

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

PEOPLE OF THE STATE OF ILLINOIS,)	
)	
Complainant,)	
)	
v.)	
)	PCB No.
The CITY OF MORRIS, an Illinois)	
municipal corporation, and)	(Enforcement-Land)
COMMUNITY LANDFILL COMPANY, INC.,)	
a dissolved Illinois corporation,)	
)	
)	
Respondents.)	

NOTICE OF ELECTRONIC FILING

PLEASE TAKE NOTICE that we have today, February 18, 2011, filed the initial Complaint in this matter with the Office of the Clerk of the Illinois Pollution Control Board, by electronic filing. A true and accurate copy of the Complaint is attached herewith and served upon you.

Failure to file an answer to this complaint within 60 days may have severe consequences. Failure to answer will mean that all allegations in the complaint will be taken as if admitted for purposes of this proceeding. If you have any questions about this procedure, you should contact the hearing officer assigned to this proceeding, the Clerk's Office or an attorney.

NOTIFICATION

YOU ARE HEREBY NOTIFIED that financing may be available through the Illinois Environmental facilities financing act [20 ILCS 3515/1 *et seq.*] to correct the alleged pollution.

PEOPLE OF THE STATE OF ILLINOIS

LISA MADIGAN
Attorney General of the
State of Illinois

MATTHEW J. DUNN, Chief
Environmental Enforcement/Asbestos
Litigation Division

ROSEMARIE CAZEAU, Chief
Environmental Bureau North

BY:



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

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

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COMPLAINT

Complainant, PEOPLE OF THE STATE OF ILLINOIS, by LISA MADIGAN, Attorney General of the State of Illinois, complains of Respondents, CITY OF MORRIS, an Illinois municipal corporation, and COMMUNITY LANDFILL COMPANY, INC., a dissolved Illinois corporation, as follows:

1. VIOLATIONS OF PERMIT NO. 2000-155-LFM, MODIFICATION NO. 9

COUNT I

FAILURE TO PERFORM GROUNDWATER TESTING ON PARCEL A

1. This complaint is brought by LISA MADIGAN, Attorney General of the State of Illinois, on her own motion pursuant to Section 31 of the Environmental Protection Act (“Act”), 415 ILCS 5/31 (2010).

2. Respondent CITY OF MORRIS (“Morris”), is an Illinois municipal corporation, organized and operating according to the laws of the State of Illinois, and located in Grundy County, Illinois. Morris is the permitted owner of the Morris Community Landfill (“Landfill”), a special waste and municipal solid waste landfill located at 1501 Ashley Road, Morris, Grundy

County, Illinois.

3. In *People v. Community Landfill Company, Inc. and the City of Morris*, PCB 03-191, the Illinois Pollution Control Board (“Board”) found that the Morris is also an ‘operator’ of the Landfill, and, jointly with Respondent Community Landfill Company (“CLC”), conducts waste disposal operations at the Landfill (PCB 03-191, February 16, 2006, p.14).

4. The Landfill is approximately 119 acres in area, and is divided into two separately permitted parcels, designated parcel “A”, consisting of approximately 55 acres, and parcel “B”, consisting of approximately 64 acres. Several private potable water wells are located within one-half mile of the Landfill. Groundwater flow reports submitted by Morris and CLC indicate that some of these wells are located downgradient of the Landfill.

5. Respondent CLC is an Illinois corporation. On May 14, 2010, CLC was involuntarily dissolved by the Illinois Secretary of State.

6. The Respondents have installed at least 20 groundwater monitoring wells and piezometers at or near the Landfill boundary to test for contaminants that may migrate from the Landfill. Ten (10) wells were designed to monitor groundwater at Parcel A, and Ten (10) wells were designed for groundwater monitoring of Parcel B. The Illinois Environmental Protection Agency (“Illinois EPA”) approved the number, design, and location of these groundwater monitoring wells, as further described in Paragraph 12 of Count I, and Paragraph 15 of Count III.

7. Prior to and on April 18, 2007, the Respondents intermittently collected groundwater samples from the 20 groundwater monitoring wells to test for contaminant migration, and submitted groundwater monitoring reports to Illinois EPA.

