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BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

APR 16 2003

PEOPLE OF THE STATE OF ILLINOIS

STATE OF ILLINOIS
Pollution Control Board

Complainant,

vs.

COMMUNITY LANDFILL COMPANY, INC.,
an Illinois corporation, and
the CITY OF MORRIS, an Illinois
municipal corporation,

Respondents.

PCB No. 23-191
(Enforcement)

NOTICE OF FILING

PLEASE TAKE NOTICE that we have today, April 16, 2003, filed with the Office of the Clerk of the Illinois Pollution Control Board an original and nine copies of our Complaint, a copy of which is attached herewith and served upon you.

Failure to file an answer to this complaint within 60 days may have severe consequences. Failure to answer will mean that all allegations in the complaint will be taken as if admitted for purposes of this proceeding. If you have any questions about this procedure, you should contact the hearing officer assigned to this proceeding, the Clerk's Office or an attorney.

NOTIFICATION

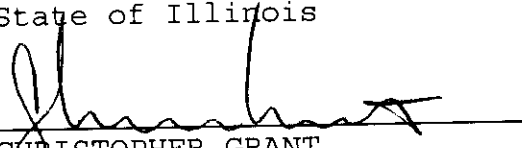
YOU ARE HEREBY NOTIFIED that financing may be available through the Illinois Environmental facilities financing act [20 ILCS 3515/1 et seq.] to correct the alleged pollution.

Respectfully submitted,

PEOPLE OF THE STATE OF ILLINOIS

by LISA MADIGAN
Attorney General of the
State of Illinois

BY:


CHRISTOPHER GRANT
Assistant Attorney General
Environmental Bureau
188 W. Randolph St., 20th Flr.
Chicago, IL 60601
(312) 814-5388

ORIGINAL

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

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PEOPLE OF THE STATE OF ILLINOIS,)

Complainant,)

vs.)

COMMUNITY LANDFILL COMPANY, INC.,)
an Illinois corporation, and)
the CITY OF MORRIS, an Illinois)
municipal corporation,)

Respondents.)

STATE OF ILLINOIS
Pollution Control Board

PCB No. 03-19/
(Enforcement)

COMPLAINT

Complainant, PEOPLE OF THE STATE OF ILLINOIS, by LISA MADIGAN, Attorney General of the State of Illinois, complains of Respondents, COMMUNITY LANDFILL COMPANY, INC., an Illinois corporation, and the CITY OF MORRIS, an Illinois municipal corporation, as follows:

COUNT I

FAILURE TO PROVIDE ADEQUATE FINANCIAL ASSURANCE

1. This complaint is brought by LISA MADIGAN, Attorney General of the State of Illinois, on her own motion and at the request of the Illinois Environmental Protection Agency ("Illinois EPA") pursuant to Section 31 of the Environmental Protection Act, ("Act"), 415 ILCS 5/31 (2002).

2. The Illinois EPA is an administrative agency of the State of Illinois, created pursuant to Section 4 of the Act, 415 ILCS 5/4 (2002), and is charged *inter alia*, with the duty of

enforcing the Act.

3. Respondent CITY OF MORRIS ("City"), is an Illinois municipal corporation, organized and operating according to the laws of the State of Illinois, and located in Grundy County, Illinois. The City is the owner of the Morris Community Landfill, a special waste and municipal solid waste landfill located at 1501 Ashley Road, Morris, Grundy County, Illinois.

4. The Morris Community Landfill is approximately 119 acres in area, and is divided into two parcels, designated parcel "A", consisting of approximately 55 acres, and parcel "B", consisting of approximately 64 acres.

5. Respondent COMMUNITY LANDFILL COMPANY, INC. ("CLC") is an Illinois corporation, duly authorized to transact business in the State of Illinois. CLC is the operator of the Morris Community Landfill, and manages day-to-day operations of both parcels at that site.

6. From at least June 1, 2000 until the time of filing this Complaint, Respondents have arranged for and supervised the deposit of waste, including municipal solid waste, garbage, and special waste, into waste cells at the Morris Community Landfill.

7. As owners and operators of the Morris Community Landfill, the City and CLC are required by Section 21.1(d) of the Act, 415 ILCS 5/21.1(d) (2002), to apply for and obtain landfill permits, including operating, significant modification, and other

municipal solid waste permits, from Illinois EPA.

