

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.)

to: Mr. Mark La Rose, Ms. Clarissa Cutler
La Rose & Bosco
200 N. La Salle Street, #2810
Chicago, Illinois 60601

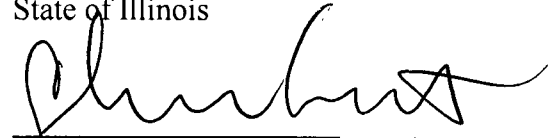
Mr. Bradley P. Halloran
Hearing Officer
Illinois Pollution Control Board
100 W. Randolph, #2001
Chicago, IL 60601

NOTICE OF ELECTRONIC FILING

PLEASE TAKE NOTICE that we have today, November 17, 2008, filed with the Office of the Clerk of the Illinois Pollution Control Board, by electronic filing, Complainant's Response to the Respondents' Motions in Limine No. 1, 2, and 3, a copy of which is attached and herewith served upon you.

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

BY:



CHRISTOPHER GRANT
Assistant Attorney General
Environmental Bureau
69 W. Washington St., #1800
Chicago, IL 60602
(312) 814-5388

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General of the State of Illinois,)

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-vs-)

Community Landfill Company, Inc.)

Respondent.)

COMPLAINANT'S RESPONSE TO RESPONDENTS' MOTION IN LIMINE NO. 1

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 PRUIM , ROBERT PRUIM, AND COMMUNITY LANDFILL COMPANY'S
Motion in Limine No. 1.

I. THE STATE DOES NOT INTEND TO IMPEACH THE PRUIM DEFENDANTS WITH EVIDENCE OF PRIOR CONVICTIONS

The State agrees that evidence of prior convictions may not be used to impeach credibility after a period of 10 years from release from incarceration, and that Defendants Robert Pruum and Edward Pruum were released from incarceration more than 10 years before hearing in this matter. However, Respondents either misunderstand the intended use of the disclosed materials, or are attempting to extend the rule to bar otherwise admissible evidence.

On October 6, 2008, the undersigned sent copies of certain documents to opposing counsel. Included were certified copies of post-conviction court filings from *People v. Edward Pruum, Robert Pruum, and Thomas O'Connor*, 93 CR 682. In this case, Edward Pruum and Robert Pruum plead guilty to certain felony counts brought by the United States. However, neither the fact of the criminal convictions nor the underlying details are necessary to the State's case, or its proposed use of the documents.

The records to be used by the State (if necessary) will establish the following:

- 1) Edward Pruum agreed to pay a fine in the amount of \$1,250,000 on April 18, 1994;
- 2) Robert Pruum agreed to pay a fine in the amount of \$1,250,000 on September 24, 1994;
- 3) Edward and Robert Pruum failed to pay the fines on the agreed dates;
- 4) The United States filed motions to incarcerate Edward and Robert Pruum for failure to pay the agreed fines;
- 5) The fines were paid, and the United States filed a satisfaction of judgment on July 12, 1995.

Although in its October 6, 2008 letter, the undersigned characterized the use of these documents as 'for impeachment', they would actually be used, if at all, in the State's case in

rebuttal. Specifically, if Edward Pruim and Robert Pruim deny the above, the State will seek to enter these certified court documents to rebut their testimony. The State has no intention of using the prior felony convictions to impeach the Pruim's overall credibility as witnesses.

II. THE EVIDENCE IS HIGHLY RELEVANT

With other evidence, the State will show that the Pruims had knowledge of the limited remaining capacity at the Morris Community Landfill in 1994, and that the Landfill would become overfilled during that year. The State will show that the Landfill became overcapacity during 1994, but that the Pruims continued to accept waste at the Landfill for another two years.

The fact that the Pruims were facing possible incarceration during this period for failing to pay a total fine of \$2,500,000.00 is highly relevant to this case. It will help prove both personal involvement, i.e., continuation of operation to help satisfy a judgment and therefore avoid incarceration, as well as an intentional violation for the purpose of attorney fees and costs.

III. THE EVIDENCE IS NOT BARRED BY ILLINOIS LAW

As noted, the State does not intend to raise details of the underlying criminal conviction. The purpose of the plea agreement is merely to show the underlying debt. For that reason, and to avoid any possible prejudice, the State is willing to enter a stipulation to the above-noted facts in lieu of entering the certified copies. However, even if the documents provide details of the underlying criminal convictions, the evidence should not be excluded.

