

ILLINOIS POLLUTION CONTROL BOARD
January 22, 2009

PEOPLE OF THE STATE OF ILLINOIS,)
)
Complainant,)
)
v.) PCB 04-207
) (Enforcement – Land)
EDWARD PRUIM and ROBERT PRUIM,)
)
Respondents.)
)
)

PEOPLE OF THE STATE OF ILLINOIS,)
)
Complainant,)
)
v.) PCB 97-193
) (Enforcement – Land)
) (Consolidated)
COMMUNITY LANDFILL COMPANY,)
INC.,)
)
Respondents.)

HEARING REPORT

On December 2, 3 and 4, 2008, a hearing in the above-captioned consolidated matters was held at the Grundy County Administrative Center, 1320 Union Street, Morris, Illinois. Assistant Attorneys General Jennifer Van Wie and Christopher J. Grant appeared and participated on behalf of the complainant. Attorneys Clarisa Y. Cutler and Mark A. Larose, appeared and participated on behalf of Community Landfill Company, Inc., and Edward Pruum and Robert Pruum (collectively “respondents”).

Preliminary Matters

On November 12, 2008, respondents filed three motions *in limine*. Motion *in limine* #1 was respondents’ motion to exclude evidence of respondents’ prior convictions. Motion *in limine* #2 was respondents’ motion to exclude testimony of John Enger. Motion *in limine* #3 was respondents’ motion to exclude eight inspection reports. The complainant timely filed its replies.

For reasons set forth on record at the hearing on December 2, 2008, respondents' motions *in limine* were addressed and ruled upon. Respondents' motion *in limine* #1 was granted. Respondents' motion *in limine* #2 was denied. Respondents' motion *in limine* #3 was denied.

On December 1, 2008, the respondents belatedly filed a motion to incorporate materials from a prior proceeding. The materials include testimony from Mark Retzlaff, an employee of the Illinois Environmental Protection Agency (Agency) from the hearing in PCB 01-170. At the hearing on December 2, 2008, the complainant orally objected to the motion based on relevancy.

For the reasons set forth on record at the hearing on December 2, 2008, respondents' motion to incorporate was granted. The motion to incorporate with the three pages of transcript attached is marked as Hearing Officer Exhibit 1.

Finally, on December 4, 2008, the complainant made a request on record that Count 11 of the complaint filed in PCB 04 -207 be dismissed (Transcript at 3-4). Complainant's request was taken with the case. The complainant represented that it will further address its request in its post-hearing brief.

Witness Credibility

Based upon my legal judgment, experience and observations at the hearing, I find that the credibility of the witnesses who testified at the hearing is not an issue in this matter.

Exhibits

An exhibit list itemizing the offered exhibits and summarizing their status is attached to this order.

Briefing Schedule

A briefing schedule was discussed and agreed to at the hearing. The complainant's opening post-hearing brief is due to be filed on or before February 6, 2009. The respondents post-hearing brief is due to be filed on or before April 6, 2009. Complainant's reply, if any, is due to be filed on or before April 20, 2009. Public comment is due to be filed on or before February 19, 2009.

IT IS SO ORDERED.

Bradley P. Halloran
Hearing Officer
Illinois Pollution Control Board
James R. Thompson Center, Suite 11-500
100 W. Randolph Street
Chicago, Illinois 60601
312.814.8917

