

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

PEOPLE OF THE STATE OF ILLINOIS,)
by LISA MADIGAN, Attorney)
General of the State of Illinois,)

Complainant,)

-vs-)

EDWARD PRUIM, an individual, and)
ROBERT PRUIM, an individual,)

Respondents.)

PCB No. 04-207)
PCB No. 97-193)
(Consolidated))
(Enforcement))

People of the State of Illinois,)
by LISA MADIGAN, Attorney)
General of the State of Illinois,)

Complainant,)

-vs-)

Community Landfill Company, Inc.)

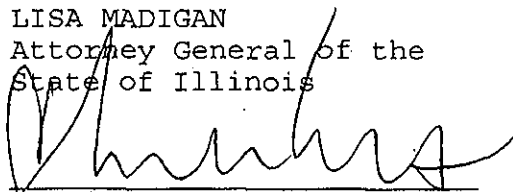
Respondent.)

NOTICE OF FILING

PLEASE TAKE NOTICE that we have today, February 6, 2006, filed with the Office of the Clerk of the Illinois Pollution Control Board, by electronic filing, Complainant's Response to Motion for Summary Judgment, copies of which are attached herewith and served upon you.

PEOPLE OF THE STATE OF ILLINOIS
LISA MADIGAN
Attorney General of the
State of Illinois

BY:


CHRISTOPHER GRANT
Assistant Attorney General
Environmental Bureau
188 W. Randolph St., 20th Flr.
Chicago, IL 60601
(312) 814-5388

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Respondent.)

COMPLAINANT'S RESPONSE TO EDWARD PRUIM AND ROBERT PRUIM'S
MOTIONS FOR SUMMARY JUDGMENT

NOW COMES Complainant, PEOPLE OF THE STATE OF ILLINOIS, by
LISA MADIGAN, Attorney General of the State of Illinois, and
hereby responds to Respondents' Edward Pruiṃ and Robert Pruiṃs''
(collectively "Pruim Respondents") Motions for Summary Judgment,
as follows:

I. INTRODUCTION

Respondents Edward Pruim and Robert Pruim ("Pruim Respondents") have individually filed Motions for Summary Judgment in this matter. However except for minor and irrelevant differences, the Motions are essentially identical. In the interest of economy, Respondent hereby responds to both Motions in this single Response.

The Motions seek judgment in favor of the Pruim Respondents on all remaining counts of the complaint filed in PCB 04-207 (which, on the Pruim Respondents' motion, was consolidated with PCB 97-193).

II. MOTION TO DISMISS CERTAIN COUNTS

Simultaneously with the filing of this Response, Complainant has filed its Motion to Voluntarily Dismiss Certain Counts of its Complaint. Complainant's Motion to dismiss only seeks voluntary dismissal of Respondents Edward Pruim and Robert Pruim on Counts XIII, XIV, XV, XVI, and XVIII, as alleged in the complaint filed in PCB 04-207. Continued prosecution of these counts against all Respondents in the consolidated cases is not necessary to obtain the relief sought by Complainant. Dismissal of these counts, in favor of the *Pruim Respondents only*, will expedite hearing of the consolidated matters.

III. STANDARD FOR SUMMARY JUDGEMENT

Summary Judgment is only appropriate where the "pleadings,

depositions, and admissions on file, together with the affidavits if any, show that there is no genuine issue as to any material fact and that the moving party is entitled to judgment as a matter of law". Dowd & Dowd, Ltd. v. Gleason, 181 Ill. 2d 460 (1998). The Board will consider the pleadings, depositions, and affidavits strictly against the movant. See: Des Plaines River Watershed Alliance et al, v. Illinois EPA et al, PCB 04-88 (November 17, 2005) *slip op.*, at 7.

IV. RESPONDENT'S MOTION FOR SUMMARY JUDGMENT

The Pruim Respondents make four claims in support of their Motions for Summary Judgment. First, they claim that the Pruim Respondents had no personal involvement or active participation in day-to-day operations; Second that actions were taken solely in the scope of managerial functions, third, that the Pruim Respondents should not be held liable for Respondent Community Landfill Company's ("CLC's) failure to perform administrative tasks; and finally that the delay in bringing actions against the Respondents personally [Motions, at pp 2-3]. However, the Pruim Respondents have failed to bring forward any evidence that would entitle them to judgment on any of the counts remaining against them. Moreover, they have attached affidavits to their answers which should preclude the granting of summary judgment.

- a. **Summary Judgment should be denied based on the Pruim Respondents' Answers.**

On January 4, 2005, the Pruim Respondents filed separate

answers to the Complaint. Attached to each Answer is a sworn affidavit stating, in pertinent part, the following:

"I am without sufficient knowledge to form a belief as to the truth or falsity of allegations contained in Counts I, II, III, V, VI, VII, VIII, IX, X, XII, XIII, XIV, XV, XVI, XVII, XVIII, XIX of the Complaint and demand strict proof thereof.

In other words, the Pruim Respondents have conceded that they have no knowledge about any allegations regarding the Complaint with the exception of Count IV [Failure to Maintain Adequate Financial Assurance Pursuant to the April 20, 1993 Permit]. A statement of fact in a pleading is a judicial admission, binding on the party making it. See: *State Security Insurance Co. v. Linton*, 67 Ill. App. 3d 480 (1st Dist., 1978). The Pruim Respondents have provide no affidavit to correct the above-noted statement. Moreover, despite the fact that the complaint in PCB 04-207 was filed on May 21, 2004, the Pruim Respondents have conducted no discovery in this case. They have taken no depositions, and served neither interrogatories nor requests to admit upon Complainant since the May 21, 2004 complaint was filed.

Such an admission is absolutely inconsistent with their subsequent motions for summary judgment. The Respondents have provided no basis for changing their sworn position that they lack knowledge "...to form a belief as to the truth or falsity...", and claim that there is no issue of material fact

and that they are entitled to judgment. On the basis of this admission alone, the Pruim Respondents Motions should be denied on all remaining counts, excepting Count IV.

b. Complainant is Not Required to Prove its Case in its Response

The Pruim Respondents repeatedly state that Complainant has failed to 'prove' that the Pruim Respondents were personally involved in the alleged violations. This claim ignores the obvious: Complainant is not required to prove facts at this point in the proceeding. The Respondents' arguments regarding 'sufficient proof' should be considered only in their post-hearing briefs. Moreover, because they have not conducted discovery, the Pruim Respondents' claim that Complainant lacks sufficient proof of individual liability is made without any knowledge of what evidence will be offered against them.

c. Remaining Issues should be Saved for Hearing

The Pruim Respondents note that the consolidated cases have been litigated over more than 8 years. They sought, and received several extensions of the deadline for filing their Motions. Hearing in this matter is set for April, 2006. The Board should find that the proper resolution of this matter is through evidence properly presented at hearing. At this late date, any arguments regarding personal liability should be raised in post-hearing briefs, following the April hearing.

V. SUFFICIENT EVIDENCE EXISTS TO FIND THE RESPONDENTS LIABLE

Attached to Complainant's Response are excerpts from the deposition testimony of Edward Pruim [Exhibit A], Robert Pruim [Exhibit B], and site manager James Pelnarsh [Exhibit C]. Also attached, as Exhibits D, E, and F, are copies of landfill capacity reports for the Morris Community Landfill. The Exhibits and testimony provide more than sufficient proof to hold the Pruim Respondents liable for the alleged violations under the applicable law.

a. Community Landfill Company

Respondent Community Landfill Company is an "S Corporation", or "Subchapter S Corporation". Blacks Law Dictionary defines such a business organization, as follows:

S Corporation. A corporation whose income is taxed through its shareholders rather than through the corporation itself. Only corporations with a limited number of shareholders can elect S-corporation tax status under Subchapter S of the Internal Revenue Code. BLACKS LAW DICTIONARY, 7TH EDITION (1999).

CLC is a small, closely held company. It has only two shareholders, Edward Pruim & Robert Pruim [Exhibit A, pp. 10-11]. Edward and Robert Pruim also are the sole officers of CLC. [Exhibit B, pp. 10]. During the relevant period, it never had more than four employees. [Exhibit B, p. 27]. Also, during the relevant period, only Edward Pruim and Robert Pruim had the authority to sign checks for CLC [Exhibit B, p. 32; Exhibit C,

p.23]. CLC's main office was first located in Crestwood, Illinois and then moved to Riverdale, Illinois [Exhibit B, p. 12]. Only a 'ticket office' was kept at the landfill itself [Exhibit C, p. 12]. CLC's sole business is the operation of the Morris Community Landfill [Exhibit A, p. 11].

b. Edward Pruum

Edward Pruum is Secretary of CLC. Along with Robert Pruum, he also owned XL Disposal, formerly an operator of Waste Transfer Stations [Exhibit B, p. 8]. He owned the Crestwood building that once served as CLC's main office [Exhibit B, p. 29]. Along with Robert Pruum he personally guaranteed some of the obligations of CLC [Exhibit B, pp. 20-21]. He reviewed, signed, and submitted reports to Illinois EPA [Exhibit A, pp. 15, 18]

c. Robert Pruum

Robert Pruum is president and co-owner of CLC. Along with Edward Pruum, he also co-owned XL disposal and personally guaranteed obligations of CLC. He also signed required Illinois EPA reports.

