

BEFORE THE 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, Illinois 60601
 (312)642-0434

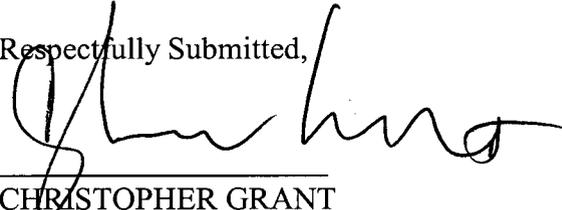
Mr. Bradley P. Halloran
 Hearing Officer
 Illinois Pollution Control Board
 100 W. Randolph, #2001
 Chicago, IL 60601

Mr. Charles Helsten
 Hinshaw & Culbertson
 100 Park Avenue
 Rockford IL 61105-1389
 (815)963-9989

Mr. Scott Belt
 105 East Main Street
 Suite 206
 Morris, Illinois 60450

NOTICE OF FILING

PLEASE TAKE NOTICE that we have today, October 13, 2006, filed Complainant's Reply with the Office of the Clerk of the Illinois Pollution Control Board, by electronic filing. A copy is attached hereto, and served upon you.

Respectfully Submitted,


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

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the CITY OF MORRIS, an Illinois)	
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COMPLAINANT'S REPLY

NOW COMES Complainant, PEOPLE OF THE STATE OF ILLINOIS, and respectfully requests that the Board consider its Reply to the City of Morris' Response to Motion for Interlocutory Appeal. Pursuant to 35 Ill. Adm. Code 101.500(e), the Board will only consider a under circumstances where the moving party may otherwise be subject to material prejudice.

Complainant believes that a Reply is appropriate in this case, because it believes that Respondent City of Morris ("Morris") has provided an incomplete description of the status of compliance at the Morris Community Landfill ("Landfill"). Because Complainant believes the deteriorating conditions at the landfill provide a basis for immediate action by the Board, it believes that this short Reply is necessary to avoid material harm.

I. Witness Disclosure

Although the City of Morris had previously disclosed eight witnesses in response to the State's discovery requests, it did not name Edward Prum as a witness until September 28, 2006, less than one month before hearing, and six days after Respondent Community Landfill Co. had

moved to cancel hearing on the basis of Edward Pruiim's unavailability. The State believes the Board may draw its own conclusions about the timing of this late disclosure.

II. Deposition Testimony of Devin Moose

Mr. Devin Moose, described as the "...City's primary technical consultant..." (Response, p.3) was deposed on August 2, 2006. At his Deposition Mr. Moose stated that the cost of closure of Parcels A & B of the Morris Community Landfill was \$7.4 MM (*Exhibit A*, at p. 62). He then testified, as follows:

Q...Have you discussed the various tasks and especially the amount of money that's required to do these tasks?

A. Yes.

Q. Does that City--can the City of Morris afford to do closure at a, say, 7.4 million dollars...But as far as doing closure at 7.4 million dollars, can the City of Morris afford to do that?

A. They tell me no.

Q. Did they give you an idea about how much they could afford to spend?

A. No.

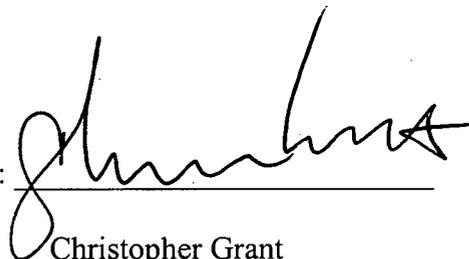
(*Exhibit A*, pp. 62-3).

Mr. Moose's testimony shows the substantial harm to the State from the City and CLC's violation of the financial assurance regulations. The City and CLC have failed to provide compliant financial assurance for closure and post-closure care and now the situation has seriously degraded. Closure costs have increased to \$7.4 MM, but the City has not made provision to cover closure costs. This is precisely the harm sought to be avoided by the financial assurance regulations.

The City's request that the status quo continue is irresponsible. The Board must act now, and require that the Respondents immediately secure financial assurance for closure and post-closure care of the Landfill.

