

**BEFORE THE ILLINOIS POLLUTION CONTROL BOARD**

PEOPLE OF THE STATE OF ILLINOIS, )  
)  
Complainant, )  
)  
vs. )  
)  
EDWARD PRUIM and ROBERT PRUIM, )  
)  
Respondents. )

PCB No. 04-207  
(Enforcement – Land)

PEOPLE OF THE STATE OF ILLINOIS, )  
)  
Complainant, )  
)  
vs. )  
)  
COMMUNITY LANDFILL COMPANY, )  
INC., )  
Respondent. )

PCB No. 97-193  
(Enforcement – Land)  
(consolidated)

**NOTICE OF FILING**

TO: Christopher Grant  
Jennifer Van Wie  
Environmental Bureau  
Assistant Attorney General  
69 W. Washington, 18th Floor  
Chicago, Illinois 60602  
[cgrant@atg.state.il.us](mailto:cgrant@atg.state.il.us)  
[jvanwie@atg.state.il.us](mailto:jvanwie@atg.state.il.us)

Bradley Halloran  
Hearing Officer  
Illinois Pollution Control Board  
100 West Randolph, Suite 11-500  
Chicago, Illinois 60601  
[hallorab@ipcb.state.il.us](mailto:hallorab@ipcb.state.il.us)

**PLEASE TAKE NOTICE** that on **NOVEMBER 12, 2008**, the undersigned caused to be electronically filed with Mr. John Therriault, of the Illinois Pollution Control Board, 100 West Randolph Street, Suite 11-500, Chicago, Illinois 60601, the **RESPONDENTS COMMUNITY LANDFILL COMPANY, INC. AND EDWARD PRUIM AND ROBERT PRUIMS' MOTION IN LIMINE #3 TO EXCLUDE EIGHT (8) INSPECTION REPORTS**, a copy of which is attached and hereby served upon you.

/s/ Clarissa Y. Cutler  
One of Respondents' Attorneys

Mark A. LaRose  
LaRose & Bosco, Ltd.  
200 N. LaSalle Street, Suite 2810  
Chicago IL 60601  
(312) 642-4414  
Atty. No. 37346

Clarissa Y. Cutler (f/k/a Grayson)  
Attorney at Law (formerly with LaRose & Bosco, Ltd.)  
155 North Michigan Avenue, Suite 375  
Chicago IL 60601  
(312) 729-5067  
Atty No. 44745

**BEFORE THE ILLINOIS POLLUTION CONTROL BOARD**

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 COMMUNITY LANDFILL COMPANY, INC. )  
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 Respondent. )

**RESPONDENTS COMMUNITY LANDFILL COMPANY, INC. AND EDWARD PRUIM  
AND ROBERT PRUIMS' MOTION *IN LIMINE* #3 TO EXCLUDE  
EIGHT (8) INSPECTION REPORTS**

NOW COME Respondents COMMUNITY LANDFILL COMPANY, INC., ROBERT PRUIM and EDWARD PRUIM, by and through their attorneys Mark A. LaRose of LaRose & Bosco, Ltd. and Clarissa Y. Cutler, of counsel to LaRose & Bosco, Ltd. and pursuant to 35 Ill. Adm. Code Sections 35 Ill. Adm. Code 101.502 and 101.610 (l) and (q), hereby present their Motion *in Limine* #3 To Exclude Eight (8) Inspection Reports, and in support thereof, state as follows:

1. The above matter is scheduled for hearing on December 2-5, 2008.
2. On August 20, 2008, the State listed a total of 16 inspection reports it intended to use as exhibits in the hearing for the above referenced matter. (See Complainant's Witness and

Exhibit List, page 2, no. 13, attached as Exhibit A and incorporated herein). Respondent objects to the introduction of the following inspection reports listed in Exhibit A:

- c. May 26, 1994
- d. August 29, 1994
- g. November 7, 1995
- h. July 11, 1996
- i. March 5, 1997
- k. November 19, 1998
- o. September 7, 1999
- p. April 4, 2000

3. Of the 16 reports identified on August 20, 2008, only eight (8) of those inspection reports had been previously identified by the Complainant and tendered to Respondents in the course of discovery. (See Complainant's Response to Respondent's Second Set of Interrogatories, pages 8-9, nos. bb and cc, attached as Exhibit B and incorporated herein.)

4. On page two of Exhibit B, Complainant identifies with specific references to specific allegations in the Second Amended Complaint that Warren Weritz will testify as to particular counts and the inspections that occurred exactly on August 18, 1993, April 7, 1994, March 22, 1995, May 22, 1995, and July 28, 1998. (Exh. B, page 2). Also on page two of Exhibit B, Complainant identifies with specificity that Christine Kovaszny will testify as to particular counts and the inspections that occurred on March 31, 1999, May 11, 1999 and July 20, 1999. (Exh. B, page 2). Respondent does not object to the introduction of those inspection reports.