d. James Pelnarsh

James Pelnarsh is site manager CLC, based out of the Morris Community Landfill. In his deposition, he testified, inter alia, to the following:

- 1) Prior to joining Community Landfill Company, he worked for XL disposal. [Exhibit C, p. 7]

- 2) He reported to the 'main office', which was originally located in Crestwood, then moved to Riverdale. [Ex. C, p. 25].
- 3) The other employees at the landfill included "two or three operators, paper picker, and a girl that was in the office" [Exhibit C, p. 12]
- 4) He summed up his daily activities, beginning in 1983, as "Opened the gate in the morning and closed it at night; and whatever came through the gate, you know, put it in the piles and did it properly". [Ex. C, p. 11].
- 5) When he needed an immediate decision he would contact either Edward or Robert Pruim. [Exhibit C, p. 27].
- 6) Setting fees, pricing and billing were done out of the 'main office' and were not his responsibility. Records of shipments were not kept at the landfill, but were also the responsibility of the 'main office' [Ex. C, pp 21-24]
- 7) He did not have authority to sign checks or pay bills [Ex. C, p. 23.]
- 8) Financial assurance requirements were the responsibility of the 'main office'. [Ex. C, p. 38]

e. Landfill Capacity Reports

Exhibits D-F are three landfill capacity reports for the Morris Community Landfill. Each report is signed and certified as accurate by either Edward Pruim [Ex. D, E], or Robert Pruim [Ex. F].

VI. COMPLAINANT'S ALLEGATIONS

After dismissal of certain Counts, thirteen Counts remain to be determined, on issues of liability and remedy, against the Pruim Defendants. However, the alleged violations logically relate to three different personal responsibilities of the

Pruims'. First, there are allegation relating to the managerial failure to submit permit applications and provide for financial assurance (Counts IV, V, XVII, XIX). Second there are violations related to excess waste being deposited in the landfill, with resultant waste 'overheight', permit, and open dumping violations (Counts VII, VIII, IX, X). Finally, there are maintenance, operational, and unpermitted waste violations. (Count I, II, III, VI, XII). Complainant responds to these in turn.

a. Managerial Violations

As acknowledged by Edward Pruim, the stockholders and officers made all decisions regarding seeking permits and arranging for financial assurance [Exhibit B, pp. 31-33]. The 'stockholders and officers' were solely Edward Pruim and Robert Pruim. Complainant alleges that Pruim Respondents:

-Continued to allow waste disposal, but failed to provide the required financial assurance from 1993 until 1996 [Count IV];

-Failed to cause CLC to file a timely modification to its permit [Count V];

-Failed to increase financial assurance prior to operation of a new landfill gas extraction system [Count XVII].

-Failed to provide revised cost estimate [Count XIX]

As sole officers, shareholders, and directors, the Pruim Respondents were also the sole persons with authority to cause the company to take these actions. Moreover, as the only parties

with control of the company's finances, only they could commit the funds. Edward Pruim admitted that permits decisions were made by the 'stockholders and officers' [Exhibit A, p. 31].

Moreover, the Pruim Respondents could have chosen other options, including discontinuing operations, ceasing waste disposal and initiating closure prior to 1993, and/or transferring their interest to persons who could take these required actions. However they decided to continue CLC's operations at the landfill without obtaining proper permits, and thereby violated the pertinent sections of the Act. As sole stockholders in a small company, they alone benefitted from continuing operations.

In the violations alleged in Counts IV, V, XVII, and XIX, the Pruims'' personal involvement and direct participation are inherent. Here, as stated in *People v. C.J.R. Processing, Inc.*, 269 Ill. App. 3d 1013 (3d Dist, 1995), it is clear that "[i]mposing liability only upon the corporations and not on the individuals...would undermine the Act's purposes." *Id.*, at 1018.

b. Overheight Violations

Not only were the Pruim Respondents' personally involved in the violations alleged in Counts VII, VIII, IX, and X, it is plain that their conduct was *knowing and wilful*. The Landfill Capacity Reports attached as exhibits D-F clearly indicate that, in 1994, the landfill was rapidly approaching its legally

permitted capacity. In the April, 1993 Report [Exhibit D, p. 4] it is noted that only 464,700 cubic yards of capacity remained. The report is certified to and signed by Edward Pruim.

The January 18, 1995 Report identifies the period when the landfill exceeded its capacity. On Page 4 of this report [Ex. E, p. 4], it is noted that 264,290 cubic yards of capacity remained on April 1, 1994, and that between that date and December 31, 1994, the Landfill had accepted 457,008 yard, or 192,718 cubic yards over capacity. Remaining capacity is acknowledged to be zero [Ex. E, p. 4]. This report is also certified and signed by Edward Pruim.

The January 15, 1996 Report indicates continued and knowing violations. Despite having reported, on January 18, 1995, that the landfill was almost certainly over capacity, Exhibit F shows that an additional 540,135 cubic yards of waste were deposited in the landfill during 1995 [Exhibit F, p. 4]. This report is certified to and signed by Robert Pruim.

There can be no more egregious example of personal and direct involvement, or of a wilful violation. The Pruim Respondents certified in 1993 that the remaining capacity of the landfill was only 264,290 cubic yards. This number was not merely an estimate: the figure was derived from 'Aerial Survey supplemented with recent field survey.' [Ex. D, p. 2]. As of January 19, 1995, they knew the landfill was over capacity. And

yet they continued their disposal business throughout 1995, adding an additional 540,135 cubic yards to the existing over-capacity at the landfill.

As sole owners and officers of the company, the Pruim Respondents had the legal obligation to cease operations when they knew they landfill had reached capacity. No other person had the authority, or the duty, to do so. Also, no other person benefitted from the violations. The signed landfill capacity reports clearly indicate that the Pruim Respondents knew of the prospective violations, and decided to operate in violation of the company's permit, and in violation of the Act. Summary Judgment on these counts must be denied.

c. Operational and unpermitted waste violations

In Counts I, II, III, XII, and XIII Complainant alleges various violations of operational, maintenance, and improper disposal regulations. A question of fact remains regarding all of these alleged violations, which precludes summary judgment on these Counts.

As testified to by Robert Pruim, Community Landfill Company never had more than around four employees. Yet in their Motion, the Pruim Respondents state that James Pelnarsh had day-to-day control over the Site, and claim that the Pruim Respondents were never on Site at the time of Illinois EPA inspections. However, this fact is irrelevant because of the Pruim Respondents'

personal control over finances.

As noted above, Mr. Pelnarsh did not have authority to sign checks; his ability to institute remedial action as required is unknown at this point.

In Count I, Complainant alleges maintenance violations, including failure to cover waste, allowing erosion of landfill cover to allow leachate seeps, and blowing litter. The violations were noted during seven inspections ranging from April 7, 1994 to July 20, 1999, a period of more than five years. A range of violations over such a period indicates a general disregard of proper maintenance, and a failure to properly fund remedial action. Whether the Pruim Respondents were aware of the ongoing violations, and refused to provide funds to remedy known problems is currently unknown. Count I should go to hearing.

In Count II Complainant alleges that the Pruim Respondents failed to take action to prevent leachate seeps. In Count VI, Complainant alleges that such failure caused water pollution. Again, it is unknown whether sufficient funds were provided by the Respondents to prevent and remediate these problems.

In Counts III and XII, Complainant alleges that the Pruim Respondents allowed the unpermitted disposal of used tires and landscape waste. According to the testimony of James Pelnarsh, the negotiation of prices, and credit terms was done through the 'main office' [Ex. C, p. 21-23]. In fact, the evidence suggests

that all dumping-related arrangements were done through the Pruim Respondents' home office. It is unknown at this point whether either Edward or Robert Pruim arranged to have tires and landscape waste dumped at the landfill, or what prices were charged. Summary judgment on these counts should be denied.

d. Financial Support

Underlying all of the alleged violations is the serious issue of personal financial benefit from landfill operations, and the Pruim Respondents' willingness to provide sufficient capital to prevent violations. As in cases relating to piercing the corporate shield to reach stockholder liability, failure to provide sufficient capital in our case should be a major factor. Courts have stated:

"[i]f a corporation is organized and carries on a business without substantial capital in such a way that the corporation it is likely to have no sufficient assets available to meet its debts, it is inequitable that shareholders should set up such a flimsy organization to escape personal liability". Fiumetto v. Garrett Enterprises, Inc., 321 Ill. App. 3d 946 (2d Dist. 2001) (Citing Gallagher v. Reconco Builders, Inc., 91 Ill. App. 3d 999 (1980)).

Similarly, if the Pruim Respondents, who jointly controlled the checkbook for any expenditures at the landfill, failed to provide sufficient capital to maintain the landfill in accordance with regulations, and personally benefitted through that failure, they should be deemed to have personal involvement and active participation in the violations.

VII. THE PRUIM RESPONDENTS' CLAIM FOR JUDGMENT DUE TO DELAY

Edward Pruim and Robert Pruim also claim for summary judgment on the basis of a claimed 'delay' in enforcement. No evidence of any prejudice is offered, and no authority cited to back up the Respondents' requests. Rather it merely restates claims made in its earlier Motion to Dismiss.