8. On August 4, 2000, Respondents were issued Significant Modification Permit Numbers 2000-155-LFM, covering Parcel A, and 2000-156-LFM, covering Parcel B. On June 29, 2001, the Respondents were issued Permit Modification No. 2 for parcels A & B. On January 8, 2002, the Respondents were issued Permit Modification No. 3 for Parcel A.

9. From at least June 1, 2000 until the time of filing this Complaint, Respondents have conducted disposal operations on parcels "A" and "B" of the Morris Community Landfill. During this period, the sole assurance of closure and post closure costs provided by Respondents to Illinois EPA has been three separate performance bonds underwritten by the Frontier Insurance Company.

10. On June 1, 2000, the United States Treasury Department removed Frontier Insurance Company from the compilation of acceptable surety companies listed in the United States Department of Treasury publication "Circular 570".

11. At no time from June 1, 2000 until the filing of this complaint, has Frontier Insurance Company been added back to the "Circular 570" list of acceptable surety companies.

12. Section 21 of the Act, 415 ILCS 5/21 (2002) provides, in pertinent part, as follows:

No person Shall:

* * *

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

* * *

- (2) in violation of any regulations or standards adopted by the Board under this Act....

* * *

13. Pursuant to authority granted by the Act, the Illinois Pollution Control Board has promulgated regulations requiring and regulating closure and post-closure financial assurance for municipal solid waste landfills. These regulations are codified at 35 Ill. Adm. Code, Subtitle G, Subchapter I, Subpart G ("Board Financial Assurance Regulations").

14. Section 811.700 of the Board Financial Assurance Regulations, 35 Ill. Adm. Code 811.700, provides, in pertinent part, as follows:

* * *

- (f) On or after April 9, 1997, no person, other than the State of Illinois, its agencies and institutions, shall conduct any disposal operations at an MSWLF unit that requires a permit under subsection (d) of section 21.1 of the Act, unless that person complies with the financial assurance requirements of this Part.

15. Section 811.712 of the of the Board Financial Assurance regulations, 35 Ill. Adm. Code 811.712, provides, in pertinent part, as follows:

* * *

- (b) the surety company issuing the Bond shall be licenced to transact the business of insurance by

the Department of Insurance, pursuant to the Illinois Insurance Code [215 ILCS 5], or at a minimum the insurer must be licensed to transact the business of insurance or approved to provide insurance as an excess or surplus lines insurer by the Insurance Department of one or more states, and approved by the U.S. Department of the Treasury as an acceptable surety. Section 21.1(a.5) of the Act, [415 ILCS 5/21.1(a.5)].

BOARD NOTE: The U.S. Department of the Treasury lists acceptable sureties in its Circular 570.

16. Section 3.26 of the Act, 415 ILCS 5/3.26 (2002), provides the following definition:

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

17. Respondent CLC, an Illinois corporation, and Respondent City of Morris, a political subdivision, are "person[s]" as that term is defined Section 3.26 of the Act, 415 ILCS 5/3.26 (2002).

18. Section 3.85 of the Act, 415 ILCS 5/3.85 (2002), provides, as follows:

"Municipal Solid Waste Landfill Unit" or MSWLF unit" means a contiguous area of land or an excavation that receives household waste, and that is not a land application unit, surface impoundment, injection well, or any pile of noncontainerized accumulations of solid, nonflowing waste that is used for treatment or storage. A MSWLF unit may also receive other types of RCRA Subtitle D wastes, such as commercial solid waste, nonhazardous sludge, small quantity generator waste and industrial solid waste. Such a landfill may be publicly or privately owned. A MSWLF unit may be a new MSWLF unit, an existing MSWLF unit, or a lateral expansion. A sanitary landfill is subject to regulation as a MSWLF unit if it receives household

waste.

19. Parcels "A" and "B" of The Morris Community Landfill are "Municipal Solid Waste Landfill unit[s]", and "MSWLF unit[s]" as those terms are defined in Section 3.85 of the Act, 415 ILCS 5/3.85 (2002).

20. Section 3.53 of the Act, 415 ILCS 5/3.53 (2002), provides, in pertinent part, as follows:

"WASTE" means any garbage...or any other discarded material, including any solid, liquid, semi-solid, or contained gaseous material resulting from industrial, commercial, mining and agricultural operations, and from community activities....