PCB 97-193 and PCB 04-207
December 2, 3 and 4, 2008 Hearing

Exhibit List

Exhibit (Binder)	Description	Status
Complainant's Exhibit 1a	Letter from R. Michael McDermont to Lawrence Eastep, dated January 5, 1989	Admitted
Complainant's Exhibit 1b	Diagram of Landfill-Parcel B	Admitted
Complainant's Exhibit 1c	Post-Closure Care Plan, stamped February 8, 1993	Admitted
Complainant's Exhibit 1d	Correspondence regarding Supplemental Permit Application, stamped July 26, 1996	Admitted
Complainant's Exhibit 1e	General Application for Permit, stamped August 5, 1996	Admitted
Complainant's Exhibit 1f	Application for Significant Modification to Permit, stamped April 30, 1997 Interrogatories	Admitted
Complainant's Exhibit 2a	Supplemental Permit, dated June 5, 1989	Admitted
Complainant's Exhibit 2b	Supplemental Permit, dated April 20, 1993	Admitted
Complainant's Exhibit 2c	Supplemental Permit, dated October 24, 1996	Admitted
Complainant's Exhibit 7	Financial Assurance document, stamped January 20, 1995	Admitted
Complainant's Exhibit 8	Financial Assurance document, dated May 19, 1995	Admitted
Complainant's Exhibit 9	Closure/Post-Closure Financial Assurance document, stamped June 24, 1996	Admitted
Complainant's Exhibit 13a	Inspection Report, dated August 18, 1993	Admitted
Complainant's Exhibit 13b	Inspection Report, dated April 7, 1994	Admitted
Complainant's Exhibit 13c	Inspection Report, dated May 26, 1994	Admitted
Complainant's Exhibit 13d	Inspection Report, dated August 29, 1994	Admitted
Complainant's Exhibit 13e	Inspection Report, dated March 22, 1995	Admitted
Complainant's Exhibit 13f	Inspection Report, dated May 22, 1995	Admitted
Complainant's Exhibit 13g	Inspection Report, dated November 7, 1995	Admitted
Complainant's Exhibit 13h	Inspection Report, dated July 11, 1996	Admitted
Complainant's Exhibit 13i	Inspection Report, dated March 5, 1997	Admitted
Complainant's Exhibit 13j	Inspection Report, dated July 28, 1998	Admitted
Complainant's Exhibit 13k	Inspection Report, dated November 19, 1998	Admitted
Complainant's Exhibit 13l	Inspection Report, dated March 31, 1999	Admitted
Complainant's Exhibit 13m	Agency Memorandum, dated May 11, 1999	Admitted
Complainant's Exhibit 13n	Inspection Report, dated July 20, 1999	Admitted
Complainant's Exhibit 13o	Agency Memorandum, dated 9-7-1999	Admitted

Complainant's Exhibit 14a	Landfill Capacity Worksheet, stamped June 21, 1990	Admitted
Complainant's Exhibit 14b	Landfill Capacity Worksheet, stamped April 15, 1991	Admitted
Complainant's Exhibit 14c	Landfill Certification Form-Parcel B, dated April 19, 1993	Admitted
Complainant's Exhibit 14d	Landfill Certification Form-Parcel B, dated January 18, 1995	Admitted
Complainant's Exhibit 14e	Landfill Certification Form-Parcel B, dated January 15, 1997	Admitted
Complainant's Exhibit 14f	Landfill Capacity Certification Form, dated February 7, 1997	Admitted
Complainant's Exhibit 15a	Respondent Community Landfill Company's Answer to First Set of Interrogatories	Admitted
Complainant's Exhibit 15b	Respondent Community Landfill Company's Answer to Request for Admission of Facts	Admitted
Complainant's Exhibit 15c	Respondent Community Landfill Company's Answer to Request for Production of Documents	Admitted
Complainant's Exhibit 15d	Respondent's Answers to Complainant's Second Set of Interrogatories	Admitted
Complainant's Exhibit 16	Agreement of parties that Edward Pruum, Robert Pruum and Pelnarsh, Sr., deposition transcripts will not be reproduced	Admitted
Complainant's Exhibit 17	Economic Benefit Analysis, dated August 26, 2008	Admitted
Complainant's Exhibit 18	Economic Benefit Calculation, dated January 21, 2003	Admitted
Complainant's Exhibit 19	Financial Assurance (Economic Benefit from Non-Compliance)	Admitted
Complainant's Exhibit 26	Summary of Tickets-January 1994	Admitted
Complainant's Exhibit 27	Federal District Court conviction documents and pleadings	Taken as offer of proof
Respondents Exhibit 1	Inspection Report, dated August 18, 1993	Admitted
Respondents Exhibit 2	Inspection Report, dated April 7, 1994	Admitted
Respondents Exhibit 3	Inspection Report, dated March 22, 1995	Admitted
Respondents Exhibit 4	Inspection Report, dated May 22, 1995	Admitted
Respondents Exhibit 5	Inspection report, dated July 28, 1998	Admitted
Respondents Exhibit 6	Inspection Report, dated March 31, 1999	Admitted
Respondents Exhibit 7	Inspection Report, dated May 11, 1999(Cover Letter dated May 13, 1999)	Admitted