CLC is apparently a "six-person company", with only four employees, Edward Pruim, and Robert Pruim. The Pruims' can hardly claim lack of knowledge of the substantive allegations, the evidence asserted, or of the violations themselves. There is no prejudice to the Pruim Respondents; rather, since many of the violations at the landfill remain unaddressed, and since CLC is a Subchapter S corporation, with profits and losses flowing annually to the Pruim Respondents, their inclusion in this matter is necessary to avoid prejudice to Complainant.

VII. CONCLUSION

Following dismissal of certain counts, thirteen counts remain alleged against the Pruim Respondents. Only two of the cases cited by the Respondents accurately describes the standard of liability of the Pruim Respondents under the Act (*People v. C.J.R. Processing, Inc.*, 269 Ill. App. 3d 1013 (3d Dist. 1995), and *People v. Tang*, 346 Ill. App. 3d 277 (1st Dist. 2004)). Neither case is quite on point, since each addresses motions filed under 735 ILCS 5/2-615, not summary judgment, and the Board

has already determined that Complainant's Compliant in this case was legally sufficient.

But both cases stand for the proposition that a separate corporate identity is not a defense to enforcement under the Act against individuals where 'personal involvement or direct participation in a violation of the Act' is shown. *C.J.R.*, at 1018. Because Complainant is merely responding to Complainant's Motion, it is not attempting to 'prove up' all factors, but merely seeks to go to hearing on the issue.

However, Complainant has produced more than enough evidence to allow the Board to find personal involvement. Respondent CLC is a small 'six-person' company. The only other managerial employee is Mr. James Pelnarsh. Mr. Pelnarsh opened and closed the landfill, sought direction from the Pruim Respondents on immediate decisions, did not have authority to spend money, and was not involved in permitting or arranging financial assurance. Therefore, it is clear that any significant decisions were made solely by Edward Pruim and/or Robert Pruim. Included in these decisions was the continued operation of the landfill in violation of the Act.

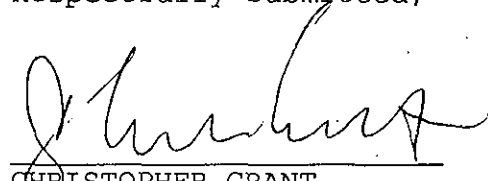
The Pruim Respondents have denied having sufficient knowledge of the truth or falsity of Complainant's allegations. Nothing in the exhibits attached to the Pruim Respondent's Motions changes their position. After considering the pleadings,

exhibits, and depositions, and affidavits, the Board should deny the Pruiim Respondents' Motions for Summary Judgment, and allow the April 10, 2006 hearing to proceed on all remaining issues.

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board deny Respondents' EDWARD PRUIM'S and ROBERT PRUIM'S Motions for Summary Judgment.

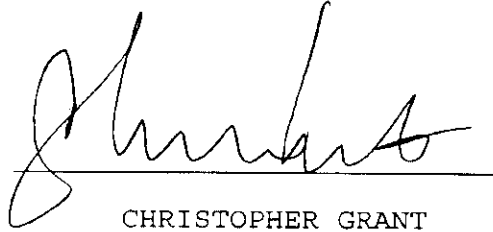
Respectfully Submitted,

BY:


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Assistant Attorneys General
Environmental Bureau
188 W. Randolph St., 20th Flr.
Chicago, Illinois 60601
(312) 814-5388
(312) 814-0609

CERTIFICATE OF SERVICE

I, CHRISTOPHER GRANT, an attorney, do certify that I caused to be served this 6th day of February, 2006, Complainant's Response to Motion for Summary Judgment upon the persons listed below by placing same in an envelope bearing sufficient postage with the United States Postal Service located at 100 W. Randolph, Chicago.



CHRISTOPHER GRANT

SERVICE LIST:

Mr. Mark Larose
Ms. Clarissa Grayson
Larose & Bosco, Ltd.
200 N. La Salle Street, #2810
Chicago, IL 60601

Mr. Bradley P. Halloran
Hearing Officer
Illinois Pollution Control Board
100 W. Randolph
Chicago, Illinois 60601 [via hand delivery]
[without exhibits]

Exhibit A

1 STATE OF ILLINOIS)
) SS.
 2 COUNTY OF C O O K)

3 IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS
 COUNTY DEPARTMENT, LAW DIVISION

4 PEOPLE OF THE STATE OF)
 5 ILLINOIS,)

6)
 7 Complainant/Petitioner)

8 vs.)

9 EDWARD PRUIM AND ROBERT)
 PRUIM,)

10 Respondent.)

11 PEOPLE OF THE STATE OF)
 12 ILLINOIS,)

13 Complainant/Petitioner)

14 vs.)

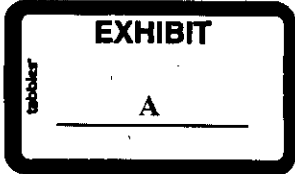
15 Community Landfill Company,)
 INC.)

16 Respondent.)

17

18 This is the deposition of EDWARD H. PRUIM,
 19 called by the Plaintiff for examination, taken
 20 pursuant to the provisions of the Code of Civil
 Procedure and the Rules of the Supreme Court of
 21 the State of Illinois pertaining to the taking
 of depositions for the purpose of discovery,
 taken before PEGGY A. ANDERSON, a Notary Public
 22 within and for the County of Cook, State of
 Illinois, and a Certified Shorthand Reporter of
 23 said state, at 188 West Randolph, 20th Floor,
 Chicago, Illinois, on the 12th day of October
 A.D. 2005, at 9:00 a.m.

24



1 Q Is anybody else involved with that
2 company?

3 A No.

4 Q What does your work entail with that
5 company?

6 A I develop property. Right now I'm
7 doing some residential property.

8 Q Do you know a Robert Pruum?

9 A Yes.

10 Q What relation is he to you?

11 A He's my brother.

12 Q Do you have any business affiliations
13 with him?

14 MR. LaROSE: What do you mean by
15 business affiliations?

16 BY MS. TOMAS:

17 Q Are you involved in any corporations
18 with your brother?

19 A Yes.

20 Q What corporations are those?

21 A Community Landfill.

22 Q Do you own the Morris Community
23 Landfill located at 1501 Ashley Road, Morris,
24 Grundy County, Illinois?

1 please?

2 MR. LaROSE: You can but, I mean,
3 this deposition should be for a very
4 limited purpose. We have been through all
5 of this stuff before, and he's here to
6 answer questions about his personal
7 liability for these 20-some-odd --

8 MS. TOMAS: I understand. Please let
9 me ask the questions I would like to ask.

10 MR. LaROSE: Okay.

11 BY MS. TOMAS:

12 Q All right. How long have you and
13 your brother had Community Landfill Company,
14 Incorporated?

15 A I don't know the exact amount of
16 time. Probably 20 years.

17 Q 20 years. And during that time, have
18 you been the only officers?

19 A I believe so.

20 Q Okay. When did you become involved
21 in the Morris Community Landfill?

22 A You mean when did we --

23 Q Like what year did you become
24 involved?

1 A I don't know an exact year, about 20
2 years ago, I believe.

3 Q Was Community Landfill established to
4 run the Morris Community Landfill?

5 MR. LaROSE: Was Community Landfill
6 Company you mean?

7 MS. TOMAS: I'm sorry?

8 MR. LaROSE: Was Community Landfill
9 Company established?

10 MS. TOMAS: Yes.

11 MR. LaROSE: Okay. You can answer if
12 you know.

13 BY THE WITNESS:

14 A I believe it was, yes.

15 BY MS. TOMAS:

16 Q Okay. Let's see. I will refer to
17 the Morris Community Landfill as the Morris
18 landfill or the site.

19 A Okay.

20 Q Now, the Illinois Environmental
21 Protection Agency has inspected the site
22 numerous times over the years.

23 Have you ever been out at the site
24 when the Illinois EPA has inspected it?

1 A Not that I can recall.

2 Q Were you aware that the Illinois EPA
3 has inspected the site, and I will give you
4 dates and if you could answer yes or no. April 7th,
5 1994?

6 MR. LaROSE: The question is was he
7 aware?

8 MS. TOMAS: Right. Exactly.

9 BY THE WITNESS:

10 A I'm not aware of specific dates, no.

11 BY MS. TOMAS:

12 Q At all?

13 A No.

14 Q Have you ever received letters from
15 the Illinois EPA with regards to inspections at
16 the site?

17 MR. LaROSE: Him personally or him as
18 a representative of the corporation?

19 MS. TOMAS: Either.

20 BY THE WITNESS:

21 A Not personally, no.

22 BY MS. TOMAS:

23 Q Not personally?

24 A No.

1 MS. TOMAS: I said on behalf of
2 Community Landfill Company.

3 BY THE WITNESS:

4 A I don't understand the question.
5 Have I submitted anything?

6 BY MS. TOMAS:

7 Q Any permit applications,
8 certifications, anything like that on behalf of
9 Community Landfill Company to the Illinois EPA?

10 A I might have signed something over
11 the 20-year period. I can't recall any
12 specific permit.

13 Q Would you review any documentation
14 you would sign?

15 A If I sign it, I would review it, yes.

16 Q I'm going to show you what we will
17 mark as Exhibit 1. It is a Solid Waste
18 Landfill Capacity Certification dated April 19th,
19 1993.

20 (WHEREUPON, E. Pruum
21 Exhibit No. 1 was marked
22 for identification.)

