

ILLINOIS POLLUTION CONTROL BOARD  
October 3, 2006

PEOPLE OF THE STATE OF ILLINOIS,	)	
	)	
Complainant,	)	
	)	
v.	)	PCB 03-191
	)	(Enforcement – Land)
COMMUNITY LANDFILL COMPANY,	)	
INC., and CITY OF MORRIS, an Illinois	)	
municipal corporation,	)	
	)	
Respondents.	)	

**HEARING OFFICER ORDER**

On February 16, 2006, the Board granted complainant’s motion for summary judgment and directed that this matter proceed to hearing on the issue of remedy. One of the issues involved the respondents’ failure to comply with the financial assurance requirements. Both City of Morris (Morris) and Community Landfill Company Inc. (CLC) filed respective motions for reconsideration. On June 1, 2006, the Board affirmed its order of February 16, 2006, granting complainant’s motion for summary judgment and again directed that this matter proceed to hearing on the issue of remedy.

On September 22, 2006, respondent CLC filed a motion to cancel the hearing previously scheduled for October 24, 25, 26, and 27, 2006. On September 27, 2006, the complainant filed a response objecting to CLC’s motion to cancel the hearing. On September 28, 2006, respondent City of Morris (Morris) filed its response to both CLC’s motion to cancel the hearing and complainant’s response in opposition. A telephonic status conference was held on September 28, 2006, where oral arguments were entertained. After considering the oral responses and reading the written motions and responses, the hearing officer orally notified the parties on September 28, 2006, that CLC’s motion to cancel the scheduled hearing was granted. Today’s order grants the motion and cancels the hearing.

**CLC Motion To Cancel Hearing**

CLC represents in its motion that Edward Pruiem, the secretary and treasurer of CLC, underwent emergency quintuple bypass surgery that was complicated by the presence of an aortic aneurism. Edward Pruiem was hospitalized from August 26, 2006 to September 9, 2006. Edward Pruiem was readmitted to the hospital on September 11, 2006, with a blood clot on his lung. Pruiem was released on September 17, 2006. Finally, CLC represents that Edward Pruiem is recovering at his home and is receiving continued treatment for the blood clot and heart condition.

CLC's attachments to its motion include an affidavit from CLC's attorney and letters from Dr. Daniel Rowan, Edward Pruim's cardiologist and Dr. Timothy Wollner, Edward Pruim's family physician. Both physicians state that Edward Pruim should not undergo any stressful work-related activities for at least five to six months. The prohibited activities would include any participation by way of testimony or preparation for the hearing. Finally, both physicians recommend that Edward Pruim's physical condition be reviewed again in March 2007, to ascertain whether he can partake in a hearing.

### **Complainant's Response In Opposition**

Complainant argues that CLC's motion to cancel the hearing should be denied because Edward Pruim is not a party to this matter, and has no involvement in the prosecution of this matter. Complainant represents that Edward Pruim has yet to be disclosed as a witness and that CLC's claim that Edward Pruim testimony is necessary is a revelation. Finally, complainant argues that Edward Pruim's brother, who is the president of CLC and has been disclosed as a witness, would be able to provide all the necessary assistance to CLC. Complainant continues and states that since the financial assurance documents for the landfill reveal that financial assurance was arranged by R. Michael McDermont, Mark A. LaRose and Robert Pruim, Edward Pruim's testimony is not necessary.

### **Morris' Response To CLC's Motion To Cancel And To Complainant's Response**

Morris argues that it would be prejudiced if the hearing is not canceled and continued until such time as Edward Pruim can be compelled to testify. Morris argues that since Edward Pruim is the treasurer and chief financial officer of CLC, and since post-closure matters relate to financial issues at issue here, it is essential that Morris be allowed to question Edward Pruim. On October 2, 2006, Morris filed a witness list pursuant to the August 17, 2006 hearing officer order. Edward Pruim is listed as one of the witnesses. Finally, Morris represents that preliminary closure activities have been initiated at the site and represents, as reflected in the attached deposition of expert witness Devin Moose, that based upon the current status of activities at the site, no eminent or substantial threat to the human health and environment is posed by the site in question.

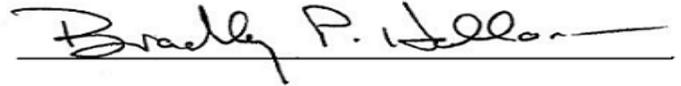
### **Discussion**

After reviewing the motion to cancel, the respective responses and taking the oral arguments into consideration, I find good cause to grant CLC's motion to cancel the hearing scheduled for October 24, 25, 26, and 27, 2006. Due to the issues that need to be addressed at hearing on the issue of remedy, it appears imperative that Edward Pruim, as a financial officer of CLC, be present at the hearing and available to testify. Additionally, I find that CLC's request to cancel was not the result of CLC's lack of diligence.

**Telephonic Status Conference**

The parties or their legal representatives are directed to participate in a telephonic status conference with the hearing officer on December 7, 2006, at 11:00 a.m. Please note the time change. The telephonic status conference must be initiated by the complainant, but each party is nonetheless responsible for its own appearance. At the status conference, the parties must be prepared to discuss the status of the above-captioned matter.

IT IS SO ORDERED.

A handwritten signature in black ink that reads "Bradley P. Halloran". The signature is written in a cursive style and is positioned above a solid horizontal line.

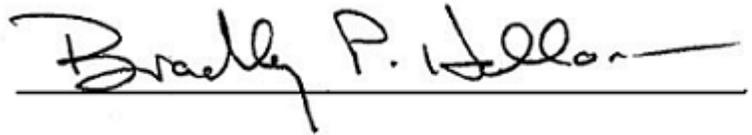
Bradley P. Halloran  
Hearing Officer  
Illinois Pollution Control Board  
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100 W. Randolph Street  
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312.814.8917

## CERTIFICATE OF SERVICE

It is hereby certified that true copies of the foregoing order were mailed, first class, on October 3, 2006, to each of the persons on the attached service list.

It is hereby certified that a true copy of the foregoing order was hand delivered to the following on October 3, 2006:

Dorothy M. Gunn  
Illinois Pollution Control Board  
James R. Thompson Center  
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Chicago, Illinois 60601

A handwritten signature in black ink that reads "Bradley P. Halloran". The signature is written in a cursive style and is positioned above a solid horizontal line.

Bradley P. Halloran  
Hearing Officer  
Illinois Pollution Control Board  
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