4. These actions were filed by the State in 1997 and 2004. Since that time, the parties have propounded and answered numerous discovery requests. The parties have taken numerous depositions. Respondents had the opportunity to depose Mr. Weritz on January 15, 2002 about the inspections that occurred on August 18, 1993, April 7, 1994, March 22, 1995,

May 22, 1995, and July 28, 1998. Respondents had the opportunity to depose Ms. Kovaszny on January 15, 2002 about the inspections that occurred on March 31, 1999, May 11, 1999 and July 20, 1999. However, it would be fundamentally unfair for any testimony to be admitted concerning newly disclosed inspection reports without Respondent having had sufficient opportunity to take depositions. Complainant has not seasonably supplemented its interrogatory responses. The trial court has the inherent power to exclude facts from being admitted into evidence where the admission of such facts would prejudice a party or deny a party a fair trial. Tomaszewski v. Godbole, 174 Ill.App.3d 629, 529 N.E.2d 260 (1988).

5. The Hearing Officer in the present matter should rule in advance of the trial that the following inspection reports (and any testimony thereto) are inadmissible:

- c. May 26, 1994
- d. August 29, 1994
- g. November 7, 1995
- h. July 11, 1996
- i. March 5, 1997
- k. November 19, 1998
- o. September 7, 1999
- p. April 4, 2000

WHEREFORE, based on the foregoing, Respondents respectfully request that Hearing Officer Bradley Halloran GRANT their Motion *in Limine* #3 to Exclude Eight (8) Inspection Reports.

Respectfully Submitted,

/s/ Clarissa Y. Cutler  
One of Respondents' Attorneys

Mark A. LaRose  
LaRose & Bosco, Ltd.  
200 North LaSalle Street, Suite 2810  
Chicago IL 60601  
(312) 642-4414

Clarissa Y. Cutler  
Attorney at Law  
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Chicago IL 60601  
(312) 729-5067

**Electronic Filing - Received, Clerk's Office, August 20, 2008**

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

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v.	)	PCB 97-193
	)	(Enforcement - Land)
	)	(Consolidated)
COMMUNITY LANDFILL COMPANY, INC.,	)	
	)	
Respondent.	)	

To: (Via Electronic Filing)	
Clarissa Y. Cutler	Bradley P. Halloran
Attorney at Law	Hearing Officer
155 North Michigan Avenue, Suite 375	Illinois Pollution Control Board
Chicago Illinois 60601	James R. Thompson Center, Suite 11-500
	100 W. Randolph Street
	Chicago, Illinois 60601

**NOTICE OF FILING**

PLEASE TAKE NOTICE that we have today, August 20, 2008, filed with the Office of the Clerk of the Illinois Pollution Control Board, by electronic filing, Complainant's Witness and Exhibit List and a joint-party Allegation and Liability Table.

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

By: Jennifer A. Van Wie  
 JENNIFER A. VAN WIE  
 CHRISTOPHER GRANT  
 Assistant Attorneys General  
 Environmental Bureau  
 69 W. Washington Street, Suite 1800  
 Chicago, Illinois 60602  
 (312) 814-0609  
 (312) 814-5388



**Electronic Filing - Received, Clerk's Office, August 20, 2008**

**WITNESS AND EXHIBIT LIST**

*People v. Community Landfill Company, PCB 97-193*

*People v. Edward and Robert Pruim, PCB 04-207*

**Complainant's Witnesses**

1. Warren Weritz, IEPA
2. Tina Kovaszny, IEPA
3. Christine Roque, IEPA
4. Ellen Robinson, IEPA
5. Blake Harris, IEPA
6. Dr. John Nosari or Gary Styzens, IEPA
7. Rico Vallejera, Jr., IEPA
8. Brian White, IEPA
9. Robert Pruim
10. Edward Pruim
11. James Pelnarsh, Sr.
12. John Enger, City of Morris

**Complainant's Exhibits**

1. All permit applications, whether original, supplemental, or requesting a significant modification, and the addendum thereto submitted by CLC to the Illinois EPA from 1989 through 2000.
2. All Illinois EPA permits granted to CLC and the City of Morris from 1989 to the present for the Morris Community Landfill.
3. First Midwest Letter of Credit No. 486, dated March 12, 1991.
4. Amendment to Letter of Credit No. 486, dated May 22, 1992.
5. Trust Agreement Number 1010-00210-6, First Midwest Trust, April 23, 1991.
6. First Midwest Trust "Investment Review for the account of Community Landfill Company, as of December 31, 1992".
7. First Midwest Trust "Investment Review for the account of Community Landfill Company, as of December 31, 1994".
8. Letter from Midwest Bank dated May 19, 1995, notifying Illinois EPA that Letter of Credit expired on April 12, 1995.
9. June 19, 1998 cover letter for transmission of Bond No. 91507 for \$1,342,500, informing and requesting release of trust fund monies.



