unit no later than the date determined as follows:

- 1) 30 days after the date on which the MSWLF unit receives the final receipt of wastes; or
- 2) If the MSWLF unit has remaining capacity and there is a reasonable likelihood that the MSWLF unit will receive additional wastes, no later than one year after the most recent receipt of wastes.
- 3) The Agency shall grant extensions beyond this one year deadline for beginning closure if the owner or operator demonstrates that:
 - A) The MSWLF unit has the capacity to receive additional wastes; and
 - B) The owner or operator has taken and will continue to take all steps necessary to prevent threats to human health and the environment from the unclosed MSWLF unit.

A violation of 35 Ill. Adm. Code 811.110(e) is alleged for the following reason: **Acceptance of final volume of waste occurred. Closure activities were not initiated after receipt of the final volume of waste.**

- 13. Pursuant to 35 Ill. Adm. Code 811.110(f)(1), the owner or operator of a MSWLF unit shall complete closure activities for each unit in accordance with closure plan no later than within 180 days of beginning closure, as specified in subsection (e) of this Section.

A violation of 35 Ill. Adm. Code 811.110(f)(1) is alleged for the following reason: **Facility failed to complete closure activities with 180 days of beginning closure.**

14. Pursuant to 35 Ill. Adm. Code 811.112(c), the owner or operator of a MSWLF unit shall record and retain near the facility in an operating record or in some alternative location specified by the Agency, the information submitted to the Agency pursuant to 35 Ill. Adm. Code 812 and 813, as it becomes available. At a minimum, the operating record shall contain the ... gas monitoring results and any remediation plans required by Section 811.310 record and retain near the facility in an operating record or in some alternative location and 811.311.

A violation of 35 Ill. Adm. Code 811.112(c) is alleged for the following reason: **Records were not available at the time of the inspection.**

15. Pursuant to 35 Ill. Adm. Code 811.112(d), the owner or operator of a MSWLF unit shall record and retain near the facility in an operating record or in some alternative location specified by the Agency, the information submitted to the Agency pursuant to 35 Ill. Adm. Code 812 and 813, as it becomes available. At a minimum, the operating record shall contain ... any MSWLF unit design documentation for placement of leachate or gas condensate in a MSWLF unit required by Section 811.107(m).

A violation of 35 Ill. Adm. Code 811.112(d) is alleged for the following reason: **Leachate related documents were not available at the time of the inspection.**

16. Pursuant to 35 Ill. Adm. Code 811.112(e), the owner or operator of a MSWLF unit shall record and retain near the facility in an operating record or in some alternative location specified by the Agency, the information submitted to the Agency pursuant to 35 Ill. Adm. Code 812 and 813, as it becomes available. At a minimum, the operating record shall contain ... any demonstration, certification, monitoring results, testing, or analytical data relating to the groundwater monitoring program required by Sections 811.319, 811.324, 811.325, and 811.326 and 35 Ill. Adm. Code 812.317, 813.501, and 813.502.

A violation of 35 Ill. Adm. Code 811.112(e) is alleged for the following reason: **Last documented sampling event occurred in October of 2011. Current groundwater monitoring records were not available at the time of the inspection.**

17. Pursuant to 35 Ill. Adm. Code 811.112(f), the owner or operator of a MSWLF unit shall record and retain near the facility in an operating record or in some alternative location specified by the Agency, the information submitted to the Agency pursuant to 35 Ill. Adm. Code 812 and 813, as it becomes available. At a minimum, the operating record shall contain ... closure and post-closure care plans and any monitoring, testing, or analytical data required by Sections 811.110 and 811.111, and 35 Ill. Adm. Code 812.114(h), 812.115, and 812.313.

A violation of 35 Ill. Adm. Code 811.112(f) is alleged for the following reason: **Closure related documents were not available at the time of the inspection.**

18. Pursuant to 35 Ill. Adm. Code 811.112(g), the owner or operator of a MSWLF unit shall record and retain near the facility in an operating record or in some alternative location specified by the Agency, the information submitted to the Agency pursuant to 35 Ill. Adm. Code 812 and 813, as it becomes available. At a minimum, the operating record shall contain ... any cost estimates and financial assurance documentation required by Subpart G of this Part.

