

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: Ms. Clarissa Grayson
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)490-4901

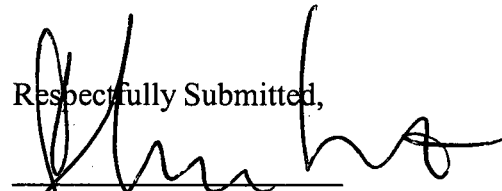
Mr. Scott Belt
105 East Main Street
Suite 206
Morris, Illinois 60450
(815)941-4677

NOTICE OF FILING

PLEASE TAKE NOTICE that we have today, May 30, 2007, filed with the Office of the Clerk of the Illinois Pollution Control Board, by electronic filing, Complainant's Response to City of Morris Motion for Reconsideration, a copy of which is attached and herewith 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)	
municipal corporation,)	
)	
Respondents.)	

COMPLAINANT'S RESPONSE TO MORRIS' MOTION TO RECONSIDER

NOW COMES Complainant, PEOPLE OF THE STATE OF ILLINOIS, and responds to the City of Morris' ("Morris") Motion to Reconsider, as follows:

I. INTRODUCTION

On May 17, 2007, the Board directed this matter to final hearing, stating that "...the Board will not grant any further extensions of time on this issue."¹ On May 24, 2007, the City of Morris filed its Motion to Reconsider. Complainant respectfully requests that the Board affirm its ruling and reject any continued attempts by the Respondents to delay resolution of this matter.

II. HEARING SHOULD BE HELD WITHOUT FURTHER DELAY

To date, the Board has been patient and accommodating to the Respondents. It has continued this hearing for eight months, based on the Respondents' claim that late-disclosed witness Edward Pruim was necessary to their cases. However, as the Board suggests in its March 15 and May 17, 2007 Orders, it is time to move forward.

¹ slip op. at 3

Morris adds nothing new to its previous arguments in its Response or Motion for Reconsideration. Instead, it attempts to mislead the Board regarding the condition of the Landfill, using attached affidavits.

Affiant Devin Moose states that landfill gas probe testing conducted on December 11, 2006 by Shaw Environmental, Inc. ("Shaw") indicated that methane lower explosive limit ("LEL") levels were below 50% ('*Group Exhibit A to Affidavit*', p. 4). He fails to add that gas probe tests conducted by Shaw on January 3, 2006 showed methane LEL levels as high as 110%. (see: Exhibit A)². Also, Mr. Moose states that "...Shaw is not aware of any quantitative testing that has been performed...to demonstrate the surface methane concentrations have ever exceeded 500 ppm above background" ('*Group Exhibit A to Affidavit*', p. 5). Mr. Moose fails to advise the Board that Shaw performed surface emission testing on January 10, 2007, and detected two areas of the Landfill where methane surface emissions exceeded 500 ppm over background concentrations (see: Exhibit B)³.

The Board should tolerate no further delay in rescheduling a hearing. The Board is entitled to all relevant and competent evidence, as well as an opinion on the credibility of witnesses, for its determination of a proper remedy for the ongoing violations. Clearly, the Board should review evidence presented at hearing, subject to cross-examination, not half truths contained in misleading affidavits.

²35 Ill. Adm. Code 811.311, and the relevant permits, require the Respondents to take corrective action in the event of such an exceedance. There is no record that any effective actions were taken in response to the high methane test results.

³Pursuant to 35 Ill. Adm. Code 220.250, owners or operators of municipal solid waste landfills are required to operate a gas control and collection system so as to prevent such exceedances.

WHEREFORE, Complainant respectfully requests that the Board:

- 1) Deny the City of Morris' Motion for Reconsideration;
- 2) Order the Hearing Officer to establish a date for hearing on the issue of remedy against the Respondents;
- 3) Provide such other relief as the Board deems appropriate and just.

