

ANSWER: Respondent City of Morris admits that it is an Illinois municipal corporation, organized and operating according to the laws of the State of Illinois, and located in Grundy County, Illinois, but denies the balance of paragraph 2 of Count I of the Complaint. The City also affirmatively states that the Illinois EPA approved transfer of all permitted rights in the Landfill from the City of Morris to Community Landfill Company (CLC) in July of 1982.

3. In *People v. Community Landfill Company, Inc. and the City of Morris*, PCB 03-191, the Illinois Pollution Control Board (“Board”) found that the Morris is also an ‘operator’ of the Landfill, and, jointly with Respondent Community Landfill Company (“CLC”), conducts waste disposal operations at the Landfill (PCB 03-919, February 16, 2006, p.14).

ANSWER: Respondent City of Morris admits the allegations set forth in paragraph 3 in Count I of the Complaint, but further affirmatively states that the City has appealed that determination, which it contends is not supported by the law or the facts in that particular case.

4. The Landfill is approximately 119 acres in area, and is divided into two separately permitted parcels, designated parcel “A”, consisting of approximately 55 acres, and parcel “B”, consisting of approximately 64 acres. Several private potable water wells are located within one-half mile of the Landfill. Groundwater flow reports submitted by Morris and CLC indicate that some of these wells are located downgradient of the Landfill.

ANSWER: Respondent City of Morris admits that the Landfill is approximately 119 acres in area and is divided in two separately permitted parcels, designated Parcel A, consisting of approximately 55 acres, and Parcel B, consisting of approximately 64 acres. The City denies the balance of paragraph 4 of Count I of the Complaint as it is vague and ambiguous. The City further affirmatively states that it is not required to submit groundwater flow reports as alleged by the State.

5. Respondent CLC is an Illinois corporation. On May 14, 2010, CLC was involuntarily dissolved by the Illinois Secretary of State.

ANSWER: Respondent City of Morris admits the allegations set forth in paragraph 5 of Count I of the Complaint.

6. The Respondents have installed at least 20 groundwater monitoring wells and piezometers at or near the Landfill boundary to test for contaminants that may migrate from the Landfill. Ten (10) wells were designed to monitor groundwater at Parcel A, and ten (10) wells were designed for groundwater monitoring of Parcel B. The Illinois Environmental Protection Agency ("Illinois EPA") approved the number, design, and location of these groundwater monitoring wells, as further described in Paragraph 12 of Count I, and Paragraph 15 of Count III.

ANSWER: Respondent City of Morris denies that it has installed any groundwater monitoring wells or piezometers at or near the Landfill boundary to test for contaminants that may migrate from the Landfill. The Respondent City of Morris admits the balance of the allegations set forth in paragraph 6 of Count I of the Complaint.

7. Prior to and on April 18, 2007, the Respondents intermittently collected groundwater samples from the 20 groundwater monitoring wells to test for contaminant migration, and submitted groundwater monitoring reports to Illinois EPA.

ANSWER: Respondent City of Morris denies the allegations set forth in paragraph 7 of Count I of the Complaint, and affirmatively states that samples were collected on February 2, 2007, with the results of the same being submitted to the Illinois EPA on or about April 18, 2007.

8. From at least July 15, 2007 to the date of filing this complaint, the Respondents have failed to perform quarterly and annual groundwater testing, and failed to submit test results to Illinois EPA.

ANSWER: Respondent City of Morris denies the allegations set forth in paragraph 8 of the Complaint, and further affirmatively states that it is under no legal obligation to perform quarterly an annual groundwater testing and submit test results to the Illinois EPA.

9. As owners and operators of the Morris Community Landfill, Morris and CLC are required by Section 21(d) of the Act, 415 ILCS 5/21(d) (2010), to apply for and obtain landfill permits, including operating, significant modification, and other municipal solid waste permits from Illinois EPA, Bureau of Land Pollution Control.

ANSWER: Respondent City of Morris denies the allegations set forth in paragraph 9 of Count I of the Complaint.

10. Morris applied for and obtained its first Illinois EPA permit for the Landfill in 1974. As of the date of filing this complaint, Morris has applied for and obtained at least forty nine (49) permits for the Landfill from the Illinois EPA, Bureau of Land. Morris has obtained thirty nine (39) permits for Parcel B, and ten (10) permits for Parcel A.

ANSWER: Respondent City of Morris admits that it applied for and obtained its first Illinois EPA permit for the Landfill in 1974. The City denies the remaining allegations of paragraph 10 of the Complaint, and affirmatively states that the Illinois EPA approved the transfer of all permitted rights in the facility from the City to Morris Community Landfill in July of 1982.

11. CLC obtained its first permit for the Landfill from Illinois EPA, Bureau of Land Pollution Control, in 1982. Since 1982 CLC has applied for and obtained, jointly with Morris, thirty five (35) permits for Parcel B, and ten (10) permits for Parcel A.

ANSWER: Respondent City of Morris admits that CLC obtained its first permit for the Landfill from Illinois EPA, Bureau of Land Pollution Control, in 1982 subsequent to Illinois

EPA's approval of transfer of all permitted rights in the facility from the City of Morris to CLC in 1982. The City denies the remaining allegations of paragraph 11 of Count I of the Complaint.

12. On April 25, 2007, Illinois EPA issued Permit No. 2000-155-LFM, Modification No. 9 ("2007 Parcel A Permit") to Morris, as owner, and CLC, as operator. The 2007 Parcel A Permit covers Parcel A of the Landfill. The 2007 Parcel A Permit incorporates the groundwater monitoring wells referenced in paragraph 7 of this Count as part of the Landfill's required groundwater monitoring program.

ANSWER: Respondent City of Morris admits that on April 25, 2007 Illinois EPA issued Permit No. 2000-155-LFM, Modification No. 9 (Parcel A Permit) which included the City of Morris' name as Owner and CLC as Operator. The City further affirmatively states that Illinois EPA approved the transfer of all permitted rights in the facility from the City of Morris to CLC in 1982. The City admits the balance of the allegations contained in paragraph 12 of Count I of the Complaint.

13. Condition VIII.10 of the 2007 Parcel A Permit provides, in pertinent part, as follows:

The monitoring program, approved by Permit No. 2000-155-LFM, shall continue for a minimum period of thirty (30) years after closure and shall not cease until the conditions described in 35 Ill. Adm. Code, 811.319(a)(1)(C) have been achieved. The operator shall collect samples from all of the monitoring points listed in Condition VIII.9, test the samples for the parameters listed in Condition VIII.12 (Lists G1 and G2), and report the results to the Illinois EPA, all in accordance with the schedule in Condition VIII.17...

ANSWER: Respondent the City of Morris admits the allegations set forth in paragraph 13 of Count I of the Complaint, and further affirmatively states that this condition requires the *Operator* to collect appropriate samples as provided for in this condition.

14. Condition VIII.12 of the 2007 Parcel A Permit provides, in pertinent part, as follows:

* * *

List G1 (Groundwater-Quarterly)

<u>FIELD PARAMETERS</u>	<u>STORETS</u>	<u>MAPC/AGOS</u>
Ph	00400	6.12-8.14
Specific Conductance	0094	2,111.40

* * *

<u>INDICATOR PARAMETERS</u>	<u>STORETS</u>	<u>MAPC/AGOS</u>
Ammonia (as Nitrogen; Dissolved mg/L	00608	3.9224
Arsenic (Dissolved) ug/L	01000	23.8
Boron (Dissolved) ug/L	01020	1564.2

* * *

List G2 (Groundwater-Annual)

<u>PARAMETERS</u>	<u>STORETS</u>	<u>MAPC/AGO</u>
<u>UNFILTERED (totals)</u>		
Acetone	81552	100
Acrolein	34210	5
Acrlonitrile	34215	5

* * *

ANSWER: Respondent City of Morris admits the allegations set forth in paragraph 14 of Count I of the Complaint. Respondent City of Morris further affirmatively states that, as set forth and alleged by the State in paragraph 13 of Count I of its Complaint, the obligations set forth herein apply, as a matter of law, only to the Operator of the facility.