A violation of 35 Ill. Adm. Code 811.112(g) is alleged for the following reason: **Closure cost estimated and financial assurance documents were not available at the time of the inspection.**

19. Pursuant to 35 Ill. Adm. Code 811.310(c):

- 1) All gas monitoring devices, including the ambient air monitors must be operated to obtain samples on a monthly basis for the entire operating period and for a minimum of five years after closure.
- 2) After a minimum of five years after closure, monitoring frequency may be reduced to quarterly sampling intervals.
- 3) The sampling frequency may be reduced to yearly sampling intervals upon the installation and operation of a gas collection system equipped with a mechanical device such as a compressor to withdraw gas.
- 4) Monitoring must be continued for a minimum period of: thirty years after closure at MSWLF units, except as otherwise provided by subsections (c)(5) and (c)(6) of this Section; five years after closure at landfills, other than MSWLF units, which are used exclusively for disposing of wastes generated at the site; or fifteen years after closure at all other landfills regulated under this Part. Monitoring, beyond the minimum period, may be discontinued if the following conditions have been met for at least one year:
 - A) The concentration of methane is less than five percent of the lower explosive limit in air for four consecutive quarters at all monitoring points outside the unit; and
 - B) Monitoring points within the unit indicate that methane is no longer being produced in quantities that would result in migration from the unit and exceed the standards of subsection (a)(1) of this Section.
- 5) The Agency may reduce the gas monitoring period at an MSWLF unit upon a demonstration by the owner or operator that the reduced period is sufficient to protect human health and environment.
- 6) The owner or operator of an MSWLF unit must petition the Board for an adjusted standard in accordance with Section 811.303, if the owner or operator seeks a reduction of the post closure care monitoring period for all of the following

requirements:

- A) Inspection and maintenance (Section 811.111);
- B) Leachate collection (Section 811.309);
- C) Gas monitoring (Section 811.310); and
- D) Groundwater monitoring (Section 811.319).

A violation of 35 Ill. Adm. Code 811.310(c) is alleged for the following reason: **Documentation was not available at the time of the inspection to show landfill gas monitoring frequency.**

Suggested Resolutions

- 1. Immediately stop accepting waste without a permit.**
- 2. Immediately maintain the required information in the landfill operating record.**
- 3. By December 15, 2013, the City of Morris must submit to the IEPA, a renewal permit application including an updated closure plan.**
- 4. By December 15, 2013, the City of Morris must have a Certified Operator with the proper competency certificate.**
- 5. By December 15, 2013, perform the required groundwater monitoring, leachate monitoring and gas monitoring activities in accordance with the existing expired permit conditions and regulations.**
- 6. By January 15, 2014, submit to the IEPA, the most recent results/reports for the groundwater monitoring, leachate monitoring and gas monitoring.**

The written response to this Violation Notice must include information in rebuttal, explanation, or justification of each alleged violation and a statement indicating whether or not you wish to enter into a Compliance Commitment Agreement ("CCA") pursuant to Section 31(a) of the Act. If you wish to enter into a CCA, the written response must also include proposed terms for the CCA that includes dates for achieving each commitment and may include a statement that compliance has been achieved for some or all of the alleged violations. The written response must be submitted to the Illinois EPA by certified mail within 45 days of receipt of this Violation Notice.

ATTACHMENT B

1. Pursuant to Section 21.1(a.5) of the Environmental Protection Act, on and after the effective date established by the United States Environmental Protection Agency for Municipal Solid Waste Landfill (MSWLF) units to provide financial assurance under Subtitle D of the Resource Conservation and Recovery Act, no person, other than the State of Illinois, its agencies and institutions, shall own or operate a MSWLF unit that requires a permit under subsection (d) of Section 21 of this Act, unless that person has posted with the Agency [Illinois EPA] a performance bond or other security for the purposes of:
 - (1) insuring closure of the site and post-closure care in accordance with the Act and its rules; and
 - (2) insuring completion of a corrective action remedy when required by Board rules....

A violation of Section 21.1(a.5) of the [Illinois] Environmental Protection Act (45 ILCS 5/21.1(a.5)) is alleged for the following reason: **The City of Morris as the owner and operator of a Municipal Solid Waste Landfill that requires a permit under subsection (d) of Section 21 of the Environmental Protection Act has not posted a performance bond or other security for the purpose of insuring closure of the landfill and post-closure care in accordance with the Environmental Protection Act and its rules. The landfill has not had compliant financial assurance since prior to May 31, 2000.**

Please Note: In the 1970s, the City of Morris owned and operated the Morris Community Landfill. In 1982, the City of Morris leased the operation of the landfill to Community Landfill Co. (CLC) and remained the owner of the landfill. CLC paid the City of Morris dumping related royalties for its use of the landfill. In 1999, the City of Morris and CLC entered into an agreement that required the City of Morris to become active in the operation of the landfill and treat leachate from the landfill at its publically owned treatment works plant at no cost to CLC. The corporation CLC was "involuntarily dissolved" on May 14, 2010. Pursuant to 35 Ill. Adm. Code, Section 810.103: "The 'owner' is the 'operator' if there is no other person who is operating and maintaining a solid waste disposal facility." Therefore, the City of Morris once again became the sole operator of the landfill on May 14, 2010.