**Electronic Filing - Received, Clerk's Office, August 20, 2008**

10. July 1, 1996 John Taylor letter releasing Trust Fund to CLC.
11. September 1, 1999 letter from Michael McDermont, Andrews Environmental Engineering, Inc., with attached correspondence from T.J. Adams & Associates relating to July 1, 1996 John Taylor letter releasing Trust Fund to CLC.
12. Cover letter for transmission on rider to Bond No. 91507 increasing penal sum to \$1,439,720, effective September 2, 1999.
13. Illinois EPA field inspection reports for the following inspection dates:
  - a. August 18, 1993;
  - b. April 7, 1994;
  - c. May 26, 1994;
  - d. August 29, 1994;
  - e. March 22, 1995;
  - f. May 22, 1995;
  - g. November 7, 1995;
  - h. July 11, 1996;
  - i. March 5, 1997;
  - j. July 28, 1998;
  - k. November 19, 1998;
  - l. March 31, 1999;
  - m. May 11, 1999;
  - n. July 20, 1999;
  - o. September 7, 1999; and
  - p. April 4, 2000.
14. KMS Morris Power, Inc. Monthly Operating Report for Morris Community Landfill site.
15. Revised Cost Estimate submitted on August 5, 1996.
16. Landfill Capacity Certification Forms submitted by or on behalf of CLC and the City of Morris on or around April 1, 1989, April 1, 1990, April 19, 1993, January 18, 1995, January 15, 1996, February 7, 1997, January 1, 1998, January 1, 1999, January 1, 2001, January 1, 2002, and January 1, 2003.
17. "Nonhazardous Solid Waste Management and Landfill Capacity in Illinois", reports prepared by Illinois EPA, Bureau of Land, for the years 1996 through 2001.
18. "Available Disposal Capacity for Solid Waste in Illinois", annual reports for the years 1990 through 1995.
19. All discovery responses and documents produced by CLC in response to discovery requests issued by the Complainant.

**Electronic Filing - Received, Clerk's Office, August 20, 2008**

20. Deposition transcripts for the following persons:
  - a. Edward Pruim
  - b. Robert Pruim
  - c. James Pelnarsh, Sr.
21. Economic benefit calculation prepared by Chris Roque dated January 21, 2003 with attachments.
22. John Taylor report on economic benefit of financial assurance non-compliance.
23. U.S. Income Tax Returns, and all schedules attached thereto, submitted for CLC for the calendar years 1993 through 1999.
24. June 19, 1996 letter from Mark LaRose to John Taylor, with attachments, notifying Illinois EPA of replacement of financial assurance.
25. March 18, 1991 LPC-PA15 notice to Illinois EPA signed by Edward Pruim.
26. March 4, 1997 letter from Julie Melvin to Mark LaRose with attachments.

PEOPLE V. CLC & EDWARD AND ROBERT PRUIM

<i>People v. CLC</i> PCB 97-193 2 <sup>nd</sup> Amended Complaint Count No.	<i>People v. Edward and Robert Pruum</i> PCB 04-207 Count No.	Allegation	What needs to be proven for each count
I	I	Failure to adequately manage refuse & litter	Liability & penalty for CLC and Pruims
II	II	Failure to prevent or control leachate flow	Liability & penalty for CLC and Pruims
III	III	Failure to properly dispose of landscape waste	CLC – penalty only Pruims – liability & penalty
IV	IV	Failure to provide and maintain financial assurance pursuant to April 20, 1993 permit	CLC – penalty only Pruims – liability & penalty
V	V	Failure to timely file the required application for a Significant Modification	CLC – penalty only Pruims – liability & penalty
VI	VI	Water Pollution	Liability & penalty for CLC and Pruims
VII	VII	Depositing waste in unpermitted portions of landfill (Parcel B)	CLC – penalty only Pruims – liability & penalty
VIII	VIII	Conducting a waste disposal operation without a permit	CLC - penalty only Pruims – liability & penalty
IX	IX	Open dumping	CLC – penalty only Pruims – liability & penalty

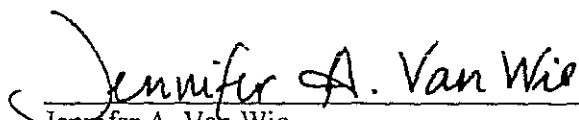
<i>People v. CLC</i> PCB 97-193 2 <sup>nd</sup> Amended Complaint Count No.	<i>People v. Edward and Robert Pruim</i> PCB 04-207 Count No.	Allegation	What needs to be proven for each count
X	X	Violating Standard Operating Permit 1989-005-SP Condition #3 (permit modification and supplemental permit)	CLC – penalty only Pruims – liability & penalty
XII	XI	Conducting a waste disposal operation without a permit (Parcel A)	CLC - Dismissed Pruims -liability & penalty *The Complainant plans to dismiss this count against the Pruims*
XIII	XII	Improper disposal of waste tires	CLC – penalty only Pruims – liability & penalty
XIV	XIII	Violating Standard Operating Permit 1989-005-SP Condition #13 (temporary fencing)	CLC – penalty only
XV	XIV	Violating Standard Operating Permit 1996-240-SP Condition #1 (operation of gas control)	CLC – liability & penalty
XVI	XV	Violation of Standard Operating Permit 1996-240-SP Condition #9 (erosion, ponding, & cracks)	CLC – penalty only
XVII	XVI	Violation of Standard Operating Permit 1996-240-SP Condition #11 (leachate disposal)	CLC – liability & penalty