15. Condition VIII.17 of the 2007 Parcel A Permit provides, in pertinent part, as follows:

The schedule for sample collection and submission of quarterly monitoring results is as follows:

<u>Sampling Quarter</u>	<u>Sampling Due</u>	<u>Report Due Date</u>
Jan-Feb (1 st)	List G1	April 15

April-May (2d)	List G1 and G2	July 15
July-Aug (3d)	List G1	October 15
Oct-Nov (4 th)	List G1	January 15

G1-Routine Groundwater Parameters
G-2 Annual Groundwater Parameters

* * *

ANSWER: Respondent City of Morris admits the allegations set forth in paragraph 15 of Count I of the Complaint. Respondent City of Morris further affirmatively states that, as set forth and alleged by the State in paragraph 13 of Count I of its Complaint, the obligations set forth herein apply, as a matter of law, only to the Operator of the facility.

16. Section 21(d)(1) of the Act, 415 ILCS 5/21 (2010), provides, in pertinent part, as follows:

No person shall:

* * *

(d) Conduct any waste storage, waste treatment, or waste disposal operation:

- 1) Without a permit granted by the agency or in violation of any conditions imposed by such permit, including periodic reports and full access to adequate records and the inspection of facilities, as may be necessary to assure compliance with this Act and with regulations and standards adopted thereunder;

ANSWER: Respondent City of Morris admits that paragraph 16 includes a correct rendition of certain verbiage set forth in Section 21(d)(1) of the Act, but denies that it is a "person" subject to the terms and conditions of this Section.

17. Section 3.315 of the Act, 415 ILCS 5/3.315(2010), provides, as follows:

"Person" is any individual, partnership, co-partnership, firm, company, limited liability company, corporation, association, joint stock company, trust, estate, political subdivision, state agency, or any other legal entity, or their legal representative, agent or assigns.

ANSWER: Respondent City of Morris admits that paragraph 17 includes a correct rendition of certain verbiage set forth in Section 21(d)(1) of the Act, but denies that it is a “person” subject to the terms and conditions of this Section.

18. The Respondents are “person[s]” as that term is defined in Section 3.315 of the Act, 415 ILCS 5/3.315 (2020).

ANSWER: Respondent City of Morris admits that it is a “person” as that term is defined by Section 3.315 of the Act 415 ILCS 5/3.315 (2010), but denies that it is a “person” liable for performance of any of the obligations alleged by the State in its Complaint.

19. The Respondents were required under the 2007 Parcel A Permit to collect and test samples from groundwater monitoring wells at the Landfill on a quarterly basis for the parameters listed in Condition VIII.12.G1, and on an annual basis for the parameters listed in Condition VIII.12.G2, and to report results to Illinois EPA according to the schedule contained in Condition VIII.17.

ANSWER: Respondent City of Morris denies that it was required by 2007 Parcel A Permit to collect and test samples as alleged in paragraph 19 of Count I of the Complaint, and further affirmatively states that, as set forth and alleged by the State in paragraph 13 of Count I of its Complaint, the obligations set forth herein, apply, as a matter of law, only to the Operator of the facility.

20. By failing to collect samples, perform testing, and report results to Illinois EPA at any time from July 15, 2007 to the date of filing this Complaint, the Respondents violated Conditions VIII.10, VIII.12, and VIII.17 of the 2007 Parcel A Permit, and thereby also violated Section 21(d)(1) of the Act, 415 ILCS 5/21(d)(1)(2010).

ANSWER: Respondent City of Morris denies that it has violated the permit conditions and statutory provisions set forth in paragraph 20 of Count I of the Complaint, and further

affirmatively states that, as set forth and alleged by the State in paragraph 13 of Count I of its Complaint, the obligations set forth herein, apply, as a matter of law, only to the Operator of the facility.

WHEREFORE, City of Morris respectfully request that the Board enter an Order dismissing Count I of the State's Complaint, all at the cost of the Complainant, and for such other and further relief as the Board deems appropriate and just.

COUNT II
FAILURE TO PERFORM GROUNDWATER MONITORING ASSESSMENT ON
PARCEL A MONITORING WELLS

1-15. Complainant realleges and incorporates by reference herein paragraphs 1 through 12, and paragraphs 16 through 18, of Count I, as paragraphs 1 through 15 of this Count II.

ANSWER: Respondent City of Morris realleges and incorporates by reference herein its answers to paragraph 1-12, and paragraphs 16-18 of Count I as paragraphs 1-15 of Count II of the State's Complaint.

16. From at least October 1, 2006 to the date of filing this Complaint, the Respondents have failed to perform a groundwater monitoring assessment on the groundwater monitoring wells installed for Parcel A of the Landfill.

ANSWER: Respondent City of Morris admits that the permitted operator of the facility (CLC) has failed to perform a groundwater monitoring assessment on the groundwater monitoring wells installed for Parcel A of the permit, but denies that it is liable for performance of such assessment, and further affirmatively states that, as set forth and alleged by the State in paragraph 13 of Count I of its Complaint, the obligations set forth herein, apply, as a matter of law, only to the Operator of the facility..

17. From October 15, 2007 to the date of filing this Complaint, the Respondents have failed to report the results of a groundwater monitoring assessment to Illinois EPA, and failed to submit an application for significant modification of the 2007 Parcel A Permit.

ANSWER: Respondent City of Morris admits that the Respondent CLC, the permitted operator of the facility, has failed to report the results of a groundwater monitoring assessment to Illinois EPA and has failed to submit an application for significant modification of the 2007 Parcel A Permit, but denies that it is required by the terms of the permit or applicable law in this case to undertake these actions, and further affirmatively states that, as set forth and alleged by the State in paragraph 13 of Count I of its Complaint, the obligations set forth herein, apply, as a matter of law, only to the Operator of the facility.

18. Condition VIII.27 of the 2007 Parcel A Permit provides, in pertinent part, as follows:

The operator shall conduct the groundwater monitoring assessment program for wells G120 (total ammonia, dissolved ammonia, dissolved chloride, and total chloride), G121 (total ammonia, dissolved ammonia, and total potassium)...beginning 4th Quarter 2006 and ending 3dQuarter 2007, as proposed in Log Nos. 2006-139, 2006-265, and 2006-402. Groundwater monitoring wells shall be monitored in accordance with the schedule proposed in Log No. 2006-402.

* * *

The operator shall submit the results of the assessment monitoring program to the Illinois EPA in the form of a significant modification application by October 15, 2007. The application shall include, at a minimum, available historical data and analyses for the constituents of concern, 40 CFR 258 Appendix II results, and conclusions demonstrating whether the exceeding parameter concentrations in Parcel A wells are attributable to the facility. If the facility is determined to be the source of impacts, the application shall include a proposal for further assessment in accordance with 35 Ill. Adm. Code 811.319(b)(3).

ANSWER: Respondent City of Morris admits the allegations set forth in paragraph 18 of Count I of the Complaint. Respondent City of Morris further affirmatively states that, as set

forth and alleged by the State in paragraph 13 of Count I of its Complaint, the obligations set forth herein apply, as a matter of law, only to the Operator of the facility.

19. By failing to conduct a groundwater monitoring assessment of the wells designated for the contaminants specified in Condition VIII.27 of the 2007 Parcel A Permit, and by failing to submit the results in a significant modification application by October 15, 2007, the Respondents violated condition VIII.27 of the 2007 Parcel A Permit, and thereby also violated Section 21(d)(1) of the Act, 415 ILCS 5/21(d)(1) (2010).

ANSWER: Respondent City of Morris admits that the Respondent CLC has violated the terms of the 2007 Parcel A Permit set forth in paragraph 19 of Count II of the Complaint, as well as Section 21(d)(1) of the Act, 415 ILCS 5/21(d)(1) 2010, but the City denies that it is responsible for the undertaking of any such actions or tasks, and further affirmatively states that, as set forth and alleged by the State in paragraph 13 of Count I of its Complaint, the obligations set forth herein, apply, as a matter of law, only to the Operator of the facility. of the permit set forth in paragraph 19 of Count II of the Complaint, or Section 21(d)(1) of the Act.