8. From at least July 15, 2007 to the date of filing this complaint, the Respondents

have failed to perform quarterly and annual groundwater testing, and failed to submit test results to Illinois EPA.

9. As owners and operators of the Morris Community Landfill, Morris and CLC are required by Section 21(d) of the Act, 415 ILCS 5/21(d) (2010), to apply for and obtain landfill permits, including operating, significant modification, and other municipal solid waste permits from Illinois EPA, Bureau of Land Pollution Control.

10. Morris applied for and obtained its first Illinois EPA permit for the Landfill in 1974. As of the date of filing this complaint, Morris has applied for and obtained at least forty nine (49) permits for the Landfill from the Illinois EPA, Bureau of Land. Morris has obtained thirty nine (39) permits for Parcel B, and ten (10) permits for Parcel A.

11. CLC obtained its first permit for the Landfill from Illinois EPA, Bureau of Land Pollution Control, in 1982. Since 1982 CLC has applied for and obtained, jointly with Morris, thirty five (35) permits for Parcel B, and ten (10) permits for Parcel A.

12. On April 25, 2007, Illinois EPA issued Permit No. 2000-155-LFM, Modification No. 9 (“2007 Parcel A Permit”) to Morris, as owner, and CLC, as operator. The 2007 Parcel A Permit covers Parcel A of the Landfill. The 2007 Parcel A Permit incorporates the groundwater monitoring wells referenced in paragraph 6 of this Count as part of the Landfill’s required groundwater monitoring program.

13. Condition VIII.10 of the 2007 Parcel A Permit provides, in pertinent part, as follows:

The monitoring program, approved by Permit No. 2000-155-LFM, shall continue for a minimum period of thirty (30) years after closure and shall not cease until the conditions described in 35 Ill. Adm. Code, 811.319(a)(1)(C) have been achieved. The operator shall collect samples from all of the monitoring points

listed in Condition VIII.9, test the samples for the parameters listed in Condition VIII.12 (Lists G1 and G2), and report the results to the Illinois EPA, all in accordance with the schedule in Condition VIII.17....

14. Condition VIII.12 of the 2007 Parcel A Permit provides, in pertinent part, as follows:

* * *

List G1 (Groundwater-Quarterly)

<u>FIELD PARAMETERS</u>	<u>STORETS</u>	<u>MAPC/AGQS</u>
Ph	00400	6.12-8.14
Specific Conductance	0094	2,111.40

* * *

<u>INDICATOR PARAMETERS</u>	<u>STORETS</u>	<u>MAPC/AGQS</u>
Ammonia (as Nitrogen; Dissolved) mg/L	00608	3.9224
Arsenic (Dissolved) ug/L	01000	23.8
Boron (Dissolved) ug/L	01020	1564.2

* * *

List G2 (Groundwater-Annual)

<u>PARAMETERS</u>	<u>STORETS</u>	<u>MAPC/AGQ</u>
<u>UNFILTERED (totals)</u>		
Acetone	81552	100
Acrolein	34210	5
Acrlonitrile	34215	5

* * *

15. Condition VIII.17 of the 2007 Parcel A Permit provides, in pertinent part, as follows:

The schedule for sample collection and submission of quarterly monitoring results is as follows:

<u>Sampling Quarter</u>	<u>Sampling Due</u>	<u>Report Due Date</u>
Jan-Feb (1 st)	List G1	April 15
April-May (2d)	List G1 and G2	July 15
July-Aug (3d)	List G1	October 15
Oct-Nov (4 th)	List G1	January 15

G1-Routine Groundwater Parameters
G-2 Annual Groundwater Parameters

* * *

16. Section 21(d)(1) of the Act, 415 ILCS 5/21 (2010), provides, in pertinent part, as follows:

No person shall:

* * *

(d) Conduct any waste storage, waste treatment, or waste disposal operation:

- 1) Without a permit granted by the agency or in violation of any conditions imposed by such permit, including periodic reports and full access to adequate records and the inspection of facilities, as may be necessary to assure compliance with this Act and with regulations and standards adopted thereunder;

17. Section 3.315 of the Act, 415 ILCS 5/3.315 (2010), provides, as follows:

“Person” is any individual, partnership, co-partnership, firm, company, limited liability company, corporation, association, joint stock company, trust, estate, political subdivision, state agency, or any other legal entity, or their legal representative, agent or assigns.

