

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

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MAY 29 2007

STATE OF ILLINOIS
Pollution Control Board

PEOPLE OF THE STATE OF ILLINOIS,,)

Complainant,)

v.)

PCB No. 03-191

COMMUNITY LANDFILL COMPANY, INC.,)
an Illinois Corporation, and CITY OF MORRIS,)
an Illinois Municipal Corporation,,)

Respondents.)

ORIGINAL

NOTICE OF FILING

TO: All counsel of Record (see attached Service List)


Please take notice that on May 24, 2007, the undersigned filed with the Illinois Pollution Control Board, 100 West Randolph Street, Chicago, Illinois 60601, the City's Motion for Reconsideration of the Pollution Control Board's Order of May 17, 2007.

Dated: _____

5/24/07

Respectfully submitted,

On behalf of the CITY OF MORRIS



Charles F. Helsten
One of Its Attorneys

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The undersigned, pursuant to the provisions of Section 1-109 of the Illinois Code of Civil Procedure, hereby under penalty of perjury under the laws of the United States of America, certifies that on May 24, 2007, she caused to be served a copy of the foregoing upon:

Mr. Christopher Grant Assistant Attorney General Environmental Bureau 100 W. Randolph St., 11th Fl. Chicago, IL 60601	Mark LaRose Clarissa Grayson LaRose & Bosco, Ltd. 200 N. LaSalle, Suite 2810 Chicago, IL 60601
Ms. Dorothy Gunn, Clerk Pollution Control Board 100 W. Randolph, Suite 11-500 Chicago, IL 60601	Bradley Halloran Hearing Officer Pollution Control Board 100 W. Randolph, Suite 11 Chicago, IL 60601
Mr. Scott Belt 105 East Main Street Suite 206 Morris, Illinois 60450	

A copy of the same was enclosed in an envelope in the United States mail at Rockford, Illinois, proper postage prepaid, before the hour of 5:00 p.m., addressed as above.

Susan C. Zimmerman

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BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

PEOPLE OF THE STATE OF ILLINOIS, ex
rel. LISA MADIGAN, Attorney General of the
State of Illinois,

Plaintiff,

v.

COMMUNITY LANDFILL CO., an Illinois
Corporation, and the CITY OF MORRIS, an
Illinois Municipal Corporation,

Defendants.

PCB No. 03-191
(Enforcement-Land)

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**CITY'S MOTION FOR RECONSIDERATION OF THE POLLUTION
CONTROL BOARD'S ORDER OF MAY 17, 2007**

NOW COMES the CITY OF MORRIS, an Illinois Municipal Corporation, by and through its attorneys, HINSHAW & CULBERTSON LLP, and for its Motion for Reconsideration of the Board's Order of May 17, 2007, states as follows:

1. On May 1, 2007, the State filed a Renewed Motion to Set Hearing Date or Alternatively for Severance of Claims. Under 35 Ill. Adm. Code 101.500(d), the City was entitled to file a Response to the motion within 14 days of service.

2. Upon receiving and reviewing the State's Motion, Attorney Charles F. Helsten, counsel for the City of Morris, attempted to contact Mr. Devin Moose, P.E., of Shaw Environmental, and learned that Mr. Moose was in Atlanta, Georgia on business and would not return to work until May 14, 2007. The City filed its Motion for Extension of Time on May 11, 2007, prior to the deadline for filing a Response.

3. On May 17, 2007, the City mailed for filing its Response in Opposition to the State's motion. The Response was filed, at most, two (2) days after the deadline imposed by 35 Ill. Adm. Code 101.500(d), and was preceded by a Motion for Extension of Time filed several days prior to the deadline which sought only a very brief extension of time.

4. The Board apparently entered its Order on May 17, 2007, prior to its receipt of the City's Response, which was received by the Board on May 18, 2007.

5. In its Response, the City informed the Board that while this matter was pending, the State simultaneously prosecuted an action against the City and CLC in Circuit Court in Grundy County seeking injunctive relief, yet after a two day evidentiary hearing the Circuit Court denied the State's request for a preliminary injunction because, despite the State's claim of "deteriorating conditions" harmful to health and the environment at the Landfill, the evidence showed no such environmental threat was present. (*See City's Response at pp. 2-4; see also* excerpt of proceedings attached as Exhibit B to the Response.)

6. The City's Response also included an affidavit by engineer Devin Moose, of Shaw Environmental, who is familiar with the Landfill, in which Mr. Moose stated that the Morris Community Landfill poses no imminent danger to human health or the environment, and that upgrades are underway at the site. (*See Response, Exhibit A*).

7. In contrast with the City's presentation of actual facts and evidence that the Landfill poses no imminent environmental threat, the State has presented no evidence whatsoever to the Board, and instead, relies on bald, unsubstantiated accusations that have been previously rejected by both this Board and, more recently, the Circuit Court of Grundy County as without merit.

8. The Board's May 17, 2007 Order states that the Board is granting the State's motion on the basis of "alleged deteriorating conditions" and the lack of closure or post-closure financial assurance.

9. Because the Board did not have the benefit of evidence concerning the lack of environmental threat at the time it issued its May 17, 2007, the City respectfully requests that the

Board reconsider its Order in light of the evidence, and stay the hearing pending availability of a critical fact witness without whom the City cannot receive a hearing that complies with the requirements of fundamental fairness.

WHEREFORE, the City of Morris respectfully requests that the Board reconsider its May 17, 2007 Order and continue the hearing in this matter pending improvement to the health of critical witness, Edward Pruim, sufficient to permit him to testify concerning the respective responsibilities assumed by the City and CLC with respect to the Landfill.

Dated: May 24, 2007

Respectfully submitted,

CITY OF MORRIS, an Illinois Municipal
Corporation, Defendant

By: HINSHAW & CULBERTSON LLP



Charles F. Helsten
One of Its Attorneys

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