WHEREFORE, City of Morris, respectfully requests that the Board enters an Order dismissing Count II of the Complaint, all at the cost of the Complainant, and for such other and further relief as the Board deems appropriate and just.

2. VIOLATIONS OF PERMIT NO. 2000-156-LFM, MODIFICATION NO. 9

COUNT III
FAILURE TO PERFORM GROUNDWATER TESTING ON PARCEL B

1-14. Complainant realleges and incorporates by reference herein paragraphs 1 through 11, and paragraphs 16 through 18 of Count I, as paragraphs 1 through 14 of this Count III.

ANSWER: Respondent City of Morris realleges and incorporates by reference herein its answers to paragraphs 1-11 and paragraphs 16 and 18 of Count I as paragraphs 1-14 of its answer to this Count III.

15. On April 25, 2007, Illinois EPA issued Permit No. 2000-156-LFM. Modification No. 9("2007 Parcel B Permit") to Morris, as owner, and CLC, as operator. The 2007 Parcel B Permit covers Parcel B of the Landfill. The 2007 Parcel B Permit incorporates the groundwater monitoring wells referenced in paragraph 6 of Count I as part of the Landfill's required groundwater monitoring program.

ANSWER: Respondent City of Morris admits that on April 25, 2007 Illinois EPA issued Permit No. 2000-155-LFM, Modification No. 9 (Parcel A Permit) which included the City of Morris' name as Owner and CLC as Operator. The City further affirmatively states that Illinois EPA approved the transfer of all permitted rights in the facility from the City of Morris to CLC in 1982. The City admits the balance of the allegations contained in paragraph 12 of Count I of the Complaint. **(NOTE: REVIEW ANSWER)**

16. Condition VIII.10 of the 2007 Parcel B Permit provides, in pertinent part, as follows:

The monitoring program, approved by Permit No. 2000-156-LFM, shall continue for a minimum period of thirty (30) years after closure and shall not cease until the conditions described in 35 Ill.Adm.Code, 811.319(a)(1)(C) have been achieved. The operator shall collect samples from all of the monitoring points listed in Condition VII.9, test the samples for the parameters listed in Condition VII.12 (lists G1 and G2), and report the results to the Illinois EPA, all in accordance with the schedule in Condition VII.17...

ANSWER: Respondent City of Morris admits the allegations set forth in paragraph 16 of Count III of the Complaint. Respondent City of Morris further affirmatively states that, as set forth and alleged by the State in paragraph 13 of Count I of its Complaint, the obligations set forth herein apply, as a matter of law, only to the Operator of the facility.

17. Condition VII.12 of the 2007 Parcel B Permit provides, in pertinent part, as follows:

* * *

List G1 (Groundwater-Quarterly)

FIELD PARAMETERS	STORETS	MAPC/AGOS
Ph	00400	5.87-8.44
Specific Conductance	0094	2,380.7

* * *

INDICATOR PARAMETERS	STORETS	MAPC/AGOS
Depth to Water (ft. below land surface)	72019	----
Depth to Water (ft. below measuring point)	72109	----

* * *

List G2 (Groundwater-Annual)

PARAMETERS	STORETS	MAPC/AGOS
<u>UNFILTERED (totals)</u>		
Acetone	81552	100
Acrolein	34210	5
Acrlonitrile	34215	5

* * *

ANSWER: Respondent City of Morris admits the allegations set forth in paragraph 17 of Count I of the Complaint. Respondent City of Morris further affirmatively states that, as set forth and alleged by the State in paragraph 13 of Count I of its Complaint, the obligations set forth herein apply, as a matter of law, only to the Operator of the facility.

18. Condition VII.17 of the 2007 Parcel B Permit provides, in pertinent part, as follows:

The schedule for sample collection and submission of quarterly monitoring results is as follows:

<u>Sampling Quarter</u>	<u>Sampling Due</u>	<u>Report Due Date</u>
Jan-Feb (1 st)	List G1	April 15
April-May (2d)	List G1 and G2	July 15
July-Aug (3d)	List G1	October 15
Oct-Nov (4 th)	List G1	January 15

G-1 Routine Groundwater Parameters

G2-Annual Groundwater Parameters

* * *

ANSWER: Respondent City of Morris admits the allegations set forth in paragraph 18 of Count I of the Complaint. Respondent City of Morris further affirmatively states that, as set forth and alleged by the State in paragraph 13 of Count I of its Complaint, the obligations set forth herein apply, as a matter of law, only to the Operator of the facility.

19. The Respondents were required under the 2007 Parcel B Permit to collect and test samples from groundwater monitoring wells at the Landfill on a quarterly basis for parameters listed in Condition VII.12.G1, and on an annual basis for the parameters listed in Condition VII.12.G2, and required to report results to Illinois EPA according to the schedule contained in Condition VII.17.

ANSWER: Respondent City of Morris denies that it was required under 2007 Parcel B Permit to collect and test samples from groundwater monitoring wells in the manner and form alleged by the State in paragraph 19 of Count III of its Complaint, and further affirmatively states that, as set forth and alleged by the State in paragraph 13 of Count I of its Complaint, the obligations set forth herein, apply, as a matter of law, only to the Operator of the facility.

20. By failing to collect samples, perform testing, and report results to Illinois EPA at any time from July 15, 2007 to the date of filing this complaint, the Respondents violated Conditions VII.10, VII.12, and VII.17 of the 2007 Parcel B Permit, and thereby also violated Section 21(d)(1) of the Act, 415 ILCS 5/21(d)(1) (2010).

ANSWER: Respondent City of Morris denies that it was required under 2007 Parcel B Permit to collect and test samples from groundwater monitoring wells in the manner and form alleged by the State in paragraph 20 of Count III of its Complaint, and further affirmatively states

that, as set forth and alleged by the State in paragraph 13 of Count I of its Complaint, the obligations set forth herein, apply, as a matter of law, only to the Operator of the facility.

WHEREFORE, City of Morris, respectfully requests that the Board enters an Order dismissing Count III of the Complaint, all at the cost of the Complainant, and for such other and further relief as the Board deems appropriate and just.

COUNT IV
FAILURE TO PERFORM GROUNDWATER MONITORING ASSESSMENT ON
PARCEL B MONITORING WELLS

1-15. Complainant realleges and incorporates by reference herein paragraphs 1 through 15 of Count III as paragraphs 1 through 15 of this Count IV.

ANSWER: Respondent City of Morris realleges and incorporates by reference herein its answers to paragraphs 1-15 of Count III as its answers to paragraphs 1-15 of Count IV.

16. From at least October 1, 2006 to the date of filing this Complaint, the Respondents have failed to perform a groundwater monitoring assessment on the groundwater monitoring wells installed for Parcel B of the Landfill.

ANSWER: Respondent City of Morris denies that it is required to perform groundwater monitoring assessment on the monitoring wells installed for Parcel B of the Landfill (CLC), and as specifically alleged herein by the State of Illinois, in paragraph 13 of Count I of its Complaint, the terms and conditions of the permit in question place the obligation for performance of such assessment solely upon the Operator of the Landfill (CLC).

17. From October 15, 2007 to the date of filing this Complaint, the Respondent CLC has failed to report the results of a groundwater monitoring assessment to Illinois EPA, and failed to submit an application for significant modification of the 2007 Parcel B Permit.

ANSWER: Respondent City of Morris denies that it is responsible for reporting the results of the groundwater monitoring assessment to Illinois EPA and submission of an

application for significant modification of the 2007 Parcel B Permit and further affirmatively states that as specifically alleged herein by the State of Illinois, in paragraph 13 of Count I of its Complaint, the terms and conditions of the permit in question place the obligation for performance of such assessment solely upon the Operator of the Landfill (CLC).

18. Condition VII.26 of the 2007 Parcel B Permit provides, in pertinent part, as follows:

The operator shall conduct the groundwater monitoring assessment program for wells G130 (total ammonia, dissolved ammonia, dissolved chloride, and total nickel), G131 (total ammonia, dissolved ammonia, total chloride, dissolved chloride, specific conductance, dissolved boron, and total nickel)...beginning 4th Quarter 2006 and ending 3d Quarter 2007, as proposed in Log Nos. 2006-139, 2006-266, and 2006-403. Groundwater monitoring wells shall be monitored in accordance with the schedule proposed in Log N. 2006-403.