2. Pursuant to Section 21(d)(1) of the Environmental Protection Act, no person shall conduct any waste-storage, waste-treatment, or waste-disposal operation ... in violation of any conditions imposed by such permit

A violation of Section 21(d)(1) of the [Illinois] Environmental Protection Act (45 ILCS 5/21(d)(1)) is alleged for the following reason: **Failure to comply with the permit conditions for Parcel A and Parcel B associated with updating closure and post-closure care cost estimates and with providing and maintaining acceptable financial assurance equal to or greater than the amount of the approved cost estimate.**

3. Pursuant to Section 21(d)(2) of the Environmental Protection Act, no person shall conduct any waste-storage, waste-treatment, or waste-disposal operation in violation of any regulations or standards adopted by the Board under this Act.

A violation of Section 21(d)(2) of the [Illinois] Environmental Protection Act (45 ILCS 5/21(d)(2)) is alleged for the following reason: **The City of Morris failed to comply with the provisions of 35 Ill. Adm. Code Subtitle G, Part 811, Subpart G. Specifically, the City of Morris failed to comply with Section 811.700(a), (c), and (f), requiring the owner or the operator of a permitted landfill to provide financial assurance; Section 811.701(a), requiring the owner or operator of a landfill to supply financial assurance equal to or greater than the current cost estimate; Section 811.701(c), requiring the owner or operator of a landfill to make annual adjustments for inflation to the cost estimates; Section 811.705(d), requiring an adjustment of the cost estimate for inflation on an annual basis; and Section 811.706(d) requiring the owner or operator of the landfill to supply continuous financial assurance coverage until the owner or operator is released from the financial assurance requirements.**

4. Pursuant to Section 21(o)(13) of the Environmental Protection Act, no person shall conduct a sanitary landfill operation which is required to have a permit under subsection (d) of this Section, in an manner which results in failure to submit any cost estimate for the site or any performance bond or other security for the site as required by this Act or Board rules.

A violation of Section 21(o)(13) of the Illinois Environmental Protection Act (45 ILCS 5/21(o)(13)) is alleged for the following reason: **Failure to provide an annual revision of the cost estimate and for failure to provide acceptable continuous financial assurance coverage. The landfill has not had compliant financial assurance since prior to May 31, 2000.**

5. Pursuant to 35 Ill. Adm. Code 811.700(a), this Subpart [Part 811, Subpart G] provides procedures by which the owner or operator of a permitted waste disposal facility provides financial assurance satisfying the requirements of Section 21.1(a) of the Act.

A violation of 35 Ill. Adm. Code 811.700(a) is alleged for the following reason: **The City of Morris as the owner and the operator of the permitted waste disposal facility (landfill) failed to provide financial assurance that satisfies the requirements of the Environmental Protection Act. The landfill has not had compliant financial assurance since prior to May 31, 2000.**

6. Pursuant to 35 Ill. Adm. Code 811.700(b), financial assurance shall be provided, as specified in Section 811.706, by a trust agreement, a bond guaranteeing payment, a bond guaranteeing payment or performance, a letter of credit, insurance or self-insurance.

A violation of 35 Ill. Adm. Code 811.700(b) is alleged for the following reason: **The City of Morris has not provided financial assurance as specified in 35 Ill. Adm. Code, 811.706. The landfill has not had compliant financial assurance since prior to May 31, 2000.**

7. Pursuant to 35 Ill. Adm. Code 811.700(f), on or after April 9, 1997, no person, other than the State of Illinois, its agencies and institutions, shall conduct any disposal operation at an MSWLF unit that requires a permit under Section 21(d) of the Act, unless that person complies with the financial assurance requirements of this Part [811].

BOARD NOTE: Subsection (f) clarifies the applicability of the financial assurance requirements to units of local government, since the Subtitle D regulations exempt only federal and state governments from financial assurance requirements. (See 40 CFR 258.70 (1996).) P.A. 89-200, signed by the Governor on July 21, 1995 and effective January 1, 1996, amended the deadline for financial assurance for MSWLFs from April 9, 1995 to the date that the federal financial assurance requirements actually become effective, which was April 9, 1997. On November 27, 1996 (61 Fed. Reg. 60327), USEPA added 40 CFR 258.70(c) (1996), codified here as subsection (g), to allow states to waive the compliance deadline until April 9, 1998.

A violation of 35 Ill. Adm. Code 811.700(f) is alleged for the following reason: **The City of Morris as the operator of the permitted waste disposal facility (landfill) failed to provide financial assurance that satisfies the requirements of 35 Ill. Adm. Code, Part 811. The landfill has not had compliant financial assurance since prior to May 31, 2000.**

8. Pursuant to 35 Ill. Adm. Code 811.701(a), Upgrading Financial Assurance, the owner or operator shall maintain financial assurance equal to or greater than the current cost estimate calculated pursuant to Section 811.704 all times...