21. Section 3.08 of the Act, 415 ILCS 5/3.08 (2002), provides, as follows:

"Disposal" means the discharge, deposit, injection, dumping, spilling, leaking or placing of any waste or hazardous waste into or on any land or water or into any well so that such waste or hazardous waste or any

22. From at least June 1, 2000 until the time of filing this complaint, Respondents arranged for and supervised the deposit of special waste, municipal solid waste, garbage and other waste at the Morris Community Landfill. Respondents thereby conducted a "waste disposal operation" as those terms are defined in the Act.

23. From June 1, 2000 until the time of filing this complaint, Respondents have conducted disposal operations at both parcel "A" and parcel "B" of the Morris Community Landfill, with

closure and post-closure financial assurance solely in the form of three performance bonds from Frontier Insurance Company, a company not listed in United States Department of the Treasury "Circular 570", and therefore not meeting the requirements of 35 Ill. Adm. Code 811.712. Respondents have thereby violated Sections 811.700(f) and 811.712 of the Board Financial Assurance Regulations, 35 Ill. Adm. Code 811.700(f) and 811.712, and have thereby also violated Section 21(d)(2) of the Act, 415 ILCS 5/21(d)(2) (2002).

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an order against the Respondents, COMMUNITY LANDFILL COMPANY, INC. and the CITY OF MORRIS on Count I:

1. Authorizing a hearing in this matter at which time the Respondents will be required to answer the allegations herein;

2. Finding that the Respondents have violated Section 21(d)(2) of the Act, 35 Ill. Adm. Code 811.700(f), and 35 Ill. Adm. Code 811.712;

3. Ordering the Respondents to immediately obtain, and provide to Illinois EPA, landfill closure and post-closure financial assurance meeting the requirements of the Board Financial Assurance regulations;

4. Ordering the Respondents to cease and desist from any further violations of Section 21(d)(2) of the Act, 35 Ill. Adm.

Code 811.700(f), and 35 Ill. Adm. Code 811.712;

5. Assessing a civil penalty of Fifty Thousand Dollars (\$50,000.00) against the Respondents for each violation of the Act and pertinent regulations, and an additional civil penalty of Ten Thousand Dollars (\$10,000.00) for each day of violation;

6. Ordering the Respondents to pay all costs, pursuant to Section 42(f) of the Act, including attorney, expert witness, and consultant fees expended by the State in its pursuit of this action; and

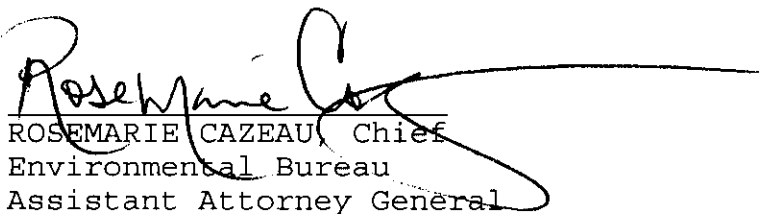
7. Granting such other relief as the Board deems appropriate and just.

PEOPLE OF THE STATE OF ILLINOIS,

LISA MADIGAN
Attorney General of the
State of Illinois

MATTHEW J. DUNN, Chief
Environmental Enforcement/Asbestos
Litigation Division

BY:


ROSEMARIE CAZEAU, Chief
Environmental Bureau
Assistant Attorney General

OF COUNSEL

CHRISTOPHER GRANT

Assistant Attorney General

Environmental Bureau

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Chicago, Illinois 60601

(312) 814-5388

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

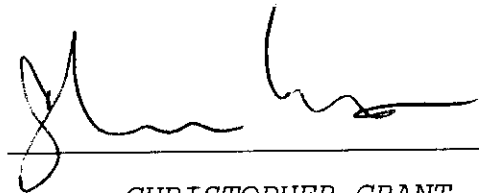
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Complainant,)	
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vs.)	PCB No.
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an Illinois corporation, and)	
the CITY OF MORRIS, an Illinois)	
municipal corporation,)	
)	
Respondents.)	

CERTIFICATE OF SERVICE

I, CHRISTOPHER GRANT, an attorney, do certify that I caused to be served this 16th day of April, 2003, the foregoing Complaint and Notice of Filing upon the persons listed below by certified mail, and addressed to:

FOR COMMUNITY LANDFILL COMPANY, INC.
Mr. Mark La Rose, Registered Agent
734 N. Wells Street
Chicago, Illinois 60610

FOR CITY OF MORRIS
The Honorable Richard Kopczick, Mayor
320 Wauponsee Street
Morris, Illinois 60450



CHRISTOPHER GRANT