* * *

The operator shall submit the results of the assessment monitoring program to the Illinois EPA in the form of a significant modification application by October 15, 2007. The application shall include, at a minimum, available historical data and analyses for the constituents of concern, 40 CFR 258 Appendix II results, and conclusions demonstrating whether the exceeding parameter concentrations in Parcel B wells are attributable to the facility. If the facility is determined to be the source of impacts, the application shall include a proposal for further assessment in accordance with 35 Ill.Adm.Code 811.319(b)(3).

ANSWER: Respondent City of Morris admits the allegations set forth in paragraph 18 of Count IV of the Complaint. Respondent City of Morris further affirmatively states that, as set forth and alleged by the State in paragraph 13 of Count I of its Complaint, the obligations set forth herein apply, as a matter of law, only to the Operator of the facility

19. By failing to conduct a groundwater monitoring assessment of the wells designated, and for the contaminants specified in Condition VII.26 of the 2007 Parcel B Permit, and by failing to submit the results and remedial plan in a significant modification application by October 15, 2007, the Respondents violated condition VII.26 of the 2007 Parcel B Permit, and thereby also violated Section 21(d)(1) of the Act, 415 ILCS 5/21(d)(1) (2010).

ANSWER: Respondent City of Morris denies that it has violated Condition VII.26 of the 2007 Parcel B Permit and has thereby also violated Section 21(d)(1) of the Act, 415 ILCS 5/21(d)(1) (2010), and further affirmatively states that, as specifically alleged herein by the State of Illinois in paragraph 13 of Count I of its Complaint, the terms and conditions of the Permit in question apply, as a matter of law, solely to the Operator of Parcel B of the Landfill (CLC).

WHEREFORE, City of Morris, respectfully requests that the Board enters an Order dismissing Count III of the Complaint, all at the cost of the Complainant, and for such other and further relief as the Board deems appropriate and just.

**AFFIRMATIVE DEFENSE NUMBER ONE
TRANSFER OF PERMITTED RIGHTS TO CLC / CITY OF MORRIS NOT AN
“OPERATOR”**

1. On July 1, 1982, the City of Morris, Illinois, a municipal corporation, and Community Landfill Company (“CLC”), an Illinois corporation, entered into a Lease Agreement (“Lease”) whereby the City of Morris leased to CLC the land commonly known as the Morris Community Landfill, in order for CLC to use said land exclusively during the term of said Lease for the sole purpose of operating a regional pollution control facility in accordance with and pursuant to all laws, rules and regulations promulgated and adopted by all agencies of the federal, state and county governments, including the Illinois Environmental Protection Agency (“IEPA”). A copy of the Lease is attached hereto as Exhibit B.

2. Pursuant to the terms of the Lease, the City of Morris transferred all permitted rights for operation of the facility to CLC. IEPA approved transfer of all such permitted rights in the facility from the City to CLC in July of 1982. A true and accurate copy of such approval marked Exhibit B and attached hereto and incorporated by this reference. The terms of the Lease made clear that CLC’s obligation for the payment of any rent under the terms of the Lease was contingent upon CLC receiving an operating permit for the use of the facility as a Class II

sanitary landfill under and pursuant to the terms, provisions, rules and regulations of the IEPA. See Section VIII of Lease.

3. Pursuant to the terms of the Lease, CLC agreed to assume all responsibility for the operation of the Landfill.

4. On April 25, 2007, IEPA issued Permit No. 2000-155-LFM, Modification No. 9 (“2007 Parcel A Permit”) to Morris, as owner, and CLC, as operator, of the Landfill.

5. Condition VIII.10 of the 2007 Parcel A Permit, as set forth in paragraph 13 of Count I of the State’s Complaint, makes clear that, “The *operator* shall collect samples from all of the monitoring points listed in Condition VIII.9, test the samples for the parameters listed in Condition VIII.12 (lists G1 and G2), and report the results to the Illinois EPA....” (Emphasis added).

6. Condition VIII.10 of the 2007 Parcel A Permit placed no condition upon the City of Morris.

7. By the transfer of all permitted rights for operation of the Landfill to CLC, and the terms of the Permit relied upon by the State in Count I of the Complaint, the City of Morris, which is not the operator of the Landfill, is not and cannot be held liable for failure to perform groundwater testing on Parcel A of the Landfill.

8. Inasmuch as the City of Morris was under no obligation, under the terms of the 2007 Parcel A Permit, to collect samples, perform testing, and report results to IEPA at anytime from July 15, 2007, to the date of the State’s filing of the Complaint, the City of Morris did not violate Conditions VIII.10, VIII.12, or VIII.17 of the 2007 Parcel A Permit, and thus did not violate Section 21(d)(1) of the Act.

WHEREFORE, Respondent the City of Morris respectfully requests that the Board enter an Order that the City of Morris did not violate Conditions VIII.10, VIII.12, or VIII.17 of the

2007 Parcel A Permit, and thus did not violate Section 21(d)(1) of the Act, as alleged in Count I of the Complaint.

AFFIRMATIVE DEFENSE NUMBER TWO
TRANSFER OF PERMITTED RIGHTS TO CLC / CITY OF MORRIS NOT AN
“OPERATOR”

1-4. Respondent City of Morris repeats paragraphs 1 through 4 of Affirmative Defense Number One as if fully stated herein.

5. Condition VIII.27 of the 2007 Parcel A Permit, as set forth in paragraph 18 of Count II of the State’s Complaint, provides, in pertinent part, that, “The *operator* shall conduct the groundwater monitoring assessment program for wells G120 [and] ... G121 ... beginning 4th Quarter 2006 and ending 3d Quarter 2007....” (Emphasis added).

6. Condition VIII.27 of the 2007 Parcel A Permit, as further set forth in paragraph 18 of the State’s Complaint, provides, in pertinent part, that, “The *operator* shall submit the results of the assessment monitoring program to the Illinois EPA in the form of a significant modification application by October 15, 2007.” (Emphasis added).

7. Condition VIII.27 of the 2007 Parcel A Permit placed no condition upon the City of Morris.

8. By the transfer of all permitted rights for operation of the Landfill to CLC, and the terms of the Permit relied upon by the State in Count II of the Complaint, the City of Morris, which is not the operator of the Landfill, is not and cannot be held liable for failure to perform groundwater monitoring assessment on Parcel A monitoring wells.

9. Inasmuch as the City of Morris was under no obligation, under the terms of the 2007 Parcel A Permit, to perform a groundwater monitoring assessment on the groundwater monitoring wells installed for Parcel A of the Landfill, or to report the results of said assessments to the IEPA, or to submit an application for significant modification of the 2007 Parcel A Permit,

at anytime from October 1, 2006, to the date of the State's filing of the Complaint, the City of Morris did not violate Condition VIII.27 of the 2007 Parcel A Permit, and thus did not violate Section 21(d)(1) of the Act.

WHEREFORE, Respondent the City of Morris respectfully requests that the Board enter an Order that the City of Morris did not violate Condition VIII.27 of the 2007 Parcel A Permit, and thus did not violate Section 21(d)(1) of the Act, as alleged in Count II of the Complaint.

**AFFIRMATIVE DEFENSE NUMBER THREE
TRANSFER OF PERMITTED RIGHTS TO CLC / CITY OF MORRIS NOT AN
"OPERATOR"**

1-3. Respondent City of Morris repeats paragraphs 1 through 4 of Affirmative Defense Number One as if fully stated herein.

4. On April 25, 2007, IEPA issued Permit No. 2000-156-LFM, Modification No. 9 ("2007 Parcel B Permit") to the City of Morris, as owner, and CLC, as operator, of the Landfill.

5. Condition VIII.10 of the 2007 Parcel B Permit, as set forth in paragraph 16 of Count III of the State's Complaint, makes clear that, "The *operator* shall collect samples from all of the monitoring points listed in Condition VIII.9, test the samples for the parameters listed in Condition VIII.12 (lists G1 and G2), and report the results to the Illinois EPA...." (Emphasis added).