<i>People v. CLC</i> PCB 97-193 2 <sup>nd</sup> Amended Complaint Count No.	<i>People v. Edward and Robert Pruim</i> PCB 04-207 Count No.	Allegation	What needs to be proven for each count
XIX	XVII	Failure to provide and maintain financial assurance pursuant to Oct. 24, 1996 permit (Violation of Permit 1996-240-SP, Condition #13)	Partial Summary Judgment granted in Complainant's favor against CLC:  (a) CLC liable in part for failing to increase financial assurance from \$1,342,500 to \$1,431,600 by January 22, 1997  CLC - hearing on penalty Pruims - hearing on penalty and liability  ----- (b) Alleges Respondents did not increase financial assurance to \$1,439,720 before operation of gas system -- hearing as to when gas system began operating.  Liability & penalty for CLC and Pruims
XX	XVIII	Violation of Standard Operating Permit 1989-005-SP Condition #17 (caused or allowed placement of leachate in areas not certified or approved by the IEPA)	CLC – liability & penalty
XXI	XIX	Failure to provide revised cost estimate by December 26, 1994	CLC – penalty only Pruims – liability & penalty

**Electronic Filing - Received, Clerk's Office, August 20, 2008**

**CERTIFICATE OF SERVICE**

I, JENNIFER A. VAN WIE, an Assistant Attorney General, do certify that I caused to be served this 20<sup>th</sup> day of August, 2008, the foregoing Notice of Filing, Witness and Exhibit List, and joint-party Allegation and Liability Table, upon the persons listed on said Notice via facsimile and electronic mail.

  
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BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

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 vs. ) PCB No. 97-193  
 ) (Enforcement)  
 COMMUNITY LANDFILL COMPANY, )  
 INC., an Illinois corporation, )  
 )  
 Respondent. )

COMPLAINANT'S RESPONSE TO RESPONDENT COMMUNITY LANDFILL  
COMPANY'S SECOND SET OF INTERROGATORIES

Complainant PEOPLE OF THE STATE OF ILLINOIS, by its attorney, LISA MADIGAN, Attorney General of the State of Illinois, responds to Respondent's Second Set of Interrogatories, as follows:

DEFINITIONS

1. "Communication" means any transmission or exchange of information, including, without limitation, any conversation, correspondence, meeting, and/or discussion, whether face-to-face or by means of telephone, telegraph, telex, telecopier, electronic mail or any other medium.
2. "Complainant" means the People of the State of Illinois, any of its agents, representatives, attorneys, or other persons or entities acting on its behalf or under its control.
3. "Complaint" means the People of the State of Illinois' Complaint and Second Amended Complaint for Declaratory, Injunctive and Other Relief in the captioned case.
4. "Documents" means without limitation all original and non-identical copies of accounts, acknowledgments, advertisements, affidavits, agreements, analyses, annual reports, applications, appointment books, articles of incorporation, assignments, audit reports, balance sheets,

**EXHIBIT B**

bills, bills of lading, bills of sale, books, brochures, bulletins, business cards, by-laws, calculations, calendars, catalogues, charges, charts, checks, check registers, check stubs, circulars, client lists, clippings, communications, computer cards, computer printouts, computer programs, computer readable disks, computer tapes, consultant lists, consultant resumes, consultation reports, contracts, conveyances, corporate minutes and minute books, correspondence, customer call records, customer lists, data compilations, deeds, deposition transcripts, diagrams, diaries, descriptions, drafts, drawings, electronic mail, employment applications, employment records, evaluations, expense accounts, expense reports, facsimiles, files, file wrappers, film, financial statements, forms, formulas, graphs, histories, income statements, indexes, instructions, insurance policies, insurance records, insurance reports, inventories, invoices, job assignments, job descriptions, journals, ledgers, letters, lists, literature, log books, looseleaf binders, magazines, mailgrams, manuals, maps, memoranda, messages, microfiches, microfilm, minutes, models, mortgages, motion pictures, news clippings, newsletters, newspapers, notebooks, notes, notices, opinions, orders, organizational charts, pamphlets, papers, patents, periodicals, personnel records, phono-records, photographic negatives, photographs, pleadings, pocket calendars, policies, press releases, profit and loss statements, prints, procedures, prototypes, publications, purchase orders, receipts, records, regulations, reports, resumes, rolodex cards, rules, samples, schedules, searches, security agreements, shipping orders, shop drawings, slides, specifications, statements, statements of account, statements of assets and liabilities, statistics, studies, summaries, surveys, tangible things, tape recordings, tax returns, telegrams, telephone bills, telephone lists, telephone logs, telexes, test results, time cards, time sheets, trade letters, transcripts, travel vouchers, treatises, trip reports, warranties, work orders, work sheets, wrappers and writings.