Impeaching a witness with a prior conviction is meant to affect the credibility of the witness testimony. *People v. Naylor*, 229 Ill. 2d 584, 598-599 (2008). However, a conviction may be used for any other purpose if relevant to any matter in the case. Evidence of past crimes which do not relate to testimonial credibility may be admitted if they are relevant for some

purpose other than impeachment. *People v. Williams*, 161 Ill. 2d 1, at 38 (1994).

In our case, the facts relating to the unpaid fine, threat of incarceration for nonpayment, and subsequent satisfaction of the debt will be used, if at all, for rebuttal. The evidence will only be used if Edward and/or Robert Pruiim deny these contentions on direct examination. There can be no question that the facts are clearly established by certified court records, and the State is willing to enter into a satisfactory stipulation to avoid even the hint of prejudice.

WHEREFORE, Complaint respectfully requests that the Hearing Officer deny Respondents Motion in Limine No. 1.

Respectfully Submitted,

BY:



CHRISTOPHER GRANT
JENNIFER VAN WIE
Assistant Attorneys General
Environmental Bureau
69 W. Washington St., 18th Flr.
Chicago, Illinois 60602
(312) 814-5388
(312) 814-0609

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

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Complainant,)

-vs-)

Community Landfill Company, Inc.)
Respondent.)

COMPLAINANT'S RESPONSE TO RESPONDENTS' MOTION IN LIMINE NO. 2

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 PRUIM , ROBERT PRUIM, AND COMMUNITY LANDFILL COMPANY'S
Motion in Limine No. 2.

I. JOHN ENGER WAS PROPERLY DISCLOSED

1. Respondents seek to exclude the testimony of witness John Enger, City Clerk of the City of Morris. At the latest, Mr. Enger was disclosed eighty nine days ago. His testimony will simply relate to authentication of city documents. The documents were originally made available to the Respondents in *People v. Community Landfill Co. and City of Morris*, PCB 03-191, and were provided again to Respondents on October 6, 2008, well before the deadline set by the Hearing Officer in this case. Mr. Enger was deposed in PCB 03-191 on March 2, 2004. Counsel for Respondents were present at that time.

2. Respondents claim that “the parties have propounded numerous discovery requests”. However, they fail to mention that no written discovery was conducted by the Respondents after 2003, not even after Robert Pruim and Edward Pruim were added in case No. PCB 04-207. Instead, the Respondents sought two extensions of the hearing date, in 2006 and early this year. Therefore, it has been five years since any discovery was promulgated by the Respondents whatsoever.

3. Respondents raised the identical issue in their earlier objection to the testimony of Gary Styzens. In that case, the Hearing Officer allowed for a continuation of hearing to allow for additional depositions. Although Mr. Styzens was subsequently deposed, at no time did the Respondents indicate any interest in deposing Mr. Enger. This is not surprising: they are fully and completely aware of the subject matter of his limited testimony. However, they cannot now claim unfair surprise.

4. The August 20, 2008 witness list submittal provided more than sufficient information to supplement the 2003 interrogatory responses. Given the Respondents extensive

knowledge of both Mr. Enger and of his limited testimony regarding the City of Morris records, there is no basis for excluding his testimony.

WHEREFORE, Complaint respectfully requests that the Hearing Officer deny Respondents Motion in Limine No. 2.

Respectfully Submitted,

BY:



CHRISTOPHER GRANT

JENNIFER VAN WIE

Assistant Attorneys General

Environmental Bureau

69 W. Washington St., 18th Flr.

Chicago, Illinois 60602

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Community Landfill Company, Inc.)
Respondent.)

COMPLAINANT'S RESPONSE TO RESPONDENTS' MOTION IN LIMINE NO. 3

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 PRUIM , ROBERT PRUIM, AND COMMUNITY LANDFILL COMPANY'S
Motion in Limine No. 3.

I. ALL INSPECTION REPORTS WERE PRODUCED TO RESPONDENTS

1. Respondents also seek to prevent the State from introducing eight inspection reports, based on five year old discovery responses. However, all documents were made available for inspection and copying in 2003, when Respondent CLC last conducted written discovery¹. The inspection reports were properly listed on Complainant's August 20, 2008 disclosure.

2. The records related to this case number in the thousands of pages. In response to Respondent CLC's Request for Production of Documents, the files were made available at Complainant's offices five years ago. Counsel Clarissa Cutler subsequently reviewed several bankers boxes of documents and selected certain documents for copying. Respondents cannot now claim in good faith that they were not given access to all inspection reports.