6. Condition VIII.10 of the 2007 Parcel B Permit placed no condition upon the City of Morris.

7. By the transfer of all permitted rights for operation of the Landfill to CLC, and the terms of the Permit relied upon by the State in Count III of the Complaint, the City of Morris, which is not the operator of the Landfill, is not and cannot be held liable for failure to perform groundwater testing on Parcel B of the Landfill.

8. Inasmuch as the City of Morris was under no obligation, under the terms of the 2007 Parcel B Permit, to collect samples, perform testing, and report results to IEPA at anytime from July 15, 2007, to the date of the State's filing of the Complaint, the City of Morris did not violate Conditions VIII.10, VIII.12, or VIII.17 of the 2007 Parcel B Permit, and thus did not violate Section 21(d)(1) of the Act.

WHEREFORE, Respondent the City of Morris respectfully requests that the Board enter an Order that the City of Morris did not violate Conditions VIII.10, VIII.12, or VIII.17 of the 2007 Parcel B Permit, and thus did not violate Section 21(d)(1) of the Act, as alleged in Count III of the Complaint.

**AFFIRMATIVE DEFENSE NUMBER FOUR
TRANSFER OF PERMITTED RIGHTS TO CLC / CITY OF MORRIS NOT AN
"OPERATOR"**

1-4. Respondent City of Morris repeats paragraphs 1 through 4 of Affirmative Defense Number Three as if fully stated herein.

5. Condition VIII.27 of the 2007 Parcel B Permit, as set forth in paragraph 18 of Count IV of the State's Complaint, provides, in pertinent part, that, "The *operator* shall conduct the groundwater monitoring assessment program for wells G120 [and]... G121 ... beginning 4th Quarter 2006 and ending 3d Quarter 2007...." (Emphasis added).

6. Condition VIII.27 of the 2007 Parcel B Permit, as further set forth in paragraph 18 of the State's Complaint, provides, in pertinent part, that, "The *operator* shall submit the results of the assessment monitoring program to the Illinois EPA in the form of a significant modification application by October 15, 2007." (Emphasis added).

7. Condition VIII.27 of the 2007 Parcel B Permit placed no condition upon the City of Morris.

8. By the transfer of all permitted rights for operation of the Landfill to CLC, and the terms of the Permit relied upon by the State in Count IV of the Complaint, the City of Morris, which is not the operator of the Landfill, is not and cannot be held liable for failure to perform groundwater monitoring assessment on Parcel B monitoring wells.

9. Inasmuch as the City of Morris was under no obligation, under the terms of the 2007 Parcel B Permit, to perform a groundwater monitoring assessment on the groundwater monitoring wells installed for Parcel B of the Landfill, or to report the results of said assessments to the IEPA, or to submit an application for significant modification of the 2007 Parcel B Permit, at anytime from October 1, 2006, to the date of the State's filing of the Complaint, the City of Morris did not violate Condition VIII.27 of the 2007 Parcel B Permit, and thus did not violate Section 21(d)(1) of the Act.

WHEREFORE, Respondent the City of Morris respectfully requests that the Board enter an Order that the City of Morris did not violate Condition VIII.27 of the 2007 Parcel B Permit, and thus did not violate Section 21(d)(1) of the Act, as alleged in Count IV of the Complaint.

Dated: June 1, 2011

Respectfully submitted,

On behalf of HAMMAN FARMS

/s/ Charles F. Helsten

One of Its Attorneys

Charles F. Helsten
Richard S. Porter
Hinshaw & Culbertson LLP
100 Park Avenue
P.O. Box 1389
Rockford, IL 61105-1389
815-490-4900

Scott M. Belt
Scott M. Belt & Associates, P.C.
105 E. Main Street

Suite 206
Morris, IL 60450
(815) 941-4675



APPLICATION FOR PERMIT TRANSFER

All information submitted as part of the Application is available to the public except when specifically designated by the Applicant to be treated confidentially as regarding a trade secret or secret process in accordance with Section 7(a) of the Environmental Protection Act.

APPLICATION MUST BE SUBMITTED IN DUPLICATE

DO NOT WRITE IN THIS SPACE - FOR E.P.A. USE ONLY

Grundy COUNTY - LAND POLLUTION CONTROL

Morris Municipal/Municipal Region Northern

Application Received: 29 June 1982

Reviewed by: L.J Withers Permit No. 1974-22

Operating Permit Transfer

Date 7/30/82 Date _____

Granted YES Denied _____

Thomas E. Cavanaugh
Manager, Land Permit Section

PART I -- APPLICANT INFORMATION

A. SITE IDENTIFICATION

1. Name of Applicant COMMUNITY LANDFILL CO.
(Person responsible for operation)

2. Address of Applicant 25 N. Ottawa St.
(Street, P.O. Box, or R.R. #)

Joliet Illinois 60431
City State Zip Code

Telephone: 815/726-2767 or 815/726-7407
(Area Code) (Number)

3. Name of Land Owner CITY OF MORRIS
(If same as above, so indicate)

4. Address of Land Owner 320 Wauponsee St.
(Street, P.O. Box, or R.R. #)

Morris Illinois 60450
City State Zip Code

RECEIVED

JUN 29 1982

E.P.A. - D.L.P.C.
STATE OF ILLINOIS

5. Name of Site COMMUNITY LANDFILL CO.
CITY OF MORRIS LANDFILL

6. Address of Site Ashley Road
 (Street, P.O. Box, or R.R. #)

Morris Illinois 60450
 City State Zip Code

7. Land Ownership (Check Applicable Boxes)

() Presently Owned by Applicant
 () To Be Purchased by Applicant
 (x) To Be Leased by Applicant For 17 Years
 () _____ Years of Lease Remaining: termination date of lease

Operated by: Ill. Corporation (x) Partnership () Government ()
 Individual () Other ()

B. SITE BACKGROUND

8. This is an existing operation begun July 30 (mo.) 1976 (yr.)

9. This is a proposed transfer of an existing permit:
 Illinois-E.P.A. Permit No. 1974-22-0P
 Supplemental Permit No. (List all) 78 - 1148
1980 - 160

PART II

The applicant reaffirms and adopts the information provided by the transferor in the original application for Permit (Parts II-VI) and all supplemental permits. (No change is permitted. Any such change must be the subject of a supplemental Permit Application).

RECEIVED
 JUN 29 1982
 E.P.A. — D.L.P.C.
 STATE OF ILLINOIS

I hereby affirm that all information contained in this Application is true and accurate to the best of my knowledge and belief.

Signature of Applicant: [Signature] 6/28/82
Date

Attest: [Signature] 6/28/82
Date

Signature of ^{MAYOR} Landowner(s): James R. Washburn 6/28/82
Date

Attest: [Signature] 6/28/82
Date

I hereby request that Permit No. 1974-22-0P and all supplemental permits listed in Part I, Section B-9 issued by the Illinois Environmental Protection Agency be transferred to the above named applicant.

Signature of Transferor: ^{MAYOR} James R. Washburn 6/28/82
Date

Attest: [Signature] 6/28/82
Date

TT:jb/5999A/1-4sp

RECEIVED

JUN 29 1982

E.P.A. — D.L.P.C.
STATE OF ILLINOIS



LEASE AGREEMENT

Lease made this 1st day of July, 1982, by and between THE CITY OF MORRIS, ILLINOIS, A Municipal Corporation, hereinafter referred to as "LESSOR", and COMMUNITY LANDFILL CO., An Illinois Corporation, of Joliet, Illinois, hereinafter referred to as "LESSEE".

W I T N E S S E T H :

WHEREAS, Lessor presently owns a parcel of property in Morris Township, Grundy County, Illinois, which is presently licensed as a sanitary landfill; and

WHEREAS, Lessee is in the business of operating regional pollution control facilities, more commonly known as sanitary landfills; and

WHEREAS, Lessee desires to lease from Lessor those premises hereinafter described, as a sanitary landfill; and

WHEREAS, Lessor and Lessee believe that it will be in their mutual interest to enter into this Lease Agreement.