5. "Identify" when used in reference to a document, means to state its title; type (e.g., letter, memorandum, etc.); author(s) or originator(s); addressee(s) or recipient(s); subject matter; any file numbers which may be used in locating same; the name, present or last known address and phone number of all persons having possession, custody or control of same; and its disposition, if no one presently has possession, custody or control of same.

6. "Individual or "Person" means any individual, partnership, corporation, company, association, firm, organization, trust or other legal entity, including governmental entities.

**ADDITIONAL DEFINITIONS PROVIDED BY COMPLAINANT**

7. " Act" means the Illinois Environmental Protection Act, 415 ILCS 5/1 et seq. (2002)

8. "Board" means the Illinois Pollution Control Board.

9. "Site" means the municipal solid waste/special waste landfill(s) operated by Respondent as further described in the Complaint.

**INTERROGATORIES**

1. Identify all individuals with knowledge of the Complainant's assessment or calculation of penalties for violations of Counts III, IV, VII, VIII, IX, X, XIII, XIV, XVI, XIX (part), and XXI of the Second Amended Complaint.

**ANSWER:**

Complainant objects to Interrogatory No. 1 because it the function of the Board to assess and calculate penalties for the listed violations. Complainant refers to 415 ILCS 5/42 (2002) for calculation of penalties for the violations alleged in the above referenced counts. Further answering, Complainant states that a partial list of those with knowledge of relevant facts underlying the violations includes:

Mr. Warren Weritz

Ms. Christine Roque

Mr. Blake Harris

Mr. Christine (Tina) Kovaszny

Mr. Rico Vallejera, Jr.

Mr. John S. Nosari

Ms. Ellen Robinson

Mr. David Walters

All named above are employees of Illinois EPA, and may be contacted through counsel for Complainant. Investigation continues.

see also: Response to Interrogatory No. 2

2. Identify all individuals expected to testify at a hearing concerning penalties for violations of Counts III, IV, VII, VIII, IX, X, XIII, XIV, XVI, XIX (part), and XXI of the Second Amended Complaint.

**ANSWER:**

Mr. Warren Weritz: Mr. Weritz will provide testimony relating to violations noted during his inspections of the Site from 1994 through 1998. Mr. Weritz's testimony relates to the violations alleged in Counts I, II, III, VI, XII and XIII of the Complaint.

Ms. Christine Kovaszny: Ms. Kovaszny will provide testimony relating to the violations contained in Counts I, XIV, XVI, XVII, XIX and XX of the Complaint. Ms. Kovaszny's testimony is based on her inspections at the Site during 1999-2000.

Ms. Cristina Roque will provide testimony regarding the violations alleged in Counts IV, V, XX, VII through X, XIX and XXI.

Mr. Blake Harris will provide testimony regarding the violations alleged in Count IV, XIX, and XXI.

Mr. Rico Vallejera will provide testimony regarding the violations alleged in Count XIX of the Complaint. Specifically Mr. Vallejera will testify regarding operation of the landfill gas to electricity plant (gas management system) at the Site.

Mr. David Walters will provide testimony regarding the violations alleged in Counts VII through X of the Complaint.

Dr. John S. Nosari will testify regarding interest calculations and may provide opinion testimony based on Respondent's financial information. In addition Dr. Nosari may testify regarding interest calculations and Respondent's costs. Dr. Nosari's testimony will relate to Counts IV, VII through X, and XIX.

Complainant will seek testimony from Mr. Michael McDermont, Andrews Engineering Company, regarding Andrews engineering's work at the Site, and the violations alleged in Counts VII through X of the Complaint.

In addition, Complainant may call officers and agents of the Respondent, including but not limited to Mr. Robert Prum, Mr. James Pelnarsh Sr., and Mr. James Pelnarsh Jr.; Agents/owners/employees of Andrews Engineering Company, Springfield, Illinois, including but not limited to Mr. Douglas Andrews, Mr. Vincent Medonia, Mr. Bradley Hunsberger, Mr. Michael McDermont. Complainant reserves the right to name any and all additional witnesses in accordance with Board Procedural Rules and the Supreme Court Rules, upon proper notice to Respondent.

3. Identify all statements (whether written, recorded or videotaped) of any persons with knowledge of the Complainant's assessment or calculation of penalties for violations of Counts III, IV, VII, VIII, IX, X, XIII, XIV, XVI, XIX (part), and XXI of the Second Amended Complaint.

ANSWER:

Complainant repeats its objection to Interrogatory No. 1 to the extent that Respondent asserts that Complainant assesses or calculates penalties. Further objecting, Complainant states that Interrogatory No. 3 is overly vague as to which "statements" it seeks, and Complainant cannot therefore respond. To the extent that Respondent seeks by this inquiry discoverable documents and correspondence relevant to the calculation of penalties, Complainant refers Respondent to Complainant's document production.

