

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

PEOPLE OF THE STATE OF ILLINOIS, )  
by LISA MADIGAN, Attorney )  
General of the State of Illinois, )  
Complainant, )

-vs- )

EDWARD PRUIM, an individual, and )  
ROBERT PRUIM, an individual, )  
Respondents. )

PCB No. 04-207  
PCB No. 97-193  
(Consolidated)  
(Enforcement)

People of the State of Illinois, )  
by LISA MADIGAN, Attorney )  
General of the State of Illinois, )  
Complainant, )

-vs- )

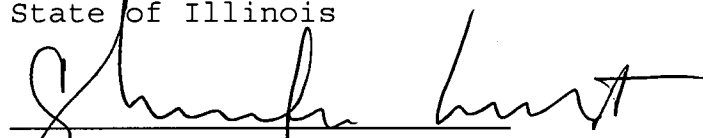
Community Landfill Company, Inc. )  
Respondent. )

**NOTICE OF FILING**

PLEASE TAKE NOTICE that we have today, June 6, 2006, filed with the Office of the Clerk of the Illinois Pollution Control Board, by electronic filing, Complainant's Response to Edward Pruum and Robert Pruum's Motion for Reconsideration, a copy of which is attached herewith and served upon you.

PEOPLE OF THE STATE OF ILLINOIS  
LISA MADIGAN  
Attorney General of the  
State of Illinois

BY:



CHRISTOPHER GRANT  
Assistant Attorney General  
Environmental Bureau  
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Chicago, IL 60601  
(312) 814-5388

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Community Landfill Company, Inc. )

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**COMPLAINANT'S RESPONSE TO EDWARD PRUIM AND ROBERT PRUIM'S  
MOTION FOR RECONSIDERATION**

NOW COMES Complainant, PEOPLE OF THE STATE OF ILLINOIS, by LISA  
MADIGAN, Attorney General of the State of Illinois, and hereby responds to Respondents'  
EDWARD PRUIM and ROBERT PRUIMS' Motion for Reconsideration of the Illinois Pollution  
Control Board's Order Dated April 20, 2006 ("Motion for Reconsideration") as follows:

1. On April 20, 2006, the Board Denied Edward Pruim and Robert Pruim's ("Pruim Respondents") motions for summary judgment. On May 30, 2006, the Pruim Respondents filed their joint motion for reconsideration.

2. In ruling on a motion for reconsideration, the Board limits its considerations to new evidence, a change in law, or errors in the court's previous application of existing law. *Grand Pier Center, LLC, et al., v. River East LLC, et al.*, PCB 05-157, (March 2, 2006, slip op at 2) (citing *Korogluyan v. Chicago Title & Trust Co.*, 213 Ill. App. 3d 622, 627, (1<sup>st</sup> Dist. 1991)). Newly discovered evidence must be of a "...conclusive or decisive character...". *Patrick Media Group, Inc. v. City of Chicago*, 255 Ill. App. 3d 1, 8 (1<sup>st</sup> Dist. 1993).

3. The Pruim Respondents have neither offered new evidence, nor have they alleged a change in the Act or the pertinent Pollution Control Board regulations. Additionally, they fail to identify any actual error in applying existing law. Rather, they submit the same evidence already rejected by the Board, and repeat their earlier arguments.

4. In their Motion, the Respondents rely heavily on 'evidence' in the form of affidavits, stating:

*"I am without sufficient knowledge to form a belief as to the truth or falsity of allegations contained in Counts I, II, III, V, VI, VII, VIII, IX, X, XII, XIII, XIV, XV, XVI, XVII, XVIII, XIX of the Complaint and demand strict proof thereof.*

These affidavits are not new: they were attached to their Answers to the Complaint, filed on January 5, 2005. The Answers were also used as an exhibit in the Pruim Respondents' original Motion for summary judgment. The Respondents now state that such lack of knowledge, i.e. of the "truth or falsity" of the allegations made against them personally, is sufficient to irrefutably establish that they had no personal involvement in the alleged violations.