NOW, THEREFORE, in consideration of the promises hereinabove set forth and the mutual covenants hereinafter contained, the parties do hereby agree as follows:

SECTION I

The Lessor in consideration of the rent hereinafter required

to be paid by Lessee and of the agreements hereinafter contained, does hereby lease to Lessee exclusively during the term hereof for the sole purpose of operating a regional pollution control facility in accordance with and pursuant to all laws, rules and regulations promulgated and adopted by all agencies of the federal, state and county governments, including the Illinois Environmental Protection Agency for a Class II landfill, that real estate belonging to the Lessor and described on the attached Exhibit A.

SECTION II

This Lease shall commence on the 1st day of July, 1982, and shall terminate on the 30th day of June, 1999, or at such earlier date as the demised premises have reached full capacity for the collection of Permit II waste, whichever date is earlier; subject, however, to Section XVI hereof.

SECTION III

After the issuance of a Class II operating permit by the Illinois Environmental Protection Agency, Lessee shall pay to the Lessor, and the Lessor agrees to accept therefore for the operation of such regional pollution control facility an annual minimum royalty of Fifteen Thousand (\$15,000.00) Dollars, the first payment to be made upon Lessee receiving its operating permit pursuant to Section VIII hereof, and thereafter on or

each year of this Lease. Lessee forthwith agrees that Lessor shall be entitled to a royalty in the amounts as follows:

- A. For a period from July 1, 1982, to June 30, 1983, the sum of \$0.08 per cubic yard of compacted material and \$0.02667 per cubic yard of uncompact material;
- B. For a period from July 1, 1983, to June 30, 1984, the sum of \$0.0824 per cubic yard of compacted material and \$0.02747 per cubic yard of uncompact material;
- C. For a period from July 1, 1984, to June 30, 1985, the sum of \$0.0849 per cubic yard of compacted material and \$0.02829 per cubic yard of uncompact material;
- D. For a period from July 1, 1985, to June 30, 1986, the sum of \$0.0874 per cubic yard of compacted material and \$0.02914 per cubic yard of uncompact material;
- E. For a period from July 1, 1986, to June 30, 1987, the sum of \$0.0900 per cubic yard of compacted material and \$0.03001 per cubic yard of uncompact material;
- F. For a period from July 1, 1987, to June 30, 1988, the sum of \$0.0927 per cubic yard of compacted material and \$0.03091 per cubic yard of uncompact material.

1/2 of 7/80

Thereafter Lessor shall be entitled to receive as a royalty per cubic yard of compacted material and per cubic yard of uncompact material an amount equal to the royalty paid for the period referred to in Paragraph F above multiplied by the following fraction in effect at the time the material is deposited.

1. For Compacted Material:

Lessee's dumping charge per cubic yard of compacted material charged to its customers at the time the yardage is deposited divided by Lessee's weighted average dumping charge per cubic yard of compacted material for the period set forth in Subparagraph F

above.

2. For Uncompacted Material:

Lessee's dumping charge per cubic yard of uncompacted material charged to its customers at the time the yardage is deposited divided by Lessee's weighted average dumping charge per cubic yard of uncompacted material for the period set forth in Subparagraph F above.

The denominator in the above fractions shall remain the same at all times but the numerator shall change whenever the dumping charge changes. Lessee shall be entitled to receive credit against the minimum annual royalty payment for yardage deposited until the yardage of material collected during any year exceeds the annual minimum royalty payment. Thereafter, any royalty amounts in excess of the minimum annual royalty shall be paid to Lessor within ten (10) days after the end of the first month and for each successive month thereafter that such yardage amounts deposited exceed the minimum annual royalty.

SECTION IV

During the term of this Lease, Lessee agrees to keep accurate books, records and invoices on all yardage of refuse deposited at the landfill site hereinbefore described. Within forty-five (45) days of the end of each annual term hereof, Lessee shall submit to Lessor a statement to be certified as correct, which sets forth the yardage of refuse authorized to be deposited under Illinois Environmental Protection Agency Permit

II upon Lessor's premises. Lessor may once in any calendar year cause an audit of the business of Lessee to be made by a certified public accountant of Lessor's own selection, and if the statements of yardage previously made by Lessee to Lessor shall be found to be less than the amount of Lessee's yardage as shown by such audit, Lessee shall immediately pay the cost of such audit, as well as the additional compensation therein shown to be payable by Lessee to Lessor; otherwise, the cost of such audit shall be paid by Lessor.

SECTION V

Lessee agrees to use consecutively numbered tickets for all dumping on the premises during the term of this Lease. Lessee further agrees to submit copies of all dumping tickets to Lessor monthly and to provide Lessor with access to its records during normal business hours.

SECTION VI

Lessee shall, with the prior written consent of Lessor, have the right, at its own expense, to construct buildings upon the premises for its own use at any time during the lease term and to make alterations to such buildings. Lessor assumes no liability of any kind for such construction or alterations to any contractor or subcontractor or laborer or materialmen. Such buildings constructed on the premises shall become a part of the

premises and shall belong to Lessor without compensation to Lessee at the expiration of this Lease. Such construction, alterations and additions may be made under the following conditions:

A. That the total market value of the premises shall not be lessened by reason of any such construction, alteration or addition.

B. That the work shall be done in a good and workmanlike manner.

C. That all such construction, additions and alterations shall be expeditiously completed in compliance with all legal requirements applicable thereto.

D. That all work done in connection with such construction, additions or alterations shall be done in accordance with the requirements of all fire prevention and building codes as may be applicable to the City of Morris and general public liability insurance for the benefit of Lessor and Lessee as their interests may appear, and shall be maintained by Lessee at all times when any such work is in progress in connection with such construction, additions or alterations.

E. Lessee will not permit any mechanic's liens or liens to be placed upon the premises or any building or improvement thereon during the term hereof, and in case of the filing of any such lien, Lessee will promptly pay the same. If default in

payment thereof shall continue for thirty (30) days after written notice thereof from Lessor to the Lessee, the Lessor shall have the right and privilege at Lessor's option of paying the same or any portion thereof with out inquiry as to the validity thereof, and any amount so paid, including expenses and interest, shall be so much additional indebtedness hereunder due from Lessee to Lessor and shall be repayed to Lessor immediately on rendition of a bill therefore.

SECTION VII

It is the understanding of the parties hereto that Lessee shall keep the lease premises insured as follows:

A. All insurance provided for in this Paragraph VII shall be procured by Lessee at its sole cost and expense under valid and enforceable standard form policies issued by insurance companies licensed to do business in the State of Illinois.

B. Lessee shall carry fire and extended coverage insurance on any buildings that it may construct upon the premises during the entire term of this Lease in an amount equal to at least eighty (80%) percent of the valuation of the buildings, land and all additions or improvements made thereon by either party, written by a reliable insurance company or companies authorized to do business in the State of Illinois. The policy shall be written in the names of and for the benefit of Lessor and Lessee as their respective interests may appear.

C. Lessee agrees to maintain in effect throughout the term of this Lease public liability insurance covering the demised premises and appurtenances utilized by it in the amount of Five Hundred Thousand (\$500,000.00) Dollars for injury to or death of any one person, One Million (\$1,000,000.00) Dollars for injury to or death of any number of persons in one occurrence, property liability insurance in the amount of One Hundred Thousand (\$100,000.00) Dollars, and an umbrella policy for liability for injury to person or property in the amount of \$2,000,000.00. Such insurance shall be the standard form liability policy and shall specifically insure Lessee against all liability assumed hereunder, as well as liability imposed by law, and shall insure both Lessor and Lessee. The insurance companies shall agree by endorsement on the policy or policies issued by it or by independent instruments furnished to the Lessor that it will give to the Lessor fifteen (15) days written notice before the policy or policies in question shall be altered or canceled. Premiums paid by Lessee on such liability insurance obtained by Lessee shall not be considered as additional rental under this Lease.

D. Lessee agrees to obtain workman's compensation insurance which shall provide coverage for all of its employees who work upon the demised premises in an amount of not less than the statutory requirements. Lessee agrees to submit to Lessor a certificate of insurance evidencing the fact that the Lessee has

secured such insurance. The insurance company shall agree to furnish to Lessor by endorsement on the policy or policies issued by it or by independent instruments that it will give to Lessor written notice before policy or policies in question shall be altered or canceled. Premiums paid by Lessee shall not be considered as an additional rental under this Lease.

