

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

PEOPLE OF THE STATE OF ILLINOIS,)	
)	
Complainant,)	
)	
vs.)	PCB No. 03-191
)	(Enforcement-Land)
COMMUNITY LANDFILL COMPANY, INC.,)	
an Illinois corporation, and)	
the CITY OF MORRIS, an Illinois)	
municipal corporation,)	
)	
Respondents.)	

NOTICE OF ELECTRONIC FILING

PLEASE TAKE NOTICE that we have today, October 26, 2009, filed with the Office of the Clerk of the Illinois Pollution Control Board, by electronic filing, Complainant's Response in Opposition to Community Landfill Co. Inc.'s Motion for Stay Pending Appeal.

Respectfully Submitted,

BY: 
CHRISTOPHER GRANT
Assistant Attorneys General
Environmental Bureau
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**RESPONSE IN OPPOSITION TO COMMUNITY LANDFILL CO. INC.'S
MOTION FOR STAY PENDING APPEAL**

NOW COMES Complainant, PEOPLE OF THE STATE OF ILLINOIS, by LISA MADIGAN, Attorney General of the State of Illinois, and responds in opposition to the COMMUNITY LANDFILL CO., INC.'S ("CLC's") Motion to Stay Pending Appeal. For the reasons set forth herein, Complainant requests that the Board deny the Motion for Stay.

I. THE CASE IS NOW BEFORE THE APPELLATE COURT

On October 21, 2009, Complainant was served with Respondent City of Morris's ("City's" or "Morris's") petition for review of the Pollution Control Board's ("Board's") orders in this matter. The Petition had been filed by mail with Illinois Appellate Court, Third District, on October 19, 2009¹. The Board generally denies motions to stay when the case is before the Appellate Court², and it should do so in this Matter as well.

¹Complainant was not yet aware of the Appellate Court filing when it files its Response in Opposition to the City's request to the Board for a stay.

²*Community Landfill Company & City of Morris v. Illinois EPA*, PCB 01-48/01-49 (August 9, 2001)

II. A STAY OF THE BOARD'S FINAL ORDER WOULD THREATEN HARM TO THE PUBLIC

CLC's Motion repeats the arguments put forward by the City in its Request for Stay, and the State repeats its arguments in response. CLC's request also ignores the deteriorated state of the Landfill, and the need for maintenance and repair during the period of appeal. Further, it requests a total and complete stay of the penalty assessed against it.

The penalty against CLC only removes the proven economic benefit of noncompliance during the period of violation³. CLC is now requesting that it be able to continue to retain these funds, without even providing a minimum security that the State will be able to collect in the event that it prevails in the Appellate Court. The record in this case shows that CLC has very limited capital. Allowing it to divert and waste funds available for penalty, and thus rend its judgment uncollectible, while taking full advantage of the appeals process, would be unfair to the State.

Finally, grant of a stay would allow CLC and the City to continue illegal dumping at the Landfill. The Board cannot allow this dumping to continue.

III. CONCLUSION

CLC provides no valid basis for the Board's grant of a stay in this matter. CLC's Motion to Stay Pending Appeal should be denied.

³The penalty assessed against CLC only recovered unpaid surety premiums, without interest or an additional gravity component.

RESPECTFULLY SUBMITTED

People of the State of Illinois
by Lisa Madigan,
Attorney General of the State of Illinois

Matthew J. Dunn, Chief
Environmental Enforcement/Asbestos
Litigation Division

RoseMarie Cazeau, Chief
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BY:



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CERTIFICATE OF SERVICE

I, CHRISTOPHER GRANT, an attorney, do certify that I caused to be served this 26th day of October, 2009, the foregoing Response in Opposition to Community Landfill Co. Inc.'s Motion for Stay Pending Appeal, and Notice of Filing, upon the persons listed below by first class mail.



CHRISTOPHER GRANT

City of Morris
c/o Mr. Charles Helsten
Hinshaw & Culbertson
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Rockford, Illinois 61101

Mr. Scott Belt
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Community Landfill Co.
c/o Mr. Mark LaRose
LaRose & Bosco
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Chicago, Illinois 60601

Community Landfill Co.
c/o Ms. Clarissa Cutler
Attorney at Law
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Chicago, Illinois 60601

Mr. Bradley P. Halloran
Illinois Pollution Control Board
100 W. Randolph Street
Chicago, Illinois 60601 (by hand delivery)