23 BY MS. TOMAS:

24 Q Now, is that your signature on --

1 MR. LaROSE: Take a look at the whole
2 document, Ed. Give him a second, okay?
3 Give me a second.

4 BY MS. TOMAS:

5 Q Just let me know when you are ready.

6 MR. LaROSE: I'm ready if you are.

7 THE WITNESS: Yes.

8 BY MS. TOMAS:

9 Q Is that your signature on the final
10 page? I believe it's page 4.

11 MR. LaROSE: Page Bates stamped 0690?

12 MS. TOMAS: Yes.

13 BY THE WITNESS:

14 A It looks like my signature, yes.

15 BY MS. TOMAS:

16 Q On Page 3, which is Bates stamped
17 Number 689, does that state that the number of
18 years life remaining at the current disposal
19 rate was 1.35?

20 A Yeah, I see that there, yes.

21 Q And the landfill would be able to
22 remain open until March 1995 if it limited its
23 waste, correct?

24 A That's what it says, yes.

1 that had been received between April 1st, 1994
2 and December 31st, 1994 was 450,008 cubic
3 yards; is that correct?

4 MR. LaROSE: Objection. The document
5 speaks for itself.

6 THE WITNESS: That's what it says
7 here. I don't know if it's correct.

8 BY MS. TOMAS:

9 Q Now, would you have reviewed this
10 document before you signed it?

11 A I don't recall. I believe I would
12 have.

13 Q Okay. Thank you. Is the site a
14 permitted landfill?

15 A Yes.

16 Q And who is in charge of the
17 environmental compliance at the landfill?

18 A I believe the engineering company
19 that we had hired.

20 Q The engineering company?

21 A Right.

22 Q Who is that?

23 A Well, during this period of time, it
24 was Andrews Engineering.

1 BY MS. TOMAS:

2 Q Who is James Pelnarsh's supervisor
3 for the site?

4 A He is the supervisor of the site.

5 Q Does he have -- Does he answer to
6 anyone?

7 A I guess he would answer to the
8 stockholders of Community Landfill.

9 Q Who are the stockholders of Community
10 Landfill?

11 A Myself and my brother.

12 Q And if Mr. Pelnarsh was not doing his
13 job in ensuring that the environmental laws
14 were being followed, what actions would be
15 taken by Community Landfill to rectify that?

16 MR. LaROSE: I'm going to object to
17 the form of the question. It's an improper
18 hypothetical. Counsel, we have got 20-some
19 specific allegations in this case that
20 these gentlemen have been accused of being
21 personally involved with. I don't know why
22 we are asking hypotheticals about what-ifs
23 when we have got 22 specific allegations
24 right in front of you.

1 BY MS. TOMAS:

2 Q Could you please answer my question?

3 MR. LaROSE: No, he is not going to
4 answer it. Improper hypothetical question
5 and I'm directing him not to answer.

6 MS. TOMAS: Fine.

7 BY MS. TOMAS:

8 Q Is either Parcel A or Parcel B at the
9 Morris Landfill currently accepting waste?

10 A Parcel A or Parcel B?

11 Q Either one.

12 A No.

13 Q How long did Parcel A accept waste?

14 MR. LaROSE: Can we go off the record
15 for a second?

16 MR. GRANT: Yeah, that's fine.

17 (WHEREUPON, a discussion
18 was had off the record.)

19 BY MS. TOMAS:

20 Q The last question I asked was how
21 long did Parcel A accept waste, and I'm asking
22 this on behalf of your involvement with the
23 Morris landfill site?

24 MR. LaROSE: Meaning the landfill

1 MR. LaROSE: Thank you. Got it.

2 BY MS. TOMAS:

3 Q A meeting was held to discuss the
4 violation notice on April 24th of 1997. Do you
5 remember being present at that meeting?

6 A Who was the meeting with?

7 Q It would have been Community Landfill
8 engineers as well as Illinois Environmental
9 Protection Agency personnel?

10 A I don't recall.

11 MR. LaROSE: Yeah, don't guess, Ed.

12 BY MS. TOMAS:

13 Q After the violation notice, what, if
14 any, action did you take at the site to resolve
15 the alleged violations?

16 MR. LaROSE: Did he take or did the
17 company take?

18 MS. TOMAS: Did he take individually.

19 BY THE WITNESS:

20 A I didn't take any.

21 BY MS. TOMAS:

22 Q Did you do anything on behalf of
23 Community Landfill?

24 A That would be the site manager that

1 A I don't know if there was ever a
2 permit applied for for overheight.

3 Q Are you aware that if a landfill is
4 over height, it needs to seek additional height
5 limitations from the Illinois EPA?

6 MR. LaROSE: I'm going to object. I
7 don't think that's an accurate statement of
8 the law. You can answer it, if you know.

9 BY THE WITNESS:

10 A I believe that's one of the remedies.
11 The other remedy would be to correct the
12 problem.

13 BY MS. TOMAS:

14 Q Who would make decisions about
15 seeking any permits for the site?

16 MR. LaROSE: Who would or who did?

17 MS. TOMAS: Who would.

18 BY THE WITNESS:

19 A I suppose the stockholders and the
20 officers would.

21 BY MS. TOMAS:

22 Q Who did make the decisions regarding
23 permits at the site?

24 MR. LaROSE: Meaning whether to apply

1 for them or not?

2 MS. TOMAS: Right.

3 BY THE WITNESS:

4 A And you are talking about all
5 permits?

6 BY MS. TOMAS:

7 Q All permits.

8 A That would be -- The stockholders
9 would have to sign off on the permit or the
10 officers.

11 Q And who would sign those applications
12 on behalf of the stockholders?

13 A Normally the president or another
14 officer. I don't know if there is any strict
15 regulation on what officer signs.

16 Q Which would be you as president?

17 A I'm not president.

18 Q Of Community Landfill Company?

19 A Correct.

20 Q Who is president of Community
21 Landfill Company?

22 A My brother is.

23 Q What is your title?

24 A Secretary.

Exhibit B

1 STATE OF ILLINOIS)
) SS.
2 COUNTY OF C O O K)

3 IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS
4 COUNTY DEPARTMENT, LAW DIVISION

5 PEOPLE OF THE STATE OF)
6 ILLINOIS,)

7 Complainant/Petitioner)

8 vs.) No. PBC 97-193

9 EDWARD PRUIM AND ROBERT) and PBC 04-207

PRUIM,) (Consolidated)

10 Respondent.)

11 PEOPLE OF THE STATE OF)
12 ILLINOIS,)

13 Complainant/Petitioner)

14 vs.)

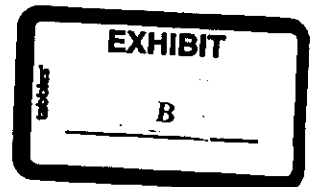
15 Community Landfill)

16 Company,)

INC.)

17 Respondent.)

18
19 This is the deposition of ROBERT J. PRUIM,
20 called by the Plaintiff for examination, taken
21 pursuant to the provisions of the Code of Civil
22 Procedure and the Rules of the Supreme Court of
23 the State of Illinois pertaining to the taking
24 of depositions for the purpose of discovery,
taken before PEGGY A. ANDERSON, a Notary Public
within and for the County of Cook, State of
Illinois, and a Certified Shorthand Reporter of
said state, at 188 West Randolph, 20th Floor,
Chicago, Illinois, on the 12th day of October
A.D. 2005, at 10:30 a.m.



1 Q About how long did it operate?

2 A About 20 years.

3 Q And who -- Let's see. Did you own XL
4 Disposal?

5 A Yes.

6 Q Did you own all of it or were you
7 part owner?

8 A 50 percent.

9 Q Who owned the other 50 percent?

10 A Ed.

11 Q When you say "Ed," you mean Edward
12 Pruim?

13 A Yes, that was at the end, not
14 originally.

15 Q Did XL Disposal own or operate any
16 landfills or any waste disposal sites?

17 A Waste transfer stations.

18 Q And what type of waste? Was it
19 municipal solid waste or construction
20 demolition debris?

21 A Both.

22 Q Where was XL Disposal's transfer
23 station?

24 A Several, Crestwood, Illinois,

1 operating?

2 A Just Community Landfill.

3 Q Okay. And specific to Community
4 Landfill, what is your title with Community
5 Landfill Company?

6 A President.

7 Q Are you involved -- Is your brother
8 Edward Pruim also involved in Community
9 Landfill Company?

10 A He's an officer.

11 Q What's his title?

12 A I think it's secretary treasurer.

13 Q Besides you and Mr. Edward Pruim, are
14 there any other stockholders?

15 A No, not currently.

16 Q You anticipated my next question. I
17 believe that Community Landfill Company was
18 incorporated in 1981; do you recall that?

19 A Yes.

20 Q What other shareholders -- what other
21 people were shareholders of Community Landfill
22 Company from 1981 to the present?

23 A Initially, I don't know their names.

24 I think we were sole owners around '85.

1 registered agent?

