

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

PEOPLE OF THE STATE OF ILLINOIS,)
)
Complainant,)
)
vs.) PCB No. 03-191
) (Enforcement)
COMMUNITY LANDFILL COMPANY,)
INC., an Illinois corporation, and)
the CITY OF MORRIS, an Illinois)
municipal corporation,)
)
Respondents.)

NOTICE OF FILING

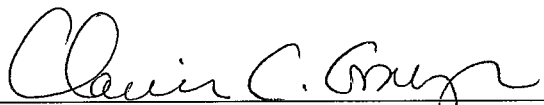
TO: Christopher Grant
Environmental Bureau
Assistant Attorney General
188 West Randolph Street
20th Floor
Chicago, Illinois 60601

Bradley Halloran
Hearing Officer
Illinois Pollution Control Board
100 West Randolph
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P.O. Box 1389
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Scott Belt
Scott Belt and Associates, PC
105 East Main Street
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PLEASE TAKE NOTICE that on **OCTOBER 18, 2006**, the undersigned caused to be electronically filed with Ms. Dorothy Gunn, Clerk of the Illinois Pollution Control Board, 100 West Randolph Street, Suite 11-500, Chicago, Illinois 60601, the **RESPONDENT COMMUNITY LANDFILL COMPANY, INC.'s RESPONSE TO COMPLAINANT'S MOTION FOR INTERIM RELIEF**, a copy of which is attached and hereby served upon you.



One of the Attorneys for Community Landfill Co.

Mark A. LaRose
Clarissa C. Grayson
LAROSE & BOSCO, LTD.
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THIS FILING IS SUBMITTED ON RECYCLED PAPER.

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RESPONDENT COMMUNITY LANDFILL COMPANY, INC.'s
RESPONSE TO COMPLAINANT'S MOTION FOR INTERIM RELIEF

Respondent COMMUNITY LANDFILL COMPANY, INC., ("CLC") by and through its attorneys LaRose & Bosco, Ltd. and pursuant to 35 Ill. Adm. Code 101.500, hereby responds to Complainant's Motion for Interim Relief, and in support thereof, states as follows:

1. In response to Hearing Officer Bradley Halloran's October 3, 2006 order granting CLC's Motion to Cancel Hearing, (see Order, attached as Exh. A) the Complainant filed a Motion for Interim Relief on October 5, 2006. CLC was served with Complainant's motion via UPS Next Day Air on October 6, 2006. CLC's response to this motion is timely filed pursuant to Section 101.500(d) of the Illinois Administrative Code which provides that a party may file a response within 14 days after service. 35 Ill. Admin. Code 101.500(d).

2. Complainant's Motion for Interim Relief contain various arguments that are nothing more than a rehash of its previous request for interim relief made in its Motion for Summary Judgment filed on July 21, 2005. The Board denied the Complainant's request for interim relief on February 16, 2006 by granting CLC's motion to strike this request. (See February 16, 2006 Order, p.

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13). The Board specifically found that it was “premature” to rule on the issue of penalty until factual determinations have been made. (See February 16, 2006 Order, pp. 12-13). The Board clearly is of the correct opinion that there must be a hearing before any relief, if proven to be warranted, could be granted: for that very reason, it struck “references to the AGO’s request for relief from the summary judgment pleading.” (See February 16, 2006 Order, p. 13). Consistent with its previous ruling, the Board should deny the Complainant’s Motion for Interim Relief.

3. Furthermore, this matter has not been “indefinitely delayed” as Complainant attempts to characterize the factual situation. (Motion for Interim Relief, p. 2). While Complainant attempts to exaggerate the facts by suggesting that a hearing will not take place for the “foreseeable future”, it clearly acknowledges that a status hearing has been set for December 7, 2006 and that Mr. Pruim’s health will be reviewed in March 2007. (Motion for Interim Relief, p. 3). Clearly, these dates are in the foreseeable future. It is common sense that due to the nature of Mr. Pruim’s illness, it was impossible to suggest a proposed date. However, this does not remove the matter from the realm of foreseeability and does not justify the Complainant seeking (again) interim relief that has already been denied to it by the Board. This matter has been pending for more than three (3) years. There is no allegation of imminent or irreparable harm that should prevent a reasonable postponement due to an emergency medical situation.

4. The Board has already noted that the parties have not yet analyzed the 33(c) and 42(h) factors “...regarding an appropriate remedy, including civil penalty, if any, in this proceeding.” (See June 1, 2006 Order, p. 5). This situation remains the same. There can be no imposition of relief, if warranted, without factual findings in support of that relief. (See June 1, 2006 Order, p. 5).

WHEREFORE, based on the foregoing, Respondent Community Landfill Company, Inc. respectfully requests that the Illinois Pollution Control Board DENY Complainant's Motion for Interim Relief.

Respectfully submitted,

A handwritten signature in cursive script, appearing to read "Clarissa C. Grayson", written over a horizontal line.

Attorney for Community Landfill Company

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LaRose & Bosco, Ltd.
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CERTIFICATE OF SERVICE

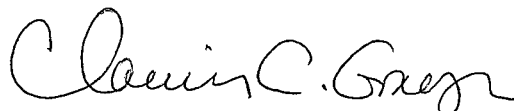
I, Clarissa C. Grayson, an attorney hereby certify that I caused to be served a copy of the foregoing **RESPONDENT COMMUNITY LANDFILL COMPANY, INC.s' RESPONSE TO COMPLAINANT'S MOTION FOR INTERIM RELIEF** by placing same in first-class postage prepaid envelopes and depositing same in the U.S. Mail Box located at 200 North LaSalle Street, Chicago, Illinois, this 18th day of **October 2006**, addressed as follows:

Christopher Grant
Environmental Bureau
Assistant Attorney General
188 West Randolph Street
20th Floor
Chicago, Illinois 60601

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