4. Identify all documents used or generated by Complainant in its assessment or calculation of penalties for violations of Counts III, IV, VII, VIII, IX, X, XIII, XIV, XVI, XIX (part), and XXI of the Second Amended Complaint.

ANSWER:

Complainant objects to Interrogatory No. 4 to the extent that it claims that Complainant calculates or assesses penalties. Further answering, Complainant states that the following documents were generated or used in evaluating the listed violations:

Generally: all Exhibits (A through P) attached to Complainant's Motion for Summary Judgement, the Act, Board regulations, and transcripts of depositions taken in this case by Respondent, were used in evaluating the violations for the purpose of hearing on penalty. Further answering:

a. 4/20/93 Supplemental Permit issued to CLC as operator.

- b. 10/24/96 Supplemental Permit issued to CLC as operator.
- c. First Midwest Letter of Credit No 486, dated March 12, 1991
- d. Amendment to Letter of Credit No. 486, dated May 22, 1992
- e. Trust Agreement Number 1010-00210-6, First Midwest Trust, April 23, 1991.
- f. First Midwest Trust "Investment Review for the account of Community Landfill Company, as of December 31, 1992."
- g. First Midwest Trust "Investment Review for the account of Community Landfill Company as of December 31, 1994.
- h. Letter from Midwest Bank notifying Illinois EPA dated May 19, 1995, stating that letter of credit expired on April 12, 1995.
- i. Cover letter for transmission of bond No. 91507 for \$1,342,500, informing and requesting release of trust fund monies.
- j. July 1, 1996 Taylor letter releasing Trust Fund to Respondent.
- k. September 1, 1999 letter from Michael McDermont, Andrews Environmental Engineering, Inc. with attached correspondence from T.J. Adams & Associates relating to j. below.
- l. Cover letter for transmission on rider to Bond No. 91507 increasing penal sum to \$1,439,720 effective September 2, 1999.
- m. Illinois EPA field inspection report for 3/31/99 inspection permit.
- n. KMS Morris Power, Inc. Monthly Operating Report for Morris Site.
- o. CLC and City of Morris Application for Supplemental Permit, dated January, 1989 .
- p. Supplemental Permit No. 1989-005-SP.

- q. Supplemental Permit No. 1993-066-SP issued April 20, 1993.
- r. Application for Significant Modification Permit dated May, 2000 (2000-156) and all subsequent addenda thereto.
- s. CLC and City of Morris Application for Significant Modification to Permit, dated August 5, 1996, including attachments and maps appended thereto, and all addenda.
- t. CLC and City of Morris Addendum to the application for significant modification dated April 30, 1997.
- u. CLC and City of Morris supplemental permit application addendum dated 26, 1996.
- v. CLC and City of Morris revised cost estimate submitted August 5, 1996.
- w. Significant Modification Permit issued by Illinois EPA to CLC and City of Morris August 4, 2000.
- x. Landfill Capacity certification forms submitted by or on behalf of CLC and the City of Morris as of April 1, 1989, April 1, 1990, January 1, 1995, January 1, 1996, January 1, 1997, January 1, 1998, January 1, 1999, January 1, 2001, and January 1, 2002.
- y. "Nonhazardous Solid Waste Management and Landfill Capacity In Illinois", reports prepared by Illinois EPA BOL for the years 1996 through 2001.
- z. "Available Disposal Capacity for Solid Waste in Illinois"- annual reports for the years 1990 through 1995.
- aa. KMS Morris Power, Inc. Monthly Operating Report for Morris Site, showing operations of the gas management system at the Site.
- bb. Inspection reports of the CLC/City of Morris facility from inspections on August 18, 1993, April 7, 1994, March 22, 1995, May 22, 1995, and July 28, 1998.

cc. Inspection reports for the CLC/City of Morris facility from inspections on March 31, 1999, May 11, 1999, July 20, 1999,

dd. KMS Morris Power, Inc. Monthly Operating Report for Morris Site.

5. Identify any expert witnesses consulted by Complainant regarding the assessment or calculation of penalties for violations of Counts III, IV, VII, VIII, IX, X, XIII, XIV, XVI, XIX (part), and XXI of the Second Amended Complaint.

ANSWER:

Respondent Objects to Interrogatory No. 5 to the extent that its claims that Complainant assesses or calculates penalties. Further answering, Respondent has used opinions from Mr. Blake Harris, Mr. David Walter, Ms Cristina Roque, Ellen Robinson and Dr. John S. Nosari in calculating the amount of economic benefit realized by Respondent in the above referenced violations.

6. Identify all reports prepared by and any conclusions or opinions reached by those experts named in Interrogatory #5 of Respondent's Second Request for Interrogatories and identify all documents relied upon by those experts.

ANSWER:

SEE: response to Interrogatory No. 4. At this point, aside from inspection reports, no reports have been generated regarding the conclusions reached by the witnesses named in the response to Interrogatory No. 5.

7. Identify with specificity Complainant's proposed penalties for violations of Counts III, IV, VII, VIII, IX, X, XIII, XIV, XVI, XIX (part), and XXI of the Second Amended Complaint, including but not limited to: the methodology and calculations utilized, and the results reached.

