

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, La Rose & Bosco  
200 N. La Salle Street, #2810  
Chicago, IL 60601

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

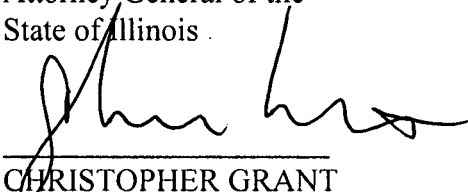
Ms. Clarissa Cutler, Attorney at Law  
155 N. Michigan, Suite 375  
Chicago, IL 60601

**NOTICE OF ELECTRONIC FILING**

PLEASE TAKE NOTICE that we have today, December 10, 2009, filed with the Office of the Clerk of the Illinois Pollution Control Board, by electronic filing, Complainant's Response to Respondents' Motion for Stay Pending Appeal, 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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(Enforcement-Land)

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

Complainant, )

-vs- )

Community Landfill Company, Inc. )

Respondent. )

**RESPONSE TO COMMUNITY LANDFILL COMPANY, EDWARD PRUIM,  
AND ROBERT PRUIM'S MOTION TO STAY PENDING APPEAL**

NOW COMES Complainant, PEOPLE OF THE STATE OF ILLINOIS, by LISA  
MADIGAN, Attorney General of the State of Illinois, and Responds to Community Landfill  
Company ("CLC"), Edward Pruum, and Robert Pruum's Motion to Stay Pending Appeal. For the  
reasons set forth herein, Complainant requests that the Board deny the Respondents' request for a

stay of the Board's Final Order.

**I. AN APPEAL BOND MUST BE PROVIDED IN THE AMOUNT OF THE CIVIL PENALTY ASSESSED BY THE BOARD**

Under Supreme Court Rule 305(a), the Respondents are not entitled to a stay of the judgment, unless they jointly file [with the Board] "an appeal bond or other form of security." Sup. Ct. R. 305(a). A bond provides security to a judgment creditor that if the judgment is affirmed, it will be paid that which is owed. *Estate of Hoellen*, 367 Ill. App. 3d 240, 245 (1<sup>st</sup> Dist. 2006).

The Respondents have not advised Complainant that any bond or other surety has been provided to the Board to secure collection of the \$250,000.00 civil penalty. For this reason, the Board should deny the Respondents' Motion to Stay.

**II. THE RESPONDENTS' RIGHT TO APPEAL WILL NOT BE IMPAIRED BY A DENIAL OF THEIR REQUEST FOR A STAY**

If the Board denies the requested stay, the Respondents are not prevented from continuing with their appeal, because the denial of a stay of judgment does not affect the Respondents' right to appeal. *See, e.g.: Jack Springs, Inc. v. Little*, 50 Ill.2d 351, 355 (1972). The absence of a stay merely allows the State to execute the underlying judgment, if it so chooses. The Respondents may forestall such execution simply by securing the judgment with a bond or other acceptable surety. However, the State should not be prevented from enforcing the Board's Final Order without a guarantee that the Respondents' assets will not be dissipated or diverted during the pendency of an appeal.

Finally, in accordance with Supreme Court Rules 305(d) and 335(g), if denied a stay by the Board, the Respondents may again request a stay from the Appellate Court. It is possible that

the Respondents will arrange an acceptable surety between the time of the Board's denial and the filing of any such request with the Court. Because the Board has extended the payment deadline until January 5, 2010, the Respondents have more than enough time to arrange for an appeal bond.

**III. CONCLUSION**

Because the Respondents have failed to provide for a bond securing the award of civil penalties, Complainant respectfully requests that the Board deny Respondents' Motion to Stay Pending Appeal.

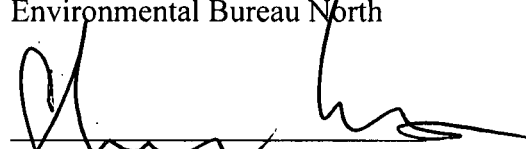
RESPECTFULLY SUBMITTED

People of the State of Illinois  
*by* Lisa Madigan,  
Attorney General of the State of Illinois

Matthew J. Dunn, Chief  
Environmental Enforcement/Asbestos  
Litigation Division

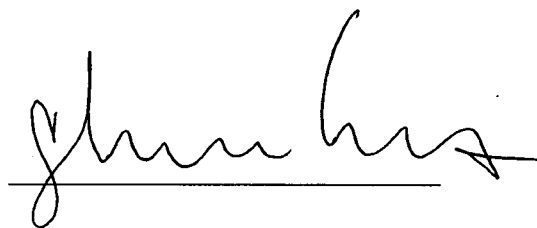
RoseMarie Cazeau, Chief  
Environmental Bureau North

BY:

  
\_\_\_\_\_  
Christopher Grant  
Jennifer Tomas  
Assistant Attorneys General  
69 W. Washington Street, #1800  
Chicago, IL 60602  
(312)814-5388  
(312)814-0609

**CERTIFICATE OF SERVICE**

I, CHRISTOPHER GRANT, an attorney, do certify that I caused to be served this 10<sup>th</sup> day of December, 2009, the foregoing Complainant's Response for Motion to Stay Pending Appeal and Notice of Electronic Filing upon the persons listed on said Notice by electronic mail, and by placing same in an envelope bearing sufficient postage with the United States Postal Service located at 100 W. Randolph, Chicago Illinois.

A handwritten signature in cursive script, appearing to read "Christopher Grant", is written over a horizontal line.

CHRISTOPHER GRANT