E. Insurance claims by reason of damage or destruction to any portion of the leased premises shall be adjusted by Lessee and Lessor.

SECTION VIII

The parties hereto do hereby understand and agree that the use of the premises as a Class II permit regional pollution control facility requires the issuance of two permits by the Illinois Environmental Protection Agency. The first permit is referred to as a development permit. This permit allows the applicant to develop the demised premises in accordance with the rules and regulations of the agency in order to determine ultimately whether such site is suitable for use as a sanitary landfill. If the Environmental Protection Agency determines that such site is suitable, it will thereupon issue to the development permittee an Operating Permit. Lessor agrees to cooperate with Lessee, at no expense to Lessor, for the purpose of renewing the permits previously issued to Lessor. If it is required by the

Illinois Environmental Protection Agency, Lessor agrees to execute all applications and other documents that may be required to secure such permits. In addition, Lessor further agrees to execute all applications and other documentation that may be required by the County of Grundy to approve such site as a regional pollution control facility. Lessor and Lessee do hereby agree that Lessee's obligation for the payment of any rental under the terms of this Lease is contingent upon Lessee receiving an Operating Permit for the use of this facility as a Class II sanitary landfill under and pursuant to the terms, provisions, rules and regulations of the Illinois Environmental Protection Agency. In the event Lessee is unable to obtain such operating permit within ninety (90) days of the date of this Lease Agreement, such Agreement shall become null and void.

SECTION IX

Lessor further agrees to co-operate with Lessee in amending the Operating Permit previously issued to Lessor to permit above-grade fill on the site to a maximum height of forty-five (45) feet, rather than the present twenty-five (25) feet.

SECTION X

Lessee has examined and knows the condition of the premises and has received the same in good order and repair and acknowledges that no representations as to the condition and the

repair thereof have been made by Lessor, or their agents prior to or at the execution of this Lease that are not herein expressed. Lessor shall not be obligated to incur any expenses for repairing any improvements upon said demised premises or connected therewith, and Lessee at its own expense will keep the demised premises including all appurtenances in good repair and in compliance with all local rules, general regulations, laws, statutes and ordinances of all federal, state and county government having jurisdiction over the demised premises, including all rules and regulations of the Illinois Environmental Protection Agency. Lessee will, as far as possible, keep said improvements from deterioration due to ordinary wear and from falling temporarily out of repair. If Lessee does not make repairs as required hereto promptly and adequately Lessor may, but need not make, such repairs and the cost thereof, and such costs shall be so much additional rental immediately due from and payable by Lessee to Lessor. At the termination of this Lease, Lessee will cover the landfill site with materials approved by the Illinois Environmental Protection Agency.

SECTION XI

Lessor and Lessee do hereby agree that nothing contained herein shall be interpreted to convey any interest that Lessor may have in the mineral rights upon the demised premises to Lessee, and that Lessor shall have full and unrestricted right to

the use and benefit of such mineral rights; provided that during the term of this Lease any methane gas that may be generated as a result of the operation of the sanitary landfill shall be the sole and exclusive property of the Lessee.

SECTION XII

Lessee will pay in addition to the rent above specified all water rents, sewerage charges, gas and electric light and power bills taxes, levied or charged on the premises, for and during the time for which this Lease is granted, and in case water rents and bills for gas, electric light and power shall not be paid when due, Lessor shall have the right to pay the same, which amount so paid together with any sums paid by Lessor to keep the premises in a clean and healthy condition as above specified, are declared so much additional rent and payable with the installment of rent next due thereafter; provided that in no event shall Lessor be obligated for any water rents, sewerage charges, gas and electric light and power bills that may be taxed or levied or charged.

SECTION XIII

All operations shall be conducted in a safe and prudent manner, and it is agreed that should any dispute arise between Lessor and Lessee regarding the conduct of operations in a safe and prudent manner, such dispute shall be referred to the

Illinois Environmental Protection Agency for decision, such decision to be final and binding on both parties. In addition, Lessee will comply with all laws, rules and regulations of any governmental authority affecting Lessee's operations in the leased premises, and will on request, furnish Lessor with supporting evidence of such compliance.

SECTION XIV

Lessor acknowledges that Lessee intends to operate the landfill on the premises six (6) days per week, fourteen (14) hours per day, or such additional days and hours as the Lessee determines necessary. Lessor agrees not to adopt any ordinances, rules, regulations or other limitations affecting the ability of Lessee to operate the landfill less than six (6) days per week, fourteen (14) hours per day.

SECTION XV

Lessor acknowledges that it is Lessee's intention to attempt to acquire an additional parcel of real estate immediately adjacent to, and southeast of, the leased premises and consisting of approximately eighteen acres. If Lessee acquires said real estate, Lessee agrees to convey it to Lessor for a nominal consideration of Ten Dollars. Said parcel shall become part of the demised premises upon conveyance to Lessor and shall be subject to all of the terms and conditions of this Lease

Agreement.

SECTION XVI

Lessee agrees to accept all qualified waste collected from residents and commercial establishments of Lessor for deposit in the landfill operated on the premises for a period of fourteen (14) years from the date of this Agreement. Lessee shall be obligated to accept said waste regardless of the entity collecting the waste and delivering it to the landfill. This waste shall be received by Lessee at the same charges as applicable to other similar waste deposited in the landfill, which charges shall not be excessive.

Lessee agrees the City of Morris engineer shall monitor the use of the landfill by Lessee. In the event the City engineer shall determine that the capacity of the landfill is being utilized at a rate which could affect the ability of Lessee to accept Class II waste from the City of Morris for the fourteen year period above required, Lessor shall so notify Lessee and Lessee shall affirmatively show to Lessor its policy for future utilization of the landfill so as to establish its ability to satisfy Lessee's obligation to accept Class II waste from the City of Morris for the fourteen year period above required.

SECTION XVII

Each of the following events shall constitute a default or

breach of this Lease by Lessee:

A. If Lessee or any successor assignee of Lessee while in possession shall file a petition in bankruptcy or insolvency or for reorganization under any bankruptcy act or shall voluntarily take advantage of any such act by answer or otherwise.

B. If involuntary proceedings under any bankruptcy law or insolvency act shall be instituted against Lessee, or if a receiver or trustee shall be appointed for all or substantially all of the property of Lessee and such proceedings shall not be dismissed or the receivership or trusteeship vacated within thirty (30) days after the institution or appointment.

C. If Lessee shall fail to pay Lessor any rent or additional rent when the rent shall become due and shall not make the payment within thirty (30) days after notice thereof by Lessor to Lessee.

D. If Lessee shall fail to perform or comply with any of the conditions of this Lease and if the non-performance shall continue for a period of thirty (30) days after notice thereof by Lessor to Lessee, or if the performance cannot be reasonably had within the thirty (30) day period and Lessee shall not in good faith have commenced performance within the thirty (30) day period and shall not diligently proceed to completion of performance.

E. If Lessee shall vacate or abandon the lease premises.

F. .If Lessee fails to obtain an operating permit for a Class II landfill from the Illinois Environmental Protection Agency:

SECTION XVIII

In the event of any default hereunder as set forth in paragraph XVII, the rights of Lessor shall be as follows:

A. Lessor shall have the right to cancel and terminate this Lease as well as all of the right, title and interest of Lessee hereunder by giving to Lessee not less than five (5) days notice of cancellation and termination. On expiration of the time fixed in the notice this Lease and the right title and interest of Lessee hereunder shall terminate in the same manner and with the same force and effect, except as to Lessee's liability as if the date fixed in the notice of cancellation and termination were the end of the term herein originally determined.

B. Lessor may reenter the premises immediately and remove the property and personnel of Lessee and store the property in a public warehouse or a place selected by Lessor at the expense of Lessee. After reentry Lessor may terminate the Lease in giving five (5) days written notice of termination to Lessee. Without the notice, reentry will not terminate the Lease. On termination Lessor may recover from Lessee all damages proximately resulting

from the breach, including the cost of recovering the premises, which sum shall be immediately due Lessor from Lessee.