ANSWER:

Complainant repeats its objection to Respondent's claim that Complainant calculates penalties. At the time answering these Interrogatories, Complainant seeks penalties listed in Section 42 of the Act, i.e. \$50,000 per violation plus \$10,000 per day of violation. In addition, Complainant seeks attorney fees and costs pursuant to Section 42(f) of the Act.

8. Identify with specificity all factors in mitigation of penalty as set forth in Section 42(h) of the Act (415 ILCS 5/42(h)) that were considered by Complainant in its assessment or calculation of penalties for violations of Counts III, IV, VII, VIII, IX, X, XIII, XIV, XVI, XIX (part), and XXI of the Second Amended Complaint, and specifically identify how said factors were considered and how they affected the penalty calculation, including:

- (a) the duration and gravity of the violation;
- (b) the presence or absence of due diligence on the part of CLC in attempting to comply with the requirements of the Act and regulations thereunder to seek relief therefrom as provided by the Act;
- (c) any economic benefits accrued by CLC because of delay in compliance with requirements;
- (d) the amount of monetary penalty which will serve to deter further violations by CLC and to otherwise aid in enhancing voluntary compliance with the Act by CLC and other persons similarly subject to the Act; and
- (e) the number, proximity in time and gravity of previously adjudicated violations of the Act by CLC.

**ANSWER:**

Complainant objects to Interrogatory No. 8 because only the Board properly considers factors in mitigation and aggravation of penalty, first beginning with Section 42 statutory penalties. The Board will assess and/or calculate the penalty in this matter, taking into consideration its analysis of



these factors. In particular, gravity of violation and the amount necessary for deterrence are ultimate conclusions to be reached by the Board following presentation of evidence.

Further Answering, Complainant states as follows:

*COUNT III:* Violations were noted on August 18, 1993 and April 7, 1994, representing two days of violation.

*COUNT IV:* Complainant states that Respondent was in violation for One Thousand and Sixty Seven (1067) days. At this time, Complainant believes that Respondent realized an economic benefit of at least \$47,496.00, plus interest, from the violations alleged in Count IV. This figure may change based on information disclosed in discovery. Complainant notes that the long period of noncompliance indicates an extreme lack of diligence and Respondent's indifference to compliance with the Act and regulations.

*COUNTS VII, VIII, IX, X:* Complainant believes that these violations have continued from at least August 5, 1996 until the present. Complainant believes that accumulation of overweight waste and failure to remove overweight waste represents a lack of diligence and an indifference to the requirements of Respondent's permit, the Act, and Board regulations. Complainant also believes that Respondent recognized a substantial financial benefit from the violations in Counts VII through X. At this point, Complainant believes that Respondent's benefit amounts to at least \$4,035,500.00, plus interest from at least August 5, 1996 until the present. Complainant will seek additional information regarding financial benefit during discovery.

*Count XIV:* Violations were noted on March 31, 1999, and represent one day of violation.

*Count XVI:* Violations were noted on March 31, 1999 and July 10, 1999, and represent two days of violation.

*Count XIX:* Complainant alleges that Respondent was in violation for 941 days, and realized a financial benefit of at least \$4,656.00 from the violations in Count XIX. This figure may be recalculated based on the results of discovery. Complainant notes that the long period of noncompliance as alleged in Count XIX, combined with the extended period of noncompliance in Count IV, indicates an extreme lack of diligence and Respondent's indifference regarding compliance with the Act and Board regulations.

9. Identify all individuals with knowledge of Complainant's liability for alleged violations of Counts I, II, VI, XV, XVII, XX and XIX (part) of the Second Amended Complaint.

ANSWER:

Complainant objects to Interrogatory No. 9 as overly vague. Liability for these Counts (or portions thereof) has not yet been determined by the Board. Further answering, the following have knowledge of underlying facts which may support liability:

- a. Owners, agents and employees of Respondent
- b. Officials, agents and employees of the City of Morris, Illinois;
- c. Count I: Warren Weritz, Christine Kovaszny

Count II: Warren Weritz

Count VI : Warren Weritz

Count XV: Rico Vallejera, Jr., Christine Kovaszny, Cristina Roque.

Count XVII: Christine Kovaszny.

Count XX : Christine Kovaszny, Cristina Roque.

Count XIX: Cristina Roque, Christine Kovaszny, Rico Vallejera, Jr.

10. Identify all individuals expected to testify at a hearing with respect to Complainant's liability for alleged violations of Counts I, II, VI, XV, XVII, XX and XIX (part) of the Second Amended Complaint.

ANSWER:

See: Answer to Interrogatory No. 9. In addition Complainant may call any and all witnesses named by Respondent.

11. Identify all statements (whether written, recorded or videotaped) of any persons with knowledge of Complainant's liability for alleged violations of Counts I, II, VI, XV, XVII, XX and XIX (part) of the Second Amended Complaint.