3. Moreover, Illinois EPA Bureau of Land routinely mails copies of these reports to the regulated entity soon after inspection. In the limited time available to respond to this Motion in Limine, Complainant was able to locate transmittal letters for five of the challenged dates (Exhibit A). The letters show that inspection reports were routinely provided to the Respondents years ago.

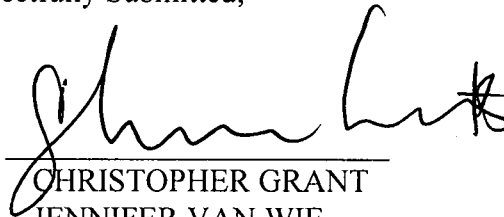
4. The Respondents had a full and complete opportunity to view all records, were provided with copies of the inspection reports soon after inspection, and were notified the documents would be used at trial eighty-nine days ago. There is no basis whatsoever for excluding this relevant evidence.

¹Respondents Edward Pruim and Robert Pruim never submitted written discovery requests. Between 2003 and the recent deposition of Gary Styzens, neither CLC nor the Pruims sought to depose any State witnesses.

WHEREFORE, Complaint respectfully requests that the Hearing Officer deny Respondents Motion in Limine No. 3.

Respectfully Submitted,

BY:



CHRISTOPHER GRANT

JENNIFER VAN WIE

Assistant Attorneys General

Environmental Bureau

69 W. Washington St., 18th Flr.

Chicago, Illinois 60602

(312) 814-5388

(312) 814-0609



ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

1701 SOUTH FIRST STREET, MAYWOOD, ILLINOIS 60153
THOMAS V. SKINNER, DIRECTOR

708/338-7900
708/338-7752 (Fax)

April 26, 2000

City of Morris
Attn: Robert T. Feeny
320 Wauponsee Street
Morris, IL 60450

RECEIVED
JUN 19 2000
IEPA-DLPC

Re: LPC #0630600001-Grundy County
Community Landfill
Compliance File

Dear Mr. Feeny:

On April 17, 2000, an inspection of the above referenced site was conducted by Mark Retzlaff representing the Illinois Environmental Protection Agency. The purpose of this inspection was to determine your facility's compliance with the applicable requirements of the Illinois Environmental Protection Act and 35 Illinois Administrative Code Parts 807-815 and all applicable permits. For your information a copy of this inspection report is enclosed.

Should you have any questions concerning this inspection, please contact Mark Retzlaff at 708/338-7900.

Sincerely,

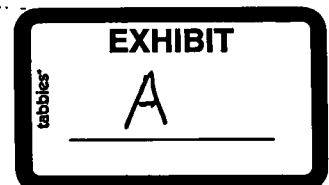
Clifford Gould, Regional Manager
Field Operations Section
Bureau of Land

CG:MR:dfa:CL.1

Enclosure(s)

JUN 22 2000

bcc: Regional File
Maywood File





State of Illinois

ENVIRONMENTAL PROTECTION AGENCY

Mary A. Gade, Director

1701 First Avenue, Maywood, IL 60153

708/338-7900

708/338-7473

December 1, 1998

Community Landfill, Inc.
Attn: Mr. Robert Pruim
13710 S. Kostner Avenue
Crestwood, IL 60445

Re: LPC #0630600001 -- Grundy County
Morris/Community Landfill
Compliance File

Dear Mr. Pruim:

On November 19, 1998, your facility was inspected by Warren Weritz of the Illinois Environmental Protection Agency. The purpose of this inspection was to determine your facility's compliance with the Illinois Environmental Protection Act and 35 Illinois Administrative Code Part 807. At the time of the inspection, apparent violation(s) found in previous inspection(s) conducted on March 5, 1997 and July 28, 1998 were again observed.

For your information, a copy of this inspection report is enclosed. Should you have any questions regarding this inspection, please contact Warren Weritz at 708/338-7900.