2 MR. GRANT: No, I guess I don't.

3 What I'm really looking for is the main
4 office address.

5 BY THE WITNESS:

6 A It would be there now.

7 BY MR. GRANT:

8 Q During the period from '94 to 2000 or
9 '93 to 2000, where was the office address?

10 A Crestwood, possibly Riverdale.

11 Q Did you have an office in both
12 Crestwood and Riverdale during that period?

13 A Yes.

14 Q And do you remember the addresses of
15 those?

16 A 4330 West 137th I think it was.

17 Q Was that in Crestwood or Riverdale?

18 A That's Crestwood.

19 Q How about the Riverdale address?

20 A 13901 South Ashland.

21 Q During the time that Community
22 Landfill had offices at the Crestwood and
23 Riverdale offices, were there any other
24 companies that shared the office space?

1 A I believe so.

2 Q If you could take a look at the third
3 page, which is Attachment A, five separate
4 requests for documents. Did you bring any
5 documents with you today?

6 A I did not today.

7 Q Okay.

8 MR. LaROSE: For the record, Counsel,
9 I was -- As you know, I wasn't directly
10 involved in this; but my understanding,
11 Ms. Grayson is here, she can speak to it if
12 she needs to, is that in response to the
13 subpoena -- I just don't want the record to
14 fall solid as if he didn't comply with the
15 subpoena intentionally.

16 We objected to Items 1, 2 and 3
17 on the basis that all of those are already
18 in the agency's possession, that's your
19 client; Number 4 is because we didn't have
20 it, and we didn't feel an obligation to
21 spend \$75 to get it from the Secretary of
22 State's office; and Number 5, my
23 understanding is that these documents were
24 already given.

1 We will have to figure out what is the real
2 record.

3 BY MR. GRANT:

4 Q I have got what I'm going to ask to
5 be marked as Exhibit Number 2.

6 (WHEREUPON, R. Pruium
7 Exhibit No. 2 was marked
8 for identification.)

9 BY MR. GRANT:

10 Q Mr. Pruium, Exhibit 2 is a copy of
11 what appears to be a lease agreement between
12 the city of Morris and Community Landfill
13 Company.

14 There is a -- These are documents
15 Bates stamped 0353 to 0376. There is a copy of
16 some sort of a sticker at the top. It says
17 original, July 1982. I don't know where that
18 came from; but do you recognize this document?

19 A Yeah, I haven't seen this in years.

20 Q Does it -- Based on your review of it
21 today, does it appear to be the original lease
22 between Community Landfill Company?

23 A It sure looks like it.

24 MR. LaROSE: A copy of.

1 Company to the city of Morris. Do you
2 recognize that?

3 A Now I do, yeah.

4 Q And do you remember having --
5 guaranteeing the royalties for Community
6 Landfill Company back in that period?

7 A I do not recall this agreement at
8 all.

9 Q And just for the record, on 376, it's
10 also what appears to be the signature of Edward H.
11 Pruim?

12 A Yes.

13 Q Moving on to --

14 MR. GRANT: Can we go off the record?

15 MR. LaROSE: Sure.

16 (WHEREUPON, a discussion
17 was had off the record.)

18 BY MR. GRANT:

19 Q Mr. Pruim, we have talked a little
20 bit off the record. What I'm interested in is
21 whether you and Mr. Edward Pruim did, in fact,
22 personally guarantee the royalty payments for
23 Community Landfill Company to the city of
24 Morris beginning in 1982?

1 A From document Exhibit 2, it appears
2 we did.

3 Q Do you have any personal recollection
4 of having done that back in 1982?

5 A No, I don't.

6 Q Or of that being a condition, say, in
7 negotiations, a condition --

8 A I did not recall this document at
9 all.

10 Q After '85 when I think you stated
11 that you and Edward Prum took over 100 percent
12 of the ownership in Community Landfill Company,
13 did you continue to guarantee royalties to the
14 city of Morris on behalf of Community Landfill
15 Company?

16 A I don't recall signing any additional
17 agreements until '94 possibly when -- around
18 that time when there was some amendments to the
19 lease. I don't think this is something that
20 was renewed every year. It was just out there.

21 Q Now, in 1994 -- Let's go off the
22 record again, please.

23 MR. GRANT: We will mark this 3.

24

1 Q Just so that I understand, I believe
2 it's true that you and Mr. Edward Pruim are the
3 sole officers of Community Landfill Company; is
4 that correct?

5 A I believe so.

6 Q How many employees -- Let me ask this
7 question. Since the relevant period is really
8 between 1994 and 2000, between that period, how
9 many employees did Community Landfill have?

10 A I believe a high was maybe four.

11 Q And where were the employees located?

12 A At the landfill, 1501 Ashley Road in
13 Morris.

14 Q Were all Community Landfill employees
15 located at the landfill itself in Morris?

16 A No.

17 Q Who was not?

18 A Well, there was some office work
19 being done.

20 Q Would that have been done either at
21 the Crestwood or Riverdale offices?

22 A No, not necessarily.

23 Q What other offices did you have; in
24 other words, where were your --

1 Community Landfill lease the office space?

2 A Crestwood was Ed's personal building,
3 and in Riverdale we just used some office
4 space.

5 Q During that same period, you know,
6 from, say, '93 to 2000 really is probably a
7 more accurate period, how did Community
8 Landfill Company get business?

9 A Prior to what period?

10 Q During the period from 1993 to 2000,
11 and I'm not trying to be overly picky but
12 that's really the relevant period for this
13 case.

14 A It would have been the same customers
15 that we had prior to that time, word of mouth.
16 We never did actively solicit business.

17 Q You didn't have a salesman?

18 A No.

19 Q Did you or Mr. Edward Pruim solicit
20 business? Did you contact companies seeking
21 waste disposal business for Community Landfill
22 Company?

23 A We probably would have gotten some
24 phone calls, but I don't recall.

1 may be -- I don't know if we need to refer to
2 the lease or not, but did Community Landfill
3 Company have a relationship with the city where
4 the city got free waste disposal?

5 A I don't recall the specifics, but I
6 think they did.

7 Q Would all of that have been contained
8 in the lease or did you have some other
9 agreement?

10 A That would have been in the first
11 lease, I think.

12 Q Now, the second lease which I think
13 we've -- the addendum to the lease which I
14 think is Exhibit Number 3, it's got some
15 different conditions. Were you involved in
16 negotiating those conditions with the city?

17 A I don't think directly. I don't
18 recall any sit-downs with them.

19 Q How about Mr. Edward Pruum?

20 A I don't recall.

21 Q During that same period of time in
22 the '90s essentially from '93 to 2000, how many
23 people at Community Landfill Company had
24 authority to sign checks?

1 A From what period, '93?

2 Q I'm going to use the period '93 to
3 2000 because I think that's a relevant period
4 for the Complaint, but yeah. So during the
5 '90s but really '93 to 2000.

6 A There were always, I think, two
7 signatures required and the bank accepted our
8 stamps, also.

9 Q But what individuals had authority to
10 sign checks?

11 A Ed and Bob.

12 Q Nobody else?

13 A I don't think so.

14 MR. GRANT: Off the record real
15 quick.

16 (WHEREUPON, a discussion
17 was had off the record.)

18 BY MR. GRANT:

19 Q Let me go back to Exhibit Number 4,
20 Paragraph 7 on Page 3, number Page 3 at the
21 bottom, where I have alleged or -- or where the
22 State's alleged that Parcel A is currently
23 accepting waste, there is a denial here.

24 I'm wondering if -- I mean -- Well,

1 let me ask you today. Is Morris Community
2 Landfill in Parcel A currently accepting waste?

3 A We are accepting dirt for closure.

4 MR. LaROSE: And, Counsel, if I might
5 add, I think that was probably the reason
6 for the denial, the distinction between
7 waste and -- I'm sure the contaminated soil
8 is waste too, but we are thinking about
9 waste as C and D or garbage.

10 MR. GRANT: Okay.

11 BY MR. GRANT:

12 Q And you are charging for -- Let me
13 ask it as a question. Is Community Landfill
14 Company charging for the disposal of dirt in
15 Parcel A at the present time?

16 A Yes.

17 Q How is it charged? Is it charged by
18 the ton? Is it charged by the yard?

19 A I believe it's by the yard.

20 Q And do you know what the rate is for
21 disposal?

22 A No, I don't.

23 Q Would Mr. Pelnarsh know, do you
24 think?

Exhibit C

1 BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

2

3 PEOPLE OF THE STATE OF)
4 ILLINOIS, by LISA MADIGAN,)
5 Attorney General of the)
6 State of Illinois,)

7 Plaintiff,)

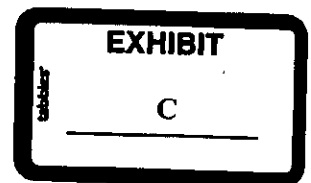
8 vs.)

9) PCB No. 97-193

10 COMMUNITY LANDFILL CO., an)
11 Illinois Corporation,)

12 Defendant.)

13 This is the deposition of
14 JAMES PELNARSH, called by the Plaintiff for
15 examination, taken pursuant to 35 Ill. Adm.
16 Code 101.161, 35 Ill. Adm. Code 101.622 and
17 Supreme Court Rule 206(a)(1), taken before
18 PEGGY A. ANDERSON, a Notary Public within and
19 for the County of Cook, State of Illinois, and
20 a Certified Shorthand Reporter of said state,
21 at 188 West Randolph Street, 20th Floor,
22 Chicago, Illinois, on the 29th day of October
23 A.D. 2003, at 10:00 o'clock a.m.
24



1 obviously, are about your employment at
2 Community Landfill Company; and when I talk
3 about your employment at Community Landfill,
4 specifically activities at the Morris Community
5 Landfill in Morris, okay?

