

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

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AUG 10 2005

STATE OF ILLINOIS
Pollution Control Board

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.)

PCB No. 03-191
(Enforcement-Land)

to: Mr. Mark La Rose
La Rose & Bosco
200 N. La Salle Street, #2810
Chicago, IL 60601

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

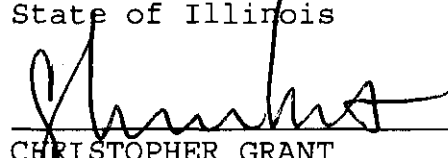
Mr. Charles Helsten
Hinshaw & Culbertson
100 Park Avenue
Rockford IL 61105-1389

NOTICE OF FILING

PLEASE TAKE NOTICE that we have today, August 10, 2005, filed with the Office of the Clerk of the Illinois Pollution Control Board, an original and nine copies of Complainant's Response to Motion for Extension of Time, a copy of which is attached and herewith served upon you.

Respectfully submitted,
PEOPLE OF THE STATE OF ILLINOIS
ex rel. LISA MADIGAN
Attorney General of the
State of Illinois

BY:


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

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municipal corporation,

Respondents.

NOW COMES the Complainant, PEOPLE OF THE STATE OF ILLINOIS, through its attorney, LISA MADIGAN, Attorney General of the State of Illinois, and responds to Respondent's, COMMUNITY LANDFILL COMPANY INC.'s ("CLC") Motion for Extension of Time to Respond to Complainant's Motion for Summary Judgment and to Set a Briefing Schedule ("Motion to Extend"), as follows:

1. Complainant filed its Motion for Summary Judgment (“Motion”) on July 21, 2005, and served Counsel for both Respondents the following day. Complainant’s Motion seeks a finding of liability, wilful violation, and interim relief in the form of a Board Order compelling the Defendants to immediately cease disposal of all materials at the Morris Community Landfill (“Site”), and to immediately obtain closure/post-closure financial assurance meeting the requirements of 35 Ill. Adm. Code Sections 811.700 and 811.706. Complainant’s request is based on its determination that the Respondents have been continuing to dispose of general debris and petroleum contaminated soil at the Site, despite the fact that no closure/post-closure

financial assurance had been arranged for or provided. These continuing waste disposal operations are being done in flagrant violation of the pertinent regulations, and the Act.

2. The issues presented in this case are quite simple: are the Respondents conducting a waste disposal operation, and if so are they doing so without adequate financial assurance? Complainant has provided compelling evidence that the Respondents are, in fact, doing so. The exhibits attached to Complainant's motion prove that the Respondents obtained permits for solid waste disposal at the Site, submitted reports acknowledging the continued acceptance of waste from 2000 through 2002, have vigorously litigated the issue of the noncompliant Frontier surety bonds, and, as of the date of Illinois EPA's last inspection on May 19, 2005, were continuing to accept waste materials in the form of petroleum-contaminated soil.

3. The Complainant has also provided proof, in the form of an Illinois EPA affidavit, that the Respondents do not have financial assurance, as required by the pertinent regulations.

4. The Respondents do not need significant discovery on these issues. They are certainly aware of the permits they applied for and obtained, as well as the landfill reports they submitted. Because they own and operate the Site (and are therefore familiar with its daily operations), they know of materials brought to the Site, and ongoing waste disposal activity. Moreover, they have litigated the issues related to the Frontier Bonds, are aware that this 'financial assurance' is inadequate, and know whether they have provided alternate, compliant financial assurance. There is no need for discovery related to these issues, although continuing discovery may be necessary for issues relating to 415 ILCS 5/33(c) and 5/42(h) (2002).

5. The Respondents were served with Complainant's Motion on July 22, 2005. However, as of the date of filing this Response to the Motion to Extend, neither Respondent has

served discovery related to the Motion. No depositions have been requested, no interrogatories served. Clearly, by seeking to delay in Board's decision on Complainant's Motion, the Respondents intend to continue their waste disposal operation as long as possible, without complying with the financial assurance requirements contained in the regulations and their permits. Thus, there is a serious urgency to the Board's consideration of Complainant's Motion.

6. Complainant acknowledges that the fourteen-day response deadline provided within 35 Ill. Adm. Code 101.516 may be inadequate. However, in light of the simplicity of the issues presented in Complainant's Motion, and considering the Respondents' failure to take advantage of time already passed since service of the Motion, Complainant suggests that the Board require the Respondents to respond, if at all, no later than September 6, 2005.

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board deny the Respondents CLC's request to extend time to respond until October 11, 2005, require the Respondents to respond, if at all, by a date no later than September 6, 2005, and take such other action as the Board believes to be appropriate and just.

Respectfully Submitted,

BY:



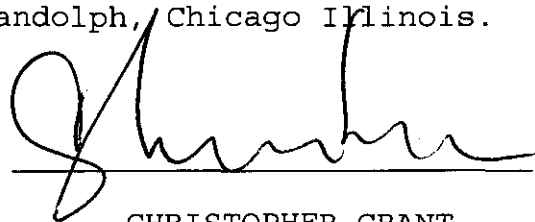
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CERTIFICATE OF SERVICE

I, CHRISTOPHER GRANT, an attorney, do certify that I caused to be served this 10th day of August, 2005, the foregoing Complainant's Response for Motion to Extend Time, and Notice of Filing, upon the persons listed on said Notice by placing same in an envelope bearing sufficient postage with the United States Postal Service located at 100 W. Randolph, Chicago Illinois.


CHRISTOPHER GRANT