Sincerely,

A handwritten signature in cursive script, appearing to read "Clifford Gould".

for: Clifford Gould,
Regional Manager
Field Operations Section
Bureau of Land

CG:dfa:CLI

Enclosure

bbc: Division File
Region File
Compliance Unit

RECEIVED

MAR 08 1999

IEPA-DLPC

SCREENED
M M



State of Illinois
ENVIRONMENTAL PROTECTION AGENCY

Mary A. Gade, Director
217/785-8604
Fax: 217/524-1991
TDD: 217/782-9143

2200 Churchill Road, Springfield, IL 62794-9276

August 29, 1996

Community Landfill, Inc.
Attn: Robert Pruim
13701 South Kostner Avenue
Crestwood, IL 60445

Re: LPC #0630600001 -- Grundy County
Morris/Community Landfill, Inc.
Compliance File

Dear Mr. Pruim:

On July 11, 1996 an inspection of the above referenced site was conducted by Warren Weritz representing the Illinois Environmental Protection Agency. The purpose of this inspection was to determine the site's compliance with the [Illinois] Environmental Protection Act and 35 Illinois Administrative Code, Subtitle G.

Enclosed is a copy of the inspection report for your information. No violations were noted at the time of this inspection.

Should you have any questions regarding this inspection, please call Mr. Weritz at 708/338-7900.

Sincerely,

A handwritten signature in cursive script that reads "David C. Jansen".

David C. Jansen, Acting Manager
Field Operations Section
Division of Land Pollution Control
Bureau of Land

DJ:JH:gm

Enclosure

bc: Division File
D. Virgin - Compliance
Maywood Region

SCREENED
11/17/08



State of Illinois
ENVIRONMENTAL PROTECTION AGENCY

Mary A. Gade, Director
217/785-8604
Fax: 217/524-1991

2200 Churchill Road, Springfield, IL 62794-9276

December 14, 1995

Community Landfill, Inc.
Attn: Ed Pruim
4330 West 137th Place
Crestwood, IL 60445

Re: LPC # 0630600001 -- Grundy County
Morris/Community Landfill
Compliance File

Dear Mr. Pruim:

On November 7, 1995, an inspection of the above referenced site was conducted by Warren Weritz representing the Illinois Environmental Protection Agency. The purpose of this inspection was to determine the site's compliance with the Illinois Environmental Protection Act and 35 Illinois Administrative Code, Subtitle G, Part 807: "Solid Waste" regulations and Part 809: "Special Waste Hauling" regulations.

No violations were noted at the time of this inspection.

Should you have any questions regarding this inspection, please do not hesitate to contact Mr. Weritz at 708/338-7900.

Sincerely,

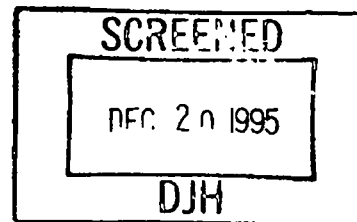
A handwritten signature in cursive script, appearing to read "Glenn D. Savage".

Glenn D. Savage, Manager
Field Operations Section
Division of Land Pollution Control
Bureau of Land

GDS:JH:gm

Attachment

bcc: Division File
Deanne Virgin/Compliance
Maywood Regional Office





State of Illinois
ENVIRONMENTAL PROTECTION AGENCY

Mary A. Gade, Director

2200 Churchill Road, Springfield, IL 62794-9276

ADMINISTRATIVE WARNING NOTICE

BROUGHT BY THE ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

IN THE MATTER OF:)	0630600001 -- GRUNDY COUNTY
)	MORRIS/COMMUNITY LANDFILL
MORRIS/COMMUNITY LANDFILL)	COMPLIANCE FILE

FACTS

On May 26, 1994, an inspection of your facility was conducted by Warren Weritz representing the Illinois Environmental Protection Agency (hereinafter "IEPA"). This inspection was conducted in accordance with Sections 4(c) and 4(d) of the Illinois Environmental Protection Act (Act): 415 ILCS 5/4 (c) and (d) (1992). The purpose of this inspection was to determine your compliance with the Illinois Environmental Protection Act and 35 Illinois Administrative Code, Subtitle G, Part 807: "Solid Waste" regulations and Part 809: "Special Waste Hauling" regulations.

The attached inspection report specifies the date and time of the inspection along with other relevant information. Items numbered one (1) through forty-four (44) represent requirements established by the Illinois Environmental Protection Act and/or 35 Illinois Administrative Code, Subtitle G, Parts 807 and 809. At the time of the inspection, apparent violations were identified. These specific apparent violation(s) are identified with an "X" on the attached inspection report.

REQUIRED RESPONSE

You must submit, in writing, within fifteen days of the date of this letter, the reasons for the apparent violation(s) noted in the attached inspection report. Also, please describe in detail the corrective action, which has been, or will be, taken to rectify the apparent violation(s) noted in the inspection report. Please reference the IEPA designated facility number and facility name assigned above on any correspondence concerning this matter.