6 A Right.

7 Q How long have you been employed with
8 Community Landfill Company?

9 A I went out there in 1983.

10 Q Is that when you joined Community
11 Landfill Company?

12 A Right. Yes.

13 Q Prior to that, did you work for any
14 affiliated companies. By that, I mean any
15 other companies owned by the owners of
16 Community Landfill?

17 A Yes.

18 Q And what company were you employed
19 with prior to that?

20 A XL Disposal.

21 Q Where was XL Disposal located?

22 A In Crestwood, Illinois, on Kostner
23 Avenue.

24 Q Did you work in Crestwood?

1 Unless I know the relevance of that
2 question with respect to operation, I'm
3 going to direct him not to answer the
4 question.

5 MR. GRANT: You can't direct him not
6 to answer on the basis of relevance,
7 though, Mark.

8 MR. LaROSE: I can direct him not to
9 answer on the basis of privilege that he
10 may have with respect to that question.

11 MR. GRANT: Well, let's back up.
12 It's not necessary, so we will go on.

13 MR. LaROSE: Okay. Thank you.

14 MR. GRANT: We will fight at the
15 right time.

16 MR. LaROSE: I agree with that.

17 BY MR. GRANT:

18 Q As site supervisor, what were your
19 responsibilities? Beginning in 1983, what were
20 your responsibilities?

21 A Opened the gate in the morning and
22 closed it at night; and whatever came through
23 the gate, you know, put it in the piles and did
24 it properly.

1 Q Now, did you -- You mentioned
2 employees, and I guess we are going to -- we'll
3 try to get it to make sure that we are
4 understanding timing; but beginning in 1983,
5 how many employees did Community Landfill have
6 at the Morris Community Landfill in Morris?

7 A I want to say there was like two to
8 three operators, paper picker and a girl that
9 was in the office.

10 Q Okay. So you had an office on site
11 at Morris Community Landfill?

12 A Just a ticket office.

13 Q Okay. As far as operators, what
14 would the operators do?

15 A Garbage that came through the gate,
16 you'd put it in the pile and covered it at
17 night.

18 Q I'm going to ask some more questions
19 specifically about how a landfill operates
20 mostly because I don't know. I have never been
21 to one.

22 So the question I asked was regarding
23 1983. During the time that Community Landfill
24 was operating -- And let's talk specifically

1 know. I don't know.

2 Q That's fine. You mentioned the four
3 copies of tickets. One went to the trucker I
4 think you said?

5 MR. GRANT: Is that right, Mark?

6 MR. LaROSE: He said one --

7 MR. GRANT: -- went to the city of
8 Morris, one to the city engineer and then I
9 started asking questions.

10 MR. LaROSE: He didn't ask -- yeah,
11 he didn't ask -- He didn't say the trucker.
12 He said they kept one. One went to the
13 city. One went to the city engineer and
14 then you stopped there.

15 MR. GRANT: Okay.

16 BY THE WITNESS:

17 A And one went to the office.

18 BY MR. GRANT:

19 Q To the office in?

20 A Riverdale.

21 Q In Riverdale, okay. Was that sent to
22 the office for billing purposes?

23 A Yes.

24 Q Were most of the -- Most of the

1 people that brought waste to the site, was that
2 done on a credit basis; in other words, were
3 they subsequently billed or did they have to
4 pay when they dumped the loads?

5 A It was on a credit basis as far as I
6 know.

7 Q Pretty much 100 percent?

8 A I would say, yeah.

9 Q So once you sent the ticket to the
10 office in Riverdale, would you maintain a
11 continuing record of the shipments at your
12 office at the landfill itself? What I'm asking
13 is, for example, would you have like a
14 month-to-date volume or anything like that?

15 A I don't believe so, no. I think
16 everything went to the office.

17 Q Okay. Okay. Let's narrow our focus
18 a little bit down to the period from 1990 to
19 1997 for the time being. I'm interested in the
20 prices and the tipping fees, the dumping
21 charges that Community Landfill charged to the
22 truckers.

23 First of all, did you post a schedule
24 of fees at the landfill itself?

1 A Not really.

2 Q How were the tipping fees negotiated
3 by Community Landfill? How did they arrive at
4 the tipping fees with individual truckers?

5 A To me, that was between the office
6 and the customer. I didn't have nothing to do
7 with that.

8 Q So during the time -- and, again,
9 let's talk 1990 to 1997. Did you have
10 knowledge of what prices were being charged at
11 the Morris Community Landfill?

12 A Some.

13 Q Just from discussing with truckers or
14 how did you come up with that?

15 A We never really had it posted there.
16 Everything was kind of done through the main
17 office, just write the tickets and the yardage.

18 Q Pricing and billing was not part of
19 your responsibilities there?

20 A No.

21 Q Did you, yourself, have the authority
22 to write checks to pay bills --

23 A No.

24 Q -- on behalf of the company at all?

1 A No.

2 Q Did you have the authority to hire
3 and fire employees?

4 A Never had to.

5 Q From your experience at the company,
6 can you tell me who for Community Landfill had
7 the authority to set prices for tipping fees,
8 disposal fees?

9 MR. LaROSE: Time frame.

10 MR. GRANT: 1990 to 1997.

11 MR. LaROSE: Okay. If you know.

12 Don't guess.

13 BY THE WITNESS:

14 A I don't know who did it. You know,
15 it was all done in the main office. I don't
16 know who set the prices.

17 BY MR. GRANT:

18 Q I'm asking about the main office in
19 Riverdale. How many employees did Community
20 Landfill have at that office?

21 MR. LaROSE: Can we go off the record
22 for a second?

23 MR. GRANT: Sure.

24

1 (WHEREUPON, a discussion
2 was had off the record.)

3 BY MR. GRANT:

4 Q Mr. Pelnarsh, Jim, you mentioned the
5 home office in Riverdale. It's my -- Is it
6 true that the office was in Riverdale at one
7 point but also was in Crestwood at one point?

8 A Prior.

9 Q And perhaps in some other locations
10 away from the Morris Community Landfill
11 location; is that correct?

12 A Prior to Riverside, it was in
13 Crestwood.

14 MR. LaROSE: Riverdale.

15 BY THE WITNESS:

16 A Riverdale. That's right.

17 Q So when we were discussing the
18 Riverdale office, we were basically discussing
19 the home office, whether it was in Riverdale or
20 Crestwood?

21 A Right.

22 Q Do you know how many employees
23 Community Landfill Company had at either the
24 Crestwood office or the Riverdale office, but

1 Q Did you work with both Bob Pruim and
2 Edward Pruim?

3 A Right.

4 Q Were both of them involved in the
5 Morris Community Landfill?

6 A Yes.

7 Q Can you explain -- Well, who was your
8 direct supervisor?

9 A Whoever was -- If Bob was out, then I
10 would talk to Ed if I called Crestwood for an
11 immediate decision.

12 Q Okay. That's clear. Do you know who
13 was responsible for okaying the payment of
14 bills, bills that may come up at the Morris
15 Community Landfill?

16 A That's back in the office, too.
17 That's Crestwood.

18 Q Did they have a payroll staff or
19 something?

20 A Yes. Yes.

21 Q On the paychecks you had, for
22 example, for yourself and the employees, who
23 would sign those checks?

24 A Bob or Ed.

1 Q Okay. Okay. Do you have any
2 knowledge of financial assurance requirements
3 relating to closure or post-closure care?

4 A That's the main office again. I
5 don't know.

6 Q To the best of your understanding,
7 that would be the responsibility of others
8 within the organization?

9 A Right.

10 Q Okay. Okay. Can you tell me what
11 the current status of the Morris Community
12 Landfill is? What's going on there right now
13 today?

14 MR. LaROSE: Objection to the
15 question, relevance and it may involve some
16 privilege.

17 MR. GRANT: Can we go off the record
18 just for a second?

19 MR. LaROSE: Yes.

20 (WHEREUPON, a discussion
21 was had off the record.)

22 BY MR. GRANT:

23 Q Mr. Pelnarsh, was any waste ever
24 removed from Parcel B and taken to either

Exhibit D



ANDREWS ENVIRONMENTAL ENGINEERING INC. 3535 Maylower Blvd., Springfield, Illinois 62707/(217) 787-2334

April 19, 1993

Illinois Environmental Protection Agency
Waste Accounting and Fees Unit
Solid Waste Management Section
Division of Land Pollution Control
Post Office Box 19276
Springfield, IL 62794-9276

re: 0630600001 -- Grundy County
Morris Community Landfill - Parcel B

Dear Correspondent:

Enclosed is the completed Solid Waste Landfill Capacity Certification Form for the subject site.

Please contact us if you have any questions or desire further information on the data provided.