Respondents Exhibit 8	Inspection Report, dated July 20, 1999	Admitted
Respondents Exhibit 9	Affidavit of James Pelnarsh	Admitted
Respondents Exhibit 11	Survey Report, dated August 30, 2000	Admitted
Respondents Exhibit 12	Agency Letter to James Pelnarsh, dated March 16, 2001	Admitted
Respondents Exhibit 13	Transcript from a previous hearing	Admitted
Respondents Exhibit 14	Landfill Capacity Certification Form, dated April 19, 1993	Admitted
Respondents Exhibit 15	Landfill Capacity Certification Form, dated January 18, 1995	Admitted
Respondents Exhibit 16	Landfill Capacity Certification Form, dated January 15, 1996	Admitted
Respondents Exhibit 17	Board Order in PCB 97-193, dated April 5, 2001	Admitted
Respondents Exhibit 18	Board Order in PCB 97-193, dated October 3, 2002	Admitted
Respondents Exhibit 19	Board Order in PCB 97-193 and 04-207, dated April 20, 2006	Admitted
Respondents Exhibit 20	Appellate Court Order regarding PCB 95-137	Admitted
Respondents Exhibit 21	Board Order in PCB 95-137, dated June 20, 1996	Admitted
Respondents Exhibit 22	United States District Court for Criminal Docket re: USA v. Pruim, et al	Admitted
Respondents Exhibit 23	Complainant's Letter, dated October 6, 2008	Admitted
Respondents Exhibit 24	Complainant's Letter, dated October 2, 2008	Admitted
Respondents Exhibit 25	Agency document re: Economic Benefit Analysis, dated August 26, 2008	Admitted
Respondents Exhibit 26	Complainant's Letter, dated August 4, 2008	Admitted
Respondents Exhibit 27	Complainant's Response to Respondent Community Landfill Company's Second Request for Production of Documents	Admitted
Respondents Exhibit 28	Complainant's Response to Respondent Community Landfill Company's Second Set of Interrogatories	Admitted
Respondents Exhibit 29	Complainant's Letter, dated December 16, 1998	Admitted
Respondents Exhibit 30	Complainant's Responses and Objections to Respondent's First Request for Production of Documents	Admitted
Respondents Exhibit 31	Complainant's Responses and Objections	Admitted

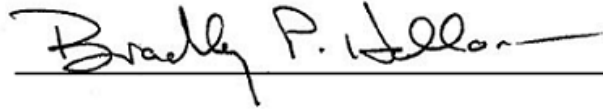
	to Respondent's First Set of Interrogatories	
Respondents Exhibit 32	Complainant's Responses and Objections to Respondent's Request for Admission of Facts	Admitted
Respondents Exhibit 33	Deposition of Blake Harris, dated October 24, 2001	Admitted
Respondents Exhibit 34	Deposition of Christina Kovasznay, dated October 24, 2001	Admitted
Respondents Exhibit 35	Deposition of Cristina Roque, dated October 24, 2001	Admitted
Respondents Exhibit 36	Deposition of Warren Weritz, dated October 24, 201	Admitted
Respondents Exhibit 37 1&2	Deposition of Gary Styzens, dated October 23, 2008; cont. to November 7, 2008	Admitted
Respondents Exhibit 43	Letter from Illinois Attorney General to Agency, dated July 14, 2008	Admitted
Respondents Exhibit 45	Respondents First Supplemental Response to Complainant's First Set of Interrogatories and Request for Production of Documents	Admitted
Respondents Exhibit 46	Continuation Certificate-Frontier Insurance Company	Admitted
Respondents Exhibit 47	Performance Bond- Community Landfill, effective May 31, 2000	Admitted
Respondents Exhibit 48	Performance Bond- City of Morris, effective May 31, 2000	Admitted
Respondents Exhibit 49	Account Verification Statement from Emerald Insurance Services, dated April 15, 2003	Admitted
Respondents Exhibit 50	Direct Examination Guideline for Ellen Robinson	Taken as an offer of proof
Respondents Exhibit 51	Addendum to July 1, 1982 Lease Agreement	Admitted
Hearing Officer Exhibit 1	Respondents Request to Incorporate Materials from Prior Proceeding, filed December 1, 2008 (Incorporated material attached to request)	Granted and Admitted

CERTIFICATE OF SERVICE

It is hereby certified that true copies of the foregoing order were mailed, first class, on January 22, 2009, 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 January 22, 2009:

John T. Therriault
Illinois Pollution Control Board
James R. Thompson Center
100 W. Randolph St., Ste. 11-500
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
100 W. Randolph Street, Suite 11-500
Chicago, Illinois 60601
(312) 814-8917

PCB 2004-207
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PCB 2004-207
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PCB 2004-207
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PCB 2004-207
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PCB 2004-207
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