RESPECTFULLY SUBMITTED

BY:

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

Christopher Grant
Assistant Attorney General
Environmental Bureau
188 W. Randolph St., 20th Flr.
Chicago, Illinois 60601
(312) 814-5388

ORIGINAL

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The deposition of **DEVIN A. MOOSE, P.E., DEE**
 taken before Linda A. Lance, C.S.R, R.P.R., a Notary
 Public in and for the County of McHenry, State of
 Illinois, taken at the offices of Shaw Environmental,
 Inc., 1150 N. Fifth Avenue, St. Charles, Illinois, on
 Wednesday the 2nd of August, A.D., 2006, scheduled at
 the hour of 1 o'clock but commencing at 1:10 p.m.

PRESENT:

STATE OF ILLINOIS ATTORNEY GENERAL
 BY: **MR. CHRISTOPHER J. GRANT,**
 Assistant Attorney General
 188 W. Randolph Street, 20th Floor
 Chicago, IL 60601
 (312) 814-5388
 appeared on behalf of Complainant;

ILLINOIS ENVIRONMENTAL PROTECTION AGENCY
 BY: **MR. BRUCE A. KUGLER,** Assistant Counsel
 1021 North Grand Avenue
 P.O. Box 19276
 Springfield, IL 62794-9276
 (217)-782-5544
 appeared on behalf of Illinois EPA;

EXHIBIT
 tabbles
A

1 million dollars?

2 A Correct.

3 Q And of that 2.6 million is post-closure care?

4 A Correct.

5 Q Okay. You're going to -- I'm going to --
6 we're going to give you the opportunity to discuss some
7 of the things and I want to know about what you think
8 needs to be done. I think that was in your disclosure
9 as far as the tasks that need to be done at the
10 landfill. But at this point let me just ask you about
11 financing the total of the 10 million dollars, the 7.4
12 and 2.6 million dollars. Your client is the City of
13 Morris. Have you discussed the various tasks and
14 especially the amount of money that's required to do
15 these tasks?

16 A Yes.

17 Q Does the City -- can the City of Morris
18 afford to do closure at a, say, 7.4 million dollars and
19 2.6 million -- well, the two, the post-closure care we
20 can talk, we'll talk about that separately. But as far
21 as doing closure at 7.4 million dollars, can the City of
22 Morris afford to do that?

23 A They tell me no.

24 Q Did they give you an idea about how much

1 money they could afford to spend?

2 A No.

3 Q As far as the post-closure care, then let's
4 assume 2.6 million dollars of post-closure care, have
5 you discussed that separately with them, in other words,
6 can the City of Morris afford to put up 2.6 million
7 dollars of -- to assure post-closure?

8 A No, I did not discuss it separately with
9 them.

10 Q You're familiar with the regulations. Can
11 you tell me how with, with the current financial
12 assurance that's in the permit of 17 plus million
13 dollars, if you wanted to, as you obviously think that's
14 incorrect, how would you change the required amount of
15 financial assurance?

16 A I would implement a plan that focused on
17 instead of financial assurance a series of tasks that go
18 to the --

19 Q Before you -- no, I understand. Before we
20 get into that, and I'm sure we will, I mean you'll agree
21 that currently the permits for the landfill require at
22 least 17 million dollars of --

23 A I agree.

24 Q -- closure, post-closure financial assurance?

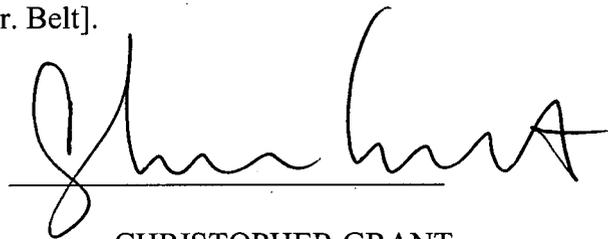
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CERTIFICATE OF SERVICE

I, CHRISTOPHER GRANT, an attorney, do certify that I caused to be served this 13th day of October, 2006, the foregoing Reply and Notice of Filing, upon the persons listed on said Notice by fax and first class mail [to Mr. Helsten and Mr. La Rose], hand delivery [to Hearing Officer Halloran], and by first class mail only [to Mr. Belt].



CHRISTOPHER GRANT