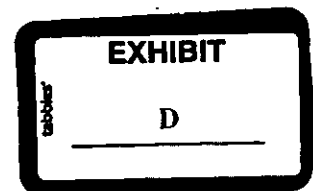
Sincerely,

Vincent J. Madonia
Environmental Engineer I
Division of Solid Waste Management

CC: Community Landfill Corp.
Mayor Washburn - City of Morris

Enclosure

RMM:njm



1
2006

SOLID WASTE LANDFILL CAPACITY CERTIFICATION

I. FOR SOLID WASTE LANDFILLS PERMITTED PRIOR TO SEPTEMBER 18, 1990

a. Determine the remaining volume of the landfill (air space) allowed in the developmental and supplemental permits assigned to your site. 511,920 cubic yards (1)

b. Developmental Permit Number: 1974-22-DE

c. Developmental Permit Date: April 5, 1974

d. Supplemental Permit Number: 1989-005-SP

e. Supplemental Permit Date: 6-5-89

f. Increase of airspace in cubic yards allowed by the supplemental permit: Approximately 2 million cubic yards

g. Method used for determining the remaining volume (check one):
survey ; aerial photograph ; or other (describe) _____

Aerial Survey supplemented with recent field survey. Volumes calculated using Auto CAD and DCA Software.

II. FOR SOLID WASTE LANDFILLS PERMITTED AFTER SEPTEMBER 18, 1990

a. Determine the remaining volume of the landfill (air space) allowed in both the permit and supplemental permits assigned to your site. _____ cubic yards (1)

b. Permit Number: _____

c. Permit Date: _____

d. Supplemental Permit Number: _____

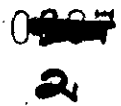
e. Supplemental Permit Date: _____

f. Increase of airspace in cubic yards allowed by the supplemental permit: _____

g. Method used for determining the remaining volume (check one):
survey _____;

aerial photograph _____; or other (describe) _____

NOTICE: Information required by this form must be provided to comply with 415 ILCS 5/22.15 (1993). This form has been approved by the Forms Management Center.



SOLID WASTE LANDFILL CAPACITY CERTIFICATION (CONTINUED)

III. REMAINING VOLUME AVAILABLE FOR WASTE DISPOSAL

- a. Amount of permitted volume needed for daily and intermediate cover:
31,100 cubic yards (2) ($\pm 6\%$ Allowance)
- b. Amount of permitted volume needed for final cover:
200,880 cubic yards (3) (in area of calculation only)
- c. Remaining volume available for waste disposal:
511,920 cubic yards (1) (see I. or II. a. above)
 - 31,100 cubic yards (2) (see III. a. above)
 - 200,880 cubic yards (3) (see III. b. above)
 - 279,940 cubic yards (4)

IV. AVAILABLE CAPACITY IN TERMS OF "AS RECEIVED" WASTE

- a. Average density of waste as received: (assumed)
 ± 600 number of pounds per cubic "gate yard"
- b. Average compaction ratio of waste as it is placed in the fill area:
1.66:1 ratio (From Compaction Study - 1992)
- c. How many gate yards can you fit into an in-place yard?
1.66 cubic yards (5)
- d. Volume of waste as received that can be disposed in the remaining permitted capacity:
279,940 cubic yards (4) (see III. c. above)
 X 1.66 cubic yards (5) (see IV. c. above)
 - 464,700 cubic yards (6)

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SOLID WASTE LANDFILL CAPACITY CERTIFICATION (CONTINUED)

V. LIFE EXPECTANCY OF SOLID WASTE LANDFILL

- a. Determine how much waste was received at the landfill during the previous 12 months during the time period of April 1, 1992 - March 31, 1993:

344,217 cubic yards (7) landfill operator (Information provided by)

- b. Determine the number of years life remaining at the current disposal rate:

464,700 cubic yards (6) (see IV. d. above)

divided by 344,217 cubic yards (7) (see V. a. above)

= 1.35 years (8).

- c. If there are any adjustments to this life expectancy, please describe:

Note: List any pending supplemental permits which will increase the landfill capacity and associated airspace increase in cubic yards.

The landfill may remain open until March 1995 by limiting waste

receipts from company owned haulers to fulfill lease agreements

with the City of Morris. Furthermore, waste characteristics may

change with time affecting waste compaction ratio.

VI. ALTERNATE METHOD OF DETERMINING AVAILABLE CAPACITY

- a. If an alternate method has been used, please describe:

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4

SOLID WASTE LANDFILL CAPACITY CERTIFICATION (CONTINUED)

SIGNATURES

All Solid Waste Landfill Capacity Certifications shall be signed by the person designated below or by a duly authorized representative of the person:

Corporation - By a principal executive officer of at least the level of vice-president.

Partnership or Sole Proprietorship - By a general partner or the proprietor, respectively.

Government - By either a principal executive officer or a ranking elected official.

A person is a duly authorized representative only if:

1. the authorization is made in writing by a person described above; and
2. is submitted with this application (a copy of a previously submitted authorization can be used).

I hereby affirm that all information contained in this "Solid Waste Landfill Capacity Certification" is true and accurate to the best of my knowledge and belief.

Owner Name: Mayor Washburn

Owner Signature: *James Washburn* April 19, 1993
(Date)

Title: Mayor, City of Morris

Operator Name: Edward Pruim

Operator Signature: X *Edward Pruim* April 19, 1993
Secretary/Treasurer (Date)

Title: Community Landfill Corporation

I hereby affirm the capacity estimates have been prepared by, or under the supervision of, a professional engineer and that all information contained in this "Solid Waste Landfill Capacity Certification" is true and accurate to the best of my knowledge and belief.

Engineer Signature: *R. Michael McDermont* April 19, 1993
(Date)

Engineer Name: R. Michael McDermont, P.E. Engineer Seal:

Engineer Address: Andrews Environmental Engineering, Inc.
3535 Mayflower Boulevard
Springfield, Illinois 62707
(217) 787-2334

Engineer Phone No.: _____

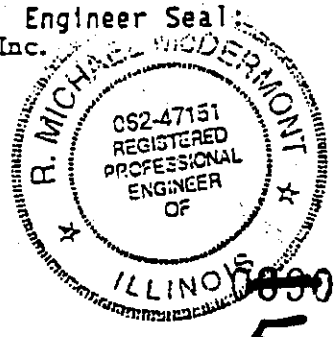


Exhibit E



ANDREWS ENVIRONMENTAL ENGINEERING INC. 3535 Mayflower Blvd., Springfield, Illinois 62707/(217) 787-2334

January 18, 1995

RECEIVED
JAN 20 1995
IEPA-DLPC

Waste Accounting and Fees Unit
Solid Waste Management Section
Division of Land Pollution Control
Illinois Environmental Protection Agency
Post Office Box 19276
Springfield, Illinois 62794-9276

re: 0630600001 -- Grundy County
Morris Community Landfill - Parcel B

Dear Correspondent:

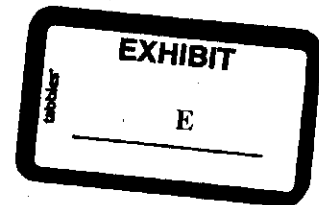
Enclosed is the completed Solid Waste Landfill Capacity Certification Form for the subject site.

Please contact us if you have any questions or desire further information on the data provided.

Sincerely,

Vincent J. Madonia
Environmental Engineer I
Division of Solid Waste Management

VJM:pil
enclosure
cc: Ed Pruim



0630600001

RECEIVED
JAN 20 1995
EPA-DLPC

SOLID WASTE LANDFILL CAPACITY CERTIFICATION
for January 1, 1995

SH
1/25/95

I. SITE INFORMATION (Please type or print legibly)

a. Site Identification

Name: Morris Community Landfill - Parcel B Site # (IEPA): 0630600001

Physical Site Location (Street, Road, etc.): Ashley Road

City, Zip Code: Morris, IL County: Grundy

b. Owner/Operator Identification

Owner

Operator

Name: City of Morris Community Landfill Corporation

Address: 320 Wauponsee Street 13701 South Kostner Avenue

Morris, IL 60450 Crestwood, IL 60445

Contact Name: Mayor Robert Feeney ~~Robert Prull~~ Edward

Phone #: (815) 942-0103 (708) 597-3380

c. Type Waste (Mark all that apply)

- General Municipal Refuse
- Hazardous
- Special (Non-hazardous)
- Chemical Only (excluding putrescible)
- Inert Only (excluding chemical and putrescible)
- Other (describe: _____)

II. PERMIT INFORMATION

a. Developmental/Construction Permit:

Number: 1974-22-DE Date: April 5, 1974

b. Expansion Permit(s):

Number(s): 1989-005-SP Date: June 5, 1989

c. The total remaining volume of the landfill (air space) allowed in the developmental/construction and expansion permits assigned to this site (in cubic yards):

176,900* (1)

d. Overall increase of air space in cubic yards allowed by the expansion permit(s):

Approximately 2,000,000 yd³

* As reported on the 1994 Solid Waste Capacity Certification.