The Respondents cite no authority in support of this rather extraordinary claim.

5. The Pruim Respondents' affidavits provide no support whatsoever to their Motion for Reconsideration. The Respondents, under oath, state that they cannot deny the violations, and seek an evidentiary hearing where the State will have the burden of proof. The Respondents cannot seriously claim that such a statement constitutes preclusive evidence of non-liability.

6. The Respondents also admit that their own involvement in operations, funding, and maintenance issues related to Counts I, II, III, VI, and XII 'remains unknown', yet cite the affidavits as evidence of lack of participation (*Motion for Reconsideration*, par. 9). Such a claim is logically inconsistent: Complainant has alleged that the Respondents were personally involved in the remaining violations. It is impossible for the Respondents to claim lack of knowledge of 'truth or falsity', state that their involvement is 'unknown', and yet maintain that no issue of material fact exists in this matter. Their own affidavits create issues of fact relating to personal involvement.

7. Moreover, the Respondents' claim is not supported by the record. The Board, in denying summary judgment, considered evidence that only the Pruims' had authority to write checks and arrange for financial assurance. The Board also noted the testimony of Site Manager James Pelnarsh that he contacted the Respondents for immediate decisions at the landfill. (*Board April 20, 2006 Order*, p.6). By itself, this evidence of personal involvement should be sufficient to defeat summary judgment.

8. Respondents' arguments regarding the landfill overheight Counts [VII, VIII, IX, X], and 'managerial duty' Counts [IV, V, XVII, and XIX] (*Motion for Reconsideration*, pars. 10-11) have already been considered and rejected by the Board (see: *April 20, 2006 Order*, pp. 3-

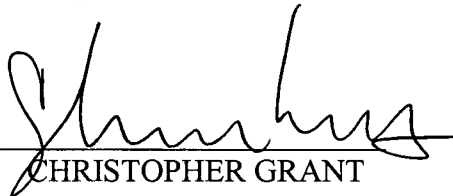
5). The Board has properly found that, *inter alia*, the contrary statements made by the Respondents and Site Manager James Pelnarsh preclude summary judgment on all of these issues. (*April 20, 2006 Order*, p. 7).

9. The record in this matter provides a significant amount of evidence of the Respondents' personal involvement in the alleged violations, including ownership, management, sole control of corporate resources, and knowledge of overcapacity. By failing to offer any new evidence sufficient to preclude liability, and by failing to identify any errors in the Board's interpretation of existing law, the Respondents have failed to provide sufficient justification for reconsideration of the Board's April 20, 2006 Order.

WHEREFORE, Complaint respectfully requests that the Board deny Respondents', EDWARD PRUIM and ROBERT PRUIM's Motion to Reconsider, direct the parties to conduct a hearing on all issues remaining in the consolidated cases, and order any further relief that the Board deems appropriate.

Respectfully Submitted,

BY:



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CERTIFICATE OF SERVICE

I, CHRISTOPHER GRANT, an attorney, do certify that I caused to be served this 6<sup>th</sup> day of June, 2006, Complainant's Response to Edward Pruim and Robert Pruim's Motion for Reconsideration, and Notice of Filing, upon the persons listed below by placing same in an envelope bearing sufficient postage with the United States Postal Service located at 100 W. Randolph, Chicago.

A handwritten signature in black ink, appearing to read 'Christopher Grant', written over a horizontal line.

CHRISTOPHER GRANT

SERVICE LIST:

Mr. Mark Larose  
Ms. Clarissa Grayson  
Larose & Bosco, Ltd.  
200 N. La Salle Street, #2810  
Chicago, IL 60601

Mr. Bradley P. Halloran  
Hearing Officer  
Illinois Pollution Control Board  
100 W. Randolph  
Chicago, Illinois 60601 [via hand delivery]