A violation of 35 Ill. Adm. Code 811.701(a) is alleged for the following reason: **Failure to maintain continuous financial assurance. The landfill has not had compliant financial assurance since prior to May 31, 2000.**

The City of Morris and CLC attempted to provide financial assurance through the use of three performance bonds from Frontier Insurance Co., with a total penal sum on the bonds of \$17,427,366.00. The bonds were received by the Illinois EPA in June of 2000. Two of the bonds had an effective date of May 31, 2000 and the third bond had an effective date of June 14, 2000. The City of Morris was the principal for one of the bonds with a penal sum of \$10,081,630.00, and CLC was the principal for the other two bonds.

The three bonds were never compliant with the regulations because the surety, Frontier Insurance Co., was removed from the list of acceptable sureties approved by the U.S. Department of Treasury in its Circular 570. On June 6, 2000, the U.S. Treasury issued notification that Frontier no longer qualified as an acceptable

surety on Federal bonds and had been removed from Circular 570 effective May 31, 2000.

In addition, because the cost estimate has not been updated annually since prior to 2000, it cannot be determined if the amount of financial assurance previously approved in 2000 and adjusted for inflation is sufficient to cover the costs of closure and post-closure care.

9. Pursuant to 35 Ill. Adm. Code 811.701(c), Upgrading Financial Assurance, the owner or operator of a MSWLF unit shall annually make adjustments for inflation if required pursuant to Section 811.704(k)(2) or 811.705(d).

A violation of 35 Ill. Adm. Code 811.701(c) is alleged for the following reason: **The City of Morris has failed to make adjustments to financial assurance for inflation as required. The landfill has not had compliant financial assurance since prior to May 31, 2000.**

10. Pursuant to 35 Ill. Adm. Code 811.705(d), Revision of Cost Estimate, the owner or operator of a MSWLF unit shall adjust the cost estimates of closure, post-closure, and corrective action for inflation on an annual basis.

A violation of 35 Ill. Adm. Code 811.705(d) is alleged for the following reason: **Failure to provide an annual revision of the cost estimate. The permits for Parcel A and Parcel B require that the annual update be submitted in the form of a permit application for a significant modification by June 1st of each year and either update the cost estimate or certify that there are no changes to the current cost estimate. The most recent permit applications with cost estimate revisions (Permit No. 2000-155-LFM, Log No. 2009-424 and Permit No. 2000-156-LFM, Log No. 2009-425) were received on August 18, 2009 and October 13, 2009 and were denied on January 10, 2010.**

11. Pursuant to 35 Ill. Adm. Code 811.706(d), Mechanisms for Financial Assurance, the owner or operator [of a Municipal Solid Waste Landfill] shall provide continuous coverage until the owner or operator is released from the financial assurance requirements pursuant to 35 Ill. Adm. Code Section 813.403(b) or Section 811.326(g).

A violation of 35 Ill. Adm. Code 811.706(d) is alleged for the following reason: **Failure to maintain continuous financial assurance until the owner or operator is released from the financial assurance requirements. The landfill has not provided financial assurance compliant with the Environmental Protection Act and the regulations since prior to May 31, 2000.**

Suggested Resolutions

Within 30 days of receipt of this Violation Notice, the City of Morris as both the owner and the operator of the landfill is required by statute, regulation, and permit

to submit a permit application for a significant modification to update the cost estimate or certify that there are no changes to the cost estimate that was previously approved in 2000. The last update was due June 1st of this year and the updates are required to be submitted on an annually on June 1st of each year. See <http://www.epa.state.il.us/land/regulatory-programs/permits-and-management/forms/pa1.html> for instructions on submitting a significant modification to a permit.

Immediately submit financial assurance that complies with the requirements of 35 Ill. Adm. Code, Subtitle G, Part 811, Subpart G to the Illinois EPA in the amount of at least \$22,739,617.15 - the last approved cost estimate adjusted for inflation to current dollars.

The written response to this Violation Notice must include information in rebuttal, explanation, or justification of each alleged violation and a statement indicating whether or not you wish to enter into a Compliance Commitment Agreement ("CCA") pursuant to Section 31(a) of the Act. If you wish to enter into a CCA, the written response must also include proposed terms for the CCA that includes dates for achieving each commitment and may include a statement that compliance has been achieved for some or all of the alleged violations. The written response must be submitted to the Illinois EPA by certified mail within 45 days of receipt of this Violation Notice.

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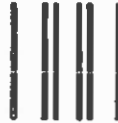
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