~~1989-005-SP~~
2

SCREENED
1.2.95 BDD

SOLID WASTE LANDFILL CAPACITY CERTIFICATION (CONTINUED)

III. REMAINING VOLUME AVAILABLE FOR WASTE DISPOSAL

- a. Method used for determining the remaining volume (check one):
survey _____ aerial photo _____ other (describe) _____

- b. Amount of permitted volume needed for daily and intermediate cover:
_____ cubic yards (2)
- c. Amount of permitted volume needed for final cover:
_____ cubic yards (3)
- d. Remaining volume available for waste disposal:
_____ cubic yards (1) (see II. c. above)
- _____ cubic yards (2) (see III. b. above)
- _____ cubic yards (3) (see III. c. above)
= _____ cubic yards (4)

IV. AVAILABLE CAPACITY IN TERMS OF "AS RECEIVED" WASTE

- a. Average density of waste as received:
_____ number of pounds per cubic "gate yard"
- b. Average compaction ratio of waste (How many gate yards can you fit into an in-place yard?):
_____ cubic yards (5)
- c. Volume of waste as received that can be disposed in the remaining permitted capacity:
_____ cubic yards (4) (see III. d. above)
X _____ cubic yards (5) (see IV. b. above)
= _____ cubic yards (6)

~~IBOL 2006~~
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SOLID WASTE LANDFILL CAPACITY CERTIFICATION (CONTINUED)

SIGNATURES

All Solid Waste Landfill Capacity Certifications shall be signed by the person designated below or by a duly authorized representative of the person:

Corporation - By a principal executive officer of at least the level of vice-president.

Partnership or Sole Proprietorship - By a general partner or the proprietor, respectively.

Government - By either a principal executive officer or a ranking elected official.

A person is a duly authorized representative only if:

1. the authorization is made in writing by a person described above; and
2. is submitted with this application (a copy of a previously submitted authorization can be used).

I hereby affirm that all information contained in this "Solid Waste Landfill Capacity Certification" is true and accurate to the best of my knowledge and belief.

Owner Name: Edward Pruim

Owner Signature: *Edward H. Pruim* 1-16-95
(Date)

Title: Secretary

Operator Name: City of Morris

Operator Signature: *Robert T. Feeney* 1/17/95
(Date)

Title: Robert T. Feeney, Mayor

I hereby affirm the capacity estimates have been prepared by, or under the supervision of, a professional engineer and that all information contained in this "Solid Waste Landfill Capacity Certification" is true and accurate to the best of my knowledge and belief.

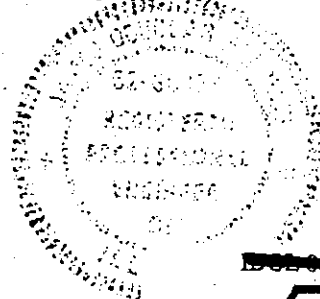
Engineer Signature: *James Douglas Andrews* 1/17/95
(Date)

Engineer Name: JAMES DOUGLAS ANDREWS Engineer Seal:

Engineer Address: Andrews Environmental Engineering, Inc.
3535 Mayflower Boulevard
Springfield, IL 62707

Engineer Phone No.: (217) 787-2334

JHD:jk/sp/379w



5

Exhibit F



ANDREWS ENVIRONMENTAL ENGINEERING INC. 3535 Maytower Blvd., Springfield, Illinois 62707/(217) 787-2334

January 15, 1996

Waste Accounting and Fees Unit
Solid Waste Management Section
Division of Land Pollution Control
Illinois Environmental Protection Agency
Post Office Box 19276
Springfield, IL 62794-9276

re: 0630600001 -- Grundy County
Morris Community Landfill -- Parcel B

Dear Correspondent:

Enclosed is the completed Solid Waste Landfill Capacity Certification Form for the subject site.

Please contact us, if you have any questions or desire further information on the data provided.

Sincerely,

Vincent J. Madonia
Environmental Engineer II
Division of Solid Waste Management

CC: Robert Pruijm

Enclosure

VJM:njm



0630600001

union file



SOLID WASTE LANDFILL CAPACITY CERTIFICATION

January 1, 1996

file

For Office Use Only	
Initials	<u>SH</u>
Date	<u>2/7/96</u>

I. Site Information (Please type or print legibly)

a. Site Identification

Name: Morris Community Landfill - Parcel B

FEIN #: _____ Site # (IEPA): 0630600001

Physical Site Location (Street, Road, etc): 1501 Ashley Road

City, Zip Code: Morris, IL 60450

County: Grundy

b. Owner/Operator Identification

Owner Name: City of Morris

Address: 320 Wauponsee Street

Morris, IL 60450

Contact Name: Mayor Robert T. Feeney

should be familiar with IEPA solid waste fee reports

Phone #: (815) 942-0103

Operator Name: Community Landfill Corporation

Address: 13701 South Kostner Avenue

Crestwood, IL 60445

Contact Name: Robert Pruim

should be familiar with IEPA solid waste fee reports

Phone #: (708) 597-3380

c. Type of Ownership/Operation (Circle Two)

Municipally owned

Privately owned

Municipally operated

Privately operated

d. Type of Waste Received (mark all that apply)

General Municipal Refuse

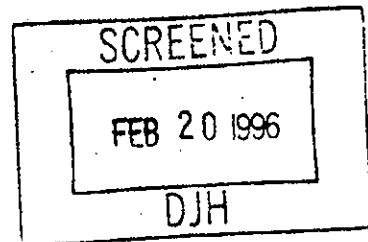
Hazardous

Special (Non-hazardous)

Chemical Only (excluding putrescible)

Inert Only (excluding chemical and putrescible)

Other (describe): _____



The Illinois Environmental Protection Agency is authorized to request this information pursuant to 35 Ill. Adm. Code 858.207(c) implementing and authorized by Section 22.15(f) of the Environmental Protection Act (415 ILCS 5/22.15(f)(1994))

DDG-005017

2

II. Permit Information

- a. Developmental/Construction Permit:
 Permit Number: 1974-22-DE Date: April 5, 1974
- b. Other Permit(s):
 - 1. Number: 1989-005-SP Date: June 5, 1989
 - 2. Number: _____ Date: _____
- c. Overall increase (or decrease) of air space in cubic yards allowed by the above permit(s):
 1. Approximately 2,000,000 yd³ 2. _____
- d. The total remaining volume of the landfill (air space) allowed in the developmental/construction and other permits assigned to this site as of January 1, 1996 (in cubic yards):
0 (T)

III. Remaining Volume Available for Waste Disposal

- a. Method and date used for determining the remaining volume (check one and provide date):
 survey: date: 01/96 ; aerial photo: date: 05/95
 other (describe and date): Aerial photograph was supplemented by field survey.
- b. Remaining permitted volume needed for daily and intermediate cover:
 _____ * _____ cubic yards (2)
- c. Remaining permitted volume needed for final cover:
 _____ * _____ cubic yards (3)
- d. Remaining volume available for waste disposal as of January 1, 1996:
 _____ cubic yards (1) (see II. d. above)
 _____ cubic yards (2) (see III. b. above)
 _____ cubic yards (3) (see III. c. above)
 = 0 cubic yards (4)

* Final cover is currently being applied by the Operator over the facility.

IV. Available Capacity in Terms of "As Received" Waste

- a. Average density of waste as received:
±600 number of pounds per cubic "gate yard"
- b. Average compaction ratio of waste as it is placed into the fill area
 (How many gate yards can you fit into an in-place yard?):
1.66 cubic yards (5)
- c. Volume of waste as received that can be disposed in the remaining permitted capacity:
 _____ cubic yards (4) (see III. d. above)
 X 1.66 cubic yards (5) (see IV. b. above)
 = 0 cubic yards (6)

v. Life Expectancy of the Solid Waste Landfill

a. Determine how much solid waste was received at the landfill, in "gate yards", during the previous 12 months, January 1, 1995 - December 31, 1995:

540,135 cubic yards (7)

b. Determine the number of years of life remaining at the current disposal rate:

0 cubic yards (6) (see IV. c. above)

÷ 540,135 cubic yards (7) (see V. a. above)

= 0 years (8)

c. Expected closure date for facility: _____

d. Please describe any adjustments or changes to these numbers.

Note: List any pending permit applications that will increase (or decrease) the landfill capacity and associated air space increase (or decrease) in cubic yards.

VI. Alternate Method of Determining Available Capacity

a. If an alternate method has been used, please describe: _____

VII. Signatures

All Solid Waste Landfill Capacity Certifications shall be signed by the person designated below or by a duly authorized representative of the person:

Corporation - By a principal executive officer of at least the level of vice-president.

Partnership or Sole Proprietorship - By a general partner or the proprietor, respectively.

Government - By either a principal executive officer or a ranking elected official.

A person is a duly authorized representative only if:

1. the authorization is made in writing by a person described above; and
2. is submitted with this certification form (a copy of a previously submitted authorization can be used).

I certify that this document and all attachments were prepared under my direction or supervision. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties under Section 44 of the Environmental Protection Act for submitting false information, including the possibility of fine and imprisonment for knowing violations.

Operator Name: Robert Pruim

Operator Signature: Robert Pruim

1/15/96

date

Title: President

Owner Name: City of Morris

Owner Signature: Robert T. Feeney

1/12/96

date

Title: Robert T. Feeney, Mayor

Engineer Signature: J. Douglas Andrews

1/15/96

date

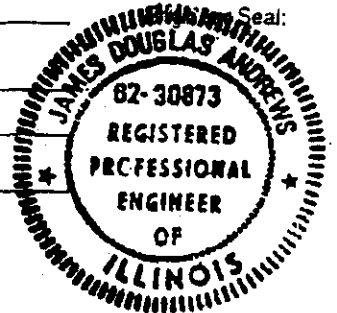
Engineer Name: J. Douglas Andrews, P.E.

Engineer Address: Andrews Environmental Engineering, Inc.

3535 Mayflower Boulevard

Springfield, IL 62707

Engineer Phone Number: (217) 787-2334



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