RESPECTFULLY SUBMITTED,

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

BY: 

Christopher Grant
Jennifer Tomas
Assistant Attorneys General
Illinois Attorney General's Office
Environmental Bureau
69 W. Washington Street, Suite 1800
Chicago, Illinois 60601
(312) 814-5388
(312) 814-0609

Shaw Environmental, Inc.

999 Remington Boulevard, Unit A
Bolingbrook, IL 60440
630.771.9200
Fax: 630.771.9250



Shaw Environmental, Inc.

January 5, 2006
Project 112005

Illinois Environmental Protection Agency
Division of Land Pollution Control - #33
Permit Section
1021 North Grand Avenue East
Post Office Box 19276
Springfield, Illinois 62794-9276

Re: Morris Community Landfill
0630600001 - Grundy County
Landfill Gas Monitoring Report - January 5, 2006

Dear Agency Representative:

During the January, 2006 gas monitoring event at the Morris Community Landfill, Parcel B methane concentrations were detected above 50 percent of the lower explosive limit (LEL) within two gas monitoring probes. These probes are identified as X116 and X118, as shown on the attached landfill gas monitoring summary table and figure.

If you have any questions or comments regarding this report, please contact our office at your convenience.

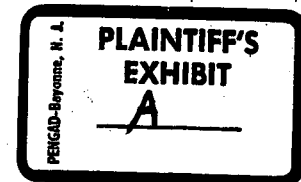
Sincerely,

Shaw Environmental, Inc.

Heather M. Powell-Olson
Senior Project Manager

cc: Chuck Helsten, Hinshaw & Culbertson
Mayor Richard Kopczick, City of Morris
Jim Pelnarsh, Morris Community Landfill
Jesse Varsho, Shaw Environmental

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A Shaw Group Company

**Morris Community Landfill
Gas Probe Monitoring**

Sample Date: January 3, 2006

Technician: DK

Probe ID	Pressure	CH ₄		CO ₂ (% by vol.)	O ₂ (% by vol.)	Balance (% by vol.)	Inspection of Gas Probe
		(% by vol.)	(% LEL)				
X101	0.0	0.0	0.0	4.2	12.2	83.6	Yes
X102	0.0	0.0	0.0	6.5	13.0	80.5	Yes
X103	0.0	0.0	0.0	0.0	18.7	81.3	Yes
X104	0.0	0.0	0.0	0.5	16.0	83.5	Yes
X105	0.0	0.0	0.0	0.2	15.4	84.4	Yes
X106	0.0	0.0	0.0	0.0	17.4	82.6	Yes
X107	0.0	0.0	0.0	0.1	18.0	81.9	Yes
X108	0.0	0.0	0.0	0.0	19.5	80.5	Yes
X109	0.0	0.0	0.0	0.0	19.5	80.5	Yes
X110	0.0	0.0	0.0	0.0	19.6	80.4	Yes
X111	0.0	0.0	0.0	0.0	19.6	80.4	Yes
X112	0.0	0.0	0.0	0.2	19.4	80.4	Yes
X113	0.0	0.0	0.0	0.3	18.2	81.5	Yes
X114	0.0	0.0	0.0	0.2	19.0	80.8	Yes
X115	0.0	0.0	0.0	0.3	19.2	80.5	Yes
X116	0.0	3.3	66.0	11.1	8.0	77.6	Yes
X117	0.0	0.0	0.0	0.9	17.0	82.1	Yes
X118	0.0	5.5	110.0	11.2	12.2	71.1	Yes
X119	0.0	0.2	4.0	9.0	8.5	82.3	Yes
X120	0.0	0.0	0.0	5.0	12.7	82.3	Yes
X121	0.0	0.0	0.0	0.5	18.4	81.1	Yes
X122	0.0	0.0	0.0	0.4	19.1	80.5	Yes
X123	0.0	0.0	0.0	0.7	18.7	80.6	Yes
X124	0.0	0.0	0.0	0.4	19.2	80.4	Yes
X125	0.0	0.0	0.0	6.1	14.2	79.7	Yes
X126	0.0	0.0	0.0	0.0	19.4	80.6	Yes
X127	0.0	0.0	0.0	0.0	19.6	80.4	Yes
X128	0.0	0.0	0.0	10.9	8.7	80.4	Yes

Notes:

Gas probes are monitored on a monthly.



