

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.)

to: Mr. Mark La Rose, 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
(Via Hand Delivery)

NOTICE OF FILING

PLEASE TAKE NOTICE that we have today, February 25, 2008, filed with the Office of the Clerk of the Illinois Pollution Control Board, by electronic filing, Complainant's Response to the Respondents' Motion to Cancel Hearing, 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 Attorney General
Environmental Bureau
69 W. Washington St., #1800
Chicago, IL 60602
(312) 814-5388

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**COMPLAINANT'S RESPONSE IN OPPOSITION TO RESPONDENTS'
MOTION TO CANCEL HEARING**

NOW COMES Complainant, PEOPLE OF THE STATE OF ILLINOIS, and responds in opposition to the Respondents', COMMUNITY LANDFILL COMPANY, INC., EDWARD PRUIM, and ROBERT PRUIM'S Motion to Cancel Hearing, as follows:

On February 21, 2008, Respondents filed their Motion to cancel the hearing in this matter, now scheduled for April 7 through April 10, 2008. This is the Respondents' second

request for cancellation of hearing. While Complainant did not object to the Respondent's previous cancellation request (i.e. in this case), it now believes that the prejudice resulting to Complainant and the Board from delay in hearing outweighs any inconvenience to the Respondents. Complainant therefore requests that Respondents Motion to Cancel Hearing be denied.

I. HEARING IN THIS MATTER HAS BEEN LONG DELAYED

Unfortunately, there has been a significant delay in resolving this 1997-filed matter. The State concedes that it is partially responsible by seeking several amendments to add additional counts and parties. However, there is no question that the consolidated cases have been ripe for hearing since early 2006¹. Since that date, any and all delay has been solely attributable to the Respondents.

Following the Board's April 20, 2006 Order, the Hearing Officer held several telephone conferences in an attempt to set hearing. Scheduling was initially delayed by the unavailability of engineer Michael McDermont². In accommodation, the Hearing Officer eventually set hearing for December 11-14, 2006. On September 22, 2006 (one day after the Notice of Hearing had been issued), the Respondents filed their first Motion to Cancel Hearing, on the basis of Respondent Edward Pruim's heart surgery and subsequent health issues. The State did not object to cancellation on that basis. However, the Hearing Officer should note that 13 months

¹On April 20, 2006, the Board denied Edward and Robert Pruim's Motion for Summary Judgment, and stated that it "...expects that the hearing will be scheduled and completed within the next six months". *4/20/06 Board Order*, slip op. at 8.

²See: Affidavit of R. Michael McDermont, filed with the Board June 13, 2006, stating that he was unavailable to testify through October, 2006.

passed before the Parties were able to establish a new hearing date³.

II. RESPONDENTS FAIL TO DEMONSTRATE A SUFFICIENT BASIS FOR CANCELLATION OF HEARING

Obviously, counsel for Complainant sympathize with Ms. Grayson regarding her injury, and agree that she has been a valuable participant in this matter. However, the limitations described in her affidavit simply do not provide a sufficient basis for cancellation.

In sum, Ms. Grayson states that she is unable to effectively use her left hand, and therefore will have difficulty handling documents. She does not explain why she could not, with assistance from staff, fully and completely handle and review documents with only her right hand. She does not claim that she is unable to perform other normal work activities during this period, nor does she provide a detailed explanation as to the volume of documents that need to be handled.

Moreover, though Ms. Grayson has been working on this case since 2001, her partner Mark LaRose has been actively involved from the initial filing. Mr. LaRose is intimately familiar with this case and its subject matter, the Morris Community Landfill ("Landfill"). He has handled Landfill related matters in three contested hearings, most recently in September, 2007⁴. Clearly, Mr. LaRose has sufficient knowledge of the facts to prepare the case for hearing.

III. CANCELLATION OF HEARING WOULD RESULT IN AN EXTENDED DELAY

Respondents propose rescheduling hearing to mid-summer. While Complainant has not

³The current hearing date was set on October 25, 2007.

⁴Mr. LaRose participated in Board hearings in PCB 01-48/01-49, PCB 01-170, and PCB 03-191. At hearing in *People v. Community Landfill and City of Morris*, PCB 03-191, Mr. LaRose presented Community Landfill Company's only witness.

yet checked with its witnesses for this period, vacation schedules generally make the summer difficult for securing witness availability. Moreover, it would certainly present a hardship for Complainant's counsel. Ms. Jennifer Tomas, who has actively participated in the Morris Community Landfill matters, is unavailable during May and June due to her upcoming wedding and honeymoon. Also, the undersigned is unavailable during the latter part of July and early August because of a planned vacation. It is therefore likely that cancellation of the April hearing dates would result in a significant delay in hearing of this matter.

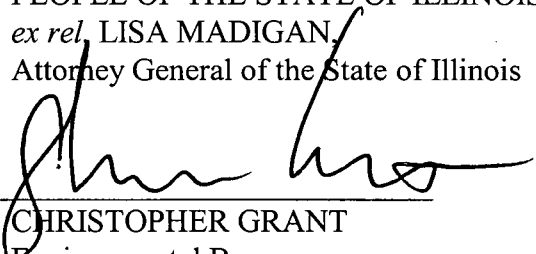
IV. CONCLUSION

For a number of reasons, hearing in this matter has been long delayed. Any further delay should be avoided, and the pending hearing in this matter should not cancelled or rescheduled without evidence of extreme prejudice. The reasons provided by Respondents in their Motion to Cancel are insufficient even to demonstrate significant inconvenience. The Hearing Officer should therefore deny Respondent's Motion, and issue a Notice of Hearing for the previously-scheduled dates of April 7 through April 10, 2008.

RESPECTFULLY SUBMITTED,

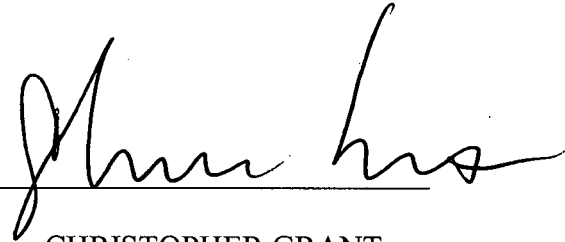
PEOPLE OF THE STATE OF ILLINOIS,
ex rel. LISA MADIGAN,
Attorney General of the State of Illinois

BY:


CHRISTOPHER GRANT
Environmental Bureau
Assistant Attorney General
69 W. Washington Street, #1800
Chicago, IL 60602
(312) 814-5388

CERTIFICATE OF SERVICE

I, CHRISTOPHER GRANT, an attorney, do certify that I caused to be served this 25th day of February 2008, Complainant's Response in Opposition to Respondents' Motion to Cancel Hearing, and Notice of Filing, upon the persons listed on said Notice of Filing, 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 cursive script, appearing to read "Christopher Grant", is written over a horizontal line.

CHRISTOPHER GRANT