CORRECTIVE ACTION REQUIRED

IF YOU WISH TO AVOID FURTHER ADMINISTRATIVE OR CIVIL ENFORCEMENT, YOU MUST INITIATE THE FOLLOWING CORRECTIVE ACTIONS:

**SCREENED
DS**

Page 2

1. In reference to Line 1 of the attached inspection report, the inspection revealed the following condition(s) which constitutes violation(s) of your permit:
 - a) Condition 9: Any modification of the facility shall be the subject of an application for supplemental permit. Actual composting location conflicts with the application location found in Attachment 2 of the application permit. Refer to Condition 9 of Permit No. 1990-048-DE/OP.
 - b) Condition 10: Permittee shall notify the Agency of changes of information submitted to the Agency concerning the permit application. Windrow configuration and spacing changes were not submitted to the Agency.

Either supply the Agency with the required notices and supplemental permits or comply with the plans of your permit application. You have a compliance deadline of August 24, 1994.

A re-inspection will be conducted by Agency personnel to verify compliance.

POTENTIAL SANCTIONS

If the requirements specified in this Administrative Warning Notice are not satisfied and the attached inspection report alleges violations subject to the administrative citation process, pursuant to 415 ILCS 5/31.1 (1992), this Agency may, WITHOUT FURTHER NOTICE, cause an administrative citation to be filed with the Pollution Control Board. Please be advised that each and every finding of an administrative citation violation requires a mandatory fine of \$500.00 per violation. Notwithstanding the fact that an administrative citation may be filed, you are expected to respond to this Notice in order to describe the steps you have or will take to correct all of the violations noted in the inspection report and to outline a proposal for action to insure that the alleged violations will not occur again.

You are further advised that noncompliance with the requirements of the Illinois Environmental Protection Act and rules and regulations adopted thereunder may also result in the following:

1. The filing of an enforcement action with the Pollution Control Board pursuant to 415 ILCS 5/1 et seq. (1992), and in particular, 415 ILCS 5/31 (1992); or
2. The filing of a civil action in circuit court pursuant to 415 ILCS 5/42 (1992).

Potential sanctions for the legal actions described above may include, but are not limited to: Assessment of civil penalties in accordance with 415 ILCS 5/42 (1992), which provides for a maximum civil penalty of not to exceed \$50,000.00 for said violation, and an additional civil penalty of not to exceed \$10,000.00 for each day during which the violation continues, an order to cease and desist from further violations, required remedial action, posting of a security instrument to assure correction of an adjudicated violation, and restraining and injunctive orders.

Page 3

GENERAL INFORMATION

Your written response and two copies of all documents submitted in response to this letter should be sent to:

Deanne Virgin
Compliance Unit
Bureau of Land #24
Illinois Environmental Protection Agency
2200 Churchill Road
Post Office Box 19276
Springfield, Illinois 62794-9276

Should you have any questions concerning this Administrative Warning Notice, or need further assistance, contact Warren Weritz at 708/338-7900.

ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

By: Glenn D. Savage Jr.
Glenn D. Savage, Jr., Manager
Field Operations Section
Division of Land Pollution Control
Bureau of Land

Date: August 2, 1994

CERTIFIED MAIL # 435094854

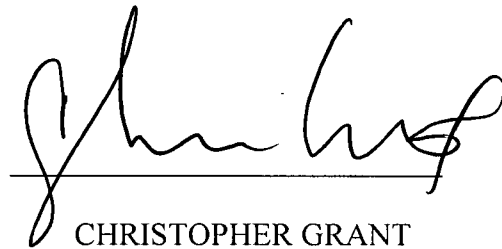
GDS:WFW:DV:rlc/1062w;29-31

bcc: Division File
Maywood Region
Warren Weritz
Deanne Virgin

Community Landfill, Inc.
4330 West 137th Place
Crestwood, Illinois 60445

CERTIFICATE OF SERVICE

I, CHRISTOPHER GRANT, an attorney, do certify that I caused to be served this 17th day of November, 2008, the foregoing Response to the Respondents Motions in Limine 1, 2 and 3, and Notice of Filing, upon the persons listed on said Notice by placing same in an envelope bearing sufficient postage with the United States Postal Service located at 100 W. Randolph, Chicago Illinois.



CHRISTOPHER GRANT