C. Lessee shall be liable for all expenses of the reletting, and for all costs that may be incurred in properly covering the landfill site and other events of closure according to the rules and regulations of the Illinois Environmental Protection Agency; provided that in the event Lessor relets the site to another party for the purpose of continuing a sanitary landfill operation, Lessee shall not be responsible for the cost of the closure of the landfill.

SECTION XIX

Lessee will allow Lessor free access to the premises for the purpose of examining or exhibiting the same or to make any needful repairs or alterations thereof which Lessor may see fit to make and will allow to have placed upon the premises at all times notices of "For Sale" and "To Rent" and will not interfere with the same.

SECTION XX

The parties acknowledge that the drainage of surface water for the premises leased hereunder is to the east through ditches constructed by the Lessor around property owned by it which was formerly used for the City of Morris Landfill.

Lessee agrees to maintain said drainage ditches as they now

exist at its own expense during the term of this Lease.

Lessor hereby grants to Lessee an easement for drainage purposes and for the purpose of maintaining said ditches across that real estate described in the attached Exhibit B.

XXI.

Lessee covenants and agrees that it will protect and save and keep the Lessor forever harmless and indemnified against and from any penalty or damages or charges imposed for any violation of any laws or ordinances, whether occasioned by the neglect of Lessee or those holding under Lessee and that Lessee will at all times protect, indemnify and save and keep harmless the Lessor against and from any and all loss, costs, damage or expenses, arising out of or from any accident or other occurrence on or about the premises, causing injury to any person or property whomsoever or whatsoever and will protect, indemnify and save and keep harmless the Lessor against and from any and all claims and against and from any and all loss, cost, damage or expense arising out of any failure of Lessee in any respect to comply with and perform all the requirements and provisions hereof.

SECTION XXII

Lessee will pay and discharge all reasonable costs, attorneys' fees and expenses that may be incurred by Lessor, in enforcing the covenants and agreements of this Lease and Lessor

will pay and discharge all reasonable costs, attorneys' fees and expenses that may be incurred by Lessee in enforcing the covenants and agreements of this Lease.

SECTION XXIII

Lessee shall not sublease any part of the demised premises, or assign this Lease, without the prior written consent of Lessor, their heirs or assigns and if Lessee shall violate this provision, it shall be lawful for Lessor, their heirs or assigns to reenter the premises hereby leased or any part thereof and to repossess the premises, anything herein contained to the contrary notwithstanding.

SECTION XXIV

All the covenants and conditions and obligations herein contained shall be binding upon and enure to the benefit of the respective heirs and successors and assigns of the parties hereto to the same extent as if each such heir, successor and assign were in each case named as a party to this Lease. This Lease may not be changed, modified or discharged except by writing signed by Lessor and Lessee.

SECTION XXV

In the event permits to operate Class II sanitary landfills are suspended, revoked or canceled because of substantial changes of any governmental law, rule, or policy, this Lease shall become

null and void and Lessee shall no longer be obligated to Lessor except for any rents that may be due and for the proper closure of the landfill site.

SECTION XXVI

Lessor agrees to do everything within its power to maintain the tax exempt status of the real estate leased hereunder. In the event the lease hold interest of Lessee or any part of the real estate is assessed for real estate tax purposes, Lessee agrees to pay all real estate taxes resulting from said assessment. Lessee shall pay for all legal expenses and costs incurred by Lessor in maintaining the tax exempt status of the real estate leased hereunder.

SECTION XXVII

All notices required or permitted hereunder shall be in writing and may be given by certified mail, first class mail, or during regular business hours by delivery by messenger or by delivering in person to the person named below until further notice to the contrary is given by any one of the parties hereto:

LESSOR:

City of Morris
Morris City Hall
Morris, IL 60450

LESSEE:

Community Landfill Company
25 North Ottawa Street
Joliet, IL

All notices by mail shall be deemed delivered when deposited with the United States Postal Service.

SECTION XXVIII

For the purposes of this Lease Agreement, the term "Class II Landfill" shall mean a sanitary landfill operated in accordance with the Illinois Environmental Protection Act and all regulations issued thereunder for the sole purpose of accepting "municipal waste" as that term is defined in the Illinois Environmental Protection Act.

SECTION XXVIX

To guarantee the fulfillment of all terms and conditions of this Lease Agreement, Lessee agrees to deposit with Lessor within ten (10) days after the execution of this Lease Agreement a letter of credit issued by a financial institution licensed by the State of Illinois or by the United States Government in the amount of \$50,000.00. This letter of credit shall remain in effect the entire term of this Lease Agreement and shall be conditioned on the Lessee duly performing all conditions and obligations under this Lease Agreement. Said letter of credit shall provide in the event of a default by Lessee, which default shall remain uncured for thirty (30) days after written notice to Lessee, that Lessor shall be entitled to immediately draw against said letter of credit in the amount of the default or the sum of \$50,000.00, whichever is less.

SECTION XXX

Lessee agrees not to transfer a controlling interest of the stock of Lessee without the prior written consent of Lessor, which consent shall not be reasonably withheld. It is the intent of this provision that Lessor be aware of the principals of Lessee and have an opportunity to object to a transfer of controlling interest if Lessor believes it would adversely affect it under this Lease Agreement.

The parties agree that this provision shall not be applicable to a public offering of stock by Lessee or to the merger of Lessee into a publicly held corporation.

SECTION XXXI

This Lease Agreement will be governed both as to interpretation and performance under the Laws of the State of Illinois.

IN WITNESS WHEREOF, the Lessor and the Lessee by and through its President and Corporate Secretary have executed this Lease Agreement on the day and year first above written.

CITY OF MORRIS
BY: James R. Washburn

ATTEST:

Marijose Warren by
Clerk Audrey Hysdall, Rep.

COMMUNITY LANDFILL COMPANY, An
Illinois Corporation,
BY: Robert J. Quinn
Its President

ATTEST:

Robert H. Branch
Corporate Secretary

GUARANTEE OF ROYALTY

In consideration of the execution of this Lease Agreement by Lessor, the undersigned hereby personally guarantee the royalty payments to be paid by Lessee to Lessor as required by Section III of this Lease Agreement.

DATED: July 1, 1982

Robert J. Reum
Edward H. Reum
John H. Branch

LEGAL DESCRIPTION

LANDFILL, WEST SIDE

Commencing at the northeast corner of Section 3, Township 33 North, Range 7 East of the Third Principal Meridian, said point being the POINT OF BEGINNING; thence due South along the east line of said Section 3 for a distance of 156.00 feet; thence South 48° 00' 44" West for a distance of 1777.80 feet; thence South 89° 34' 40" West for a distance of 1016.00 feet to a point which falls on the east right-of-way line of the Chicago, Rock Island and Pacific Railroad spur line; thence North 00° 39' 20" West along said east right-of-way line for a distance of 454.20 feet; thence North 05° 38' 00" East along said east right-of-way line for a distance of 100.00 feet; thence North 18° 04' 00" East along said east right-of-way line for a distance of 100.00 feet; thence North 27° 48' 00" East for a distance of 50.00 feet to a point which falls on the southerly right-of-way line of the main tracks of the Chicago, Rock Island and Pacific Railroad; thence North 50° 44' 00" East along said southerly right-of-way line for a distance of 369.27 feet; thence due South along said southerly right-of-way line for a distance of 38.75 feet; thence North 50° 44' 00" East along said southerly right-of-way line for a distance of 1813.00 feet; thence South 39° 16' 00" East along said southerly right-of-way line for a distance of 70.00 feet; thence North 50° 44' 00" East for a distance of 700.00 feet to a point which falls on the east line of Section 34, Township 34 North, Range 7 East of the Third Principal Meridian; thence due South along said east line for a distance of 1069.90 feet to the point of beginning, containing 64.03 acres, more or less, all located in the Northeast Quarter (NE $\frac{1}{4}$) of Section Three (3) Township Thirty-three (33) North, Range Seven (7) East and the Southeast Quarter (SE $\frac{1}{4}$) of Section Thirty-four (34), Township Thirty-four (34) North, Range Seven (7) East of the Third Principal Meridian, City of Morris, County of Grundy, and State of Illinois.

June 29, 1982