ANSWER:

Complainant objects to Interrogatory No. 11 as overly vague. Further answering, Complainant refers Respondent to Interrogatory No. 4 and documents produced pursuant to Respondent's document request. Investigation continues.

12. Identify all documents used or generated by Complainant with respect to Complainant's liability for alleged violations of Counts I, II, VI, XV, XVII, XX and XIX (part) of the Second Amended Complaint.

ANSWER:

See: answer to Interrogatory No. 11.

13. Identify any expert witnesses consulted by Complainant with respect to Complainant's liability for alleged violations of Counts I, II, VI, XV, XVII, XX and XIX (part) of the Second Amended Complaint.

ANSWER:

Warren Weritz: Counts I, II, VI.

Cristina Roque: Counts XV, XIX.

Christine Kovaszny: Counts I, XV, XIX.

Dr. Joseph S. Nosari.

Complainant reserves the right to supplement its list of expert witnesses at any time pursuant to the requirements of the Board procedural rules.

14. Identify all reports prepared by and any conclusions or opinions reached by those experts named in Interrogatory #13 of Respondent's Second Request for Interrogatories and identify all documents relied upon by those experts.

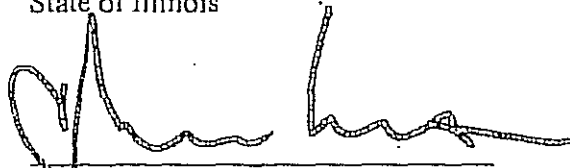
ANSWER:

Inspection reports of Warren Weritz and Tina Kovaszny relating to the violations alleged in these counts. Monthly Operation Reports from KMS Energy. Mr. Weritz and Ms. Kovaszny will testify to the presence of leachate which may require opinion testimony. Ms. Kovaszny will testify regarding the operation of the landfill gas to energy plant at the Site during March, 1999, which may or may not include opinion testimony. Dr. Joseph S. Nosari may testify regarding interest and financial matters relating to the referenced Counts.

RESPECTFULLY SUBMITTED:

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

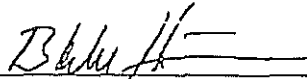
BY:

A handwritten signature in black ink, appearing to read "Christopher Grant", written over a horizontal line.

CHRISTOPHER GRANT  
Environmental Bureau  
Assistant Attorney General  
188 West Randolph Street, #2001  
Chicago, IL 60601  
(312) 814-5388

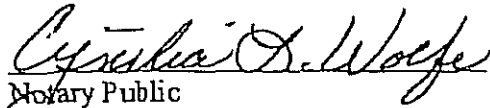
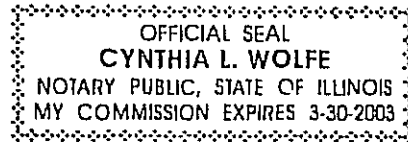
VERIFICATION

The undersigned has reviewed the responses to Respondent's Second Set of Interrogatories and swears that such responses are true and correct and that the responses are complete in accordance with the requests and subject to the objections interposed



Blake Harris  
Illinois Environmental Protection Agency

Subscribed and sworn to before me  
this 5<sup>th</sup> day of February, 2003

  
Notary Public

My commission expires 3-30-03

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

PEOPLE OF THE STATE OF ILLINOIS, )  
ex rel. JAMES E. RYAN, Attorney )  
General of the State of Illinois, )  
 )  
Complainant, )  
 )  
vs. ) PCB No. 97-193  
 )  
COMMUNITY LANDFILL COMPANY, INC., )  
an Illinois corporation. )  
 )  
Respondent. )

CERTIFICATE OF SERVICE

I, CHRISTOPHER GRANT, an attorney, do certify that I caused to be served this 7th day of February, 2003, Complainant's Response to Respondent's Second Set of Interrogatories, 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.



A handwritten signature in black ink, appearing to read 'Christopher Grant', is written over a horizontal line.

CHRISTOPHER GRANT

Service List:  
Mr. Mark LaRose  
Ms. Clarissa Grayson  
LaRose & Bosco  
734 N. Wells Street  
Chicago Illinois 60610

**CERTIFICATE OF SERVICE**

I, Clarissa Y. Cutler (f/k/a Grayson), an attorney, hereby certify that I caused to be served a copy of the foregoing **RESPONDENTS COMMUNITY LANDFILL COMPANY, INC. AND EDWARD PRUIM AND ROBERT PRUIMS' MOTION IN LIMINE #3 TO EXCLUDE EIGHT (8) INSPECTION REPORTS**, by electronic filing, emailing, and 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 12<sup>TH</sup> day of **NOVEMBER, 2008**, addressed as follows:

**By U.S. Mail and email**

Christopher Grant  
Jennifer Van Wie  
Environmental Bureau  
Assistant Attorney General  
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Chicago, Illinois 60602  
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[jvanwie@atg.state.il.us](mailto:jvanwie@atg.state.il.us)

**By U.S. Mail and email**

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/s/ Clarissa Y. Cutler  
One of Respondents' Attorneys

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