February 1, 2007

A World of Solutions™

Illinois Environmental Protection Agency
Bureau of Air
10212 North Grand Avenue East
P.O. Box 19276
Springfield, IL 62794-9276

To whom it may concern,

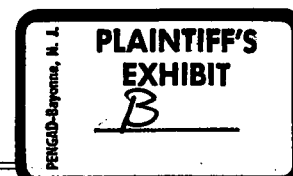
At the request of the City of Morris, Shaw Environmental, Inc. (Shaw) has performed surface emission sampling of landfill gas (LFG) at the Community Landfill - Parcel B in accordance with 35 Ill. Adm. Code 220.240 (c) and (d). This report summarizes the results of that effect.

Shaw personnel performed the surface emission sampling on January 10, 2007. Shaw personnel utilized standard NSPS sampling techniques (in accordance with section 4.3.1 of Method 21 of Appendix a, 40 CFR 60) which included the use of a flame ionization detector (Mini-RAE Micro FID). The FID continuously collects air samples and concurrently measures for organic vapor concentration as it is moved along a transverse.

Prior to sampling at the landfill, Shaw personnel established representative background concentration by moving the FID upwind and downwind outside of the landfill a distance of 100 feet from the perimeter wells. Shaw personnel then collected continuous air samples along the entire perimeter of the landfill and along a pattern that traverses the landfill at 30-meter (approximately 100 foot) intervals as shown as a red line on Figure 1. Samples were taken within approximately 4 inches of the ground. Based on the continuous surface testing, two areas of the landfill detected organic vapor concentrations greater than 500 ppm. Please refer to Figure 1 for the location of these areas.

In accordance with 35 Ill. Adm. Code 220.240 (c)(4), Shaw personnel resampled these exceedance areas on January 19, 2007. The resampling of the two previous exceedance areas (Figure 2) did not measure organic vapor concentrations greater than 500 ppm. In accordance with the applicable regulations, Shaw personnel will resample the exceedance areas within one month of the initial sampling event.

Should you have any questions on this report, please contact me at (630) 762-1400.

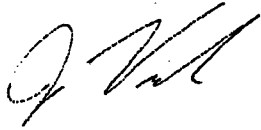


Bureau of Air
Illinois Environmental Protection Agency

February 1, 2007
Page 2 of 2

Sincerely,

Shaw Environmental, Inc.

A handwritten signature in dark ink, appearing to read 'J Varsho', is positioned above the printed name.

Jesse Varsho, P.E., P.G.
Geological Engineer

cc: Ms. Maureen Wozniak - IEPA Division of Legal Counsel
Mr. Christopher Grant - Attorney General
Mayor Richard Kopczick - City of Morris
Chuck Helsten - Hinshaw & Culberston LLP

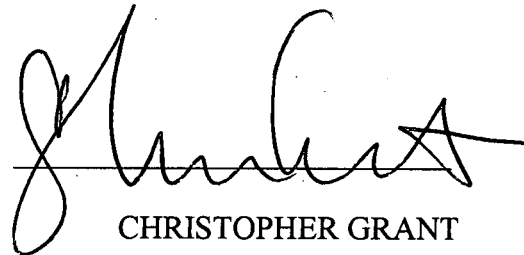
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CERTIFICATE OF SERVICE

I, CHRISTOPHER GRANT, an attorney, do certify that I caused to be served this 30th day of May, 2007, the foregoing Response to Morris Motion for Reconsideration, and Notice of Filing, upon the persons listed on said Notice by facsimile transmission, and by placing same in an envelope bearing sufficient postage with the United States Postal Service located at 100 W. Randolph, Chicago Illinois.


CHRISTOPHER GRANT