18. The Respondents are “person[s]” as that term is defined in Section 3.315 of the Act, 415 ILCS 5/3.315 (2010).

19. The Respondents were required under the 2007 Parcel A Permit to collect and test samples from groundwater monitoring wells at the Landfill on a quarterly basis for the parameters listed in Condition VIII.12.G1, and on an annual basis for the parameters listed in

Condition VIII.12.G2, and to report results to Illinois EPA according to the schedule contained in Condition VIII.17.

20. By failing to collect samples, perform testing, and report results to Illinois EPA at any time from July 15, 2007 to the date of filing this Complaint, the Respondents violated Conditions VIII.10, VIII.12, and VIII.17 of the 2007 Parcel A Permit, and thereby also violated Section 21(d)(1) of the Act, 415 ILCS 5/21(d)(1) (2010).

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an order against the Respondents, THE CITY OF MORRIS and COMMUNITY LANDFILL COMPANY, INC., on Count I:

1. Authorizing a hearing in this matter at which time the Respondents will be required to answer the allegations herein;
2. Finding that the Respondents have violated Section 21(d)(1) of the Act, and Sections VIII.10, VIII.12, and VIII.17 of the 2007 Parcel A Permit;
3. Ordering the Respondents to cease and desist from any further violations of Section 21(d)(1) of the Act, and Sections VIII.10, VIII.12, and VIII.17 of the 2007 Parcel A Permit ;
4. Ordering the Respondents to immediately commence groundwater monitoring and reporting in accordance with the requirements of the Landfill's permits;
5. Assessing a civil penalty of Fifty Thousand Dollars (\$50,000.00) against the Respondents for each violation of the Act and the 2007 Parcel A Permit, an additional civil penalty of Ten Thousand Dollars (\$10,000.00) for each day of violation;
6. Ordering the Respondents to pay all costs, pursuant to Section 42(f) of the Act,

including attorney, expert witness, and consultant fees expended by the State in its pursuit of this action; and

7. Granting such other relief as the Board deems appropriate and just.

COUNT II
FAILURE TO PERFORM GROUNDWATER MONITORING ASSESSMENT ON
PARCEL A MONITORING WELLS

1-15. Complainant realleges and incorporates by reference herein paragraphs 1 through 12, and paragraphs 16 through 18, of Count I, as paragraphs 1 through 15 of this Count II.

16. From at least October 1, 2006 to the date of filing this Complaint, the Respondents have failed to perform a groundwater monitoring assessment on the groundwater monitoring wells installed for Parcel A of the Landfill.

17. From October 15, 2007 to the date of filing this Complaint, the Respondents have failed to report the results of a groundwater monitoring assessment to Illinois EPA, and failed to submit an application for significant modification of the 2007 Parcel A Permit.

18. Condition VIII.27 of the 2007 Parcel A Permit provides, in pertinent part, as follows:

The operator shall conduct the groundwater monitoring assessment program for wells G120 (total ammonia, dissolved ammonia, dissolved chloride, and total chloride), G121 (total ammonia, dissolved ammonia, and total potassium)...beginning 4th Quarter 2006 and ending 3d Quarter 2007, as proposed in Log Nos. 2006-139, 2006-265, and 2006-402. Groundwater monitoring wells shall be monitored in accordance with the schedule proposed in Log No. 2006-402.

* * *

The operator shall submit the results of the assessment monitoring program to the Illinois EPA in the form of a significant modification application by October 15, 2007. The application shall include, at a minimum, available historical data and analyses for the constituents of concern, 40 CFR 258 Appendix II results, and

conclusions demonstrating whether the exceeding parameter concentrations in parcel A wells are attributable to the facility. If the facility is determined to be the source of impacts, the application shall include a proposal for further assessment in accordance with 35 Ill. Adm. Code 811.319(b)(3).

19. By failing to conduct a groundwater monitoring assessment of the wells designated for the contaminants specified in Condition VIII.27 of the 2007 Parcel A Permit, and by failing to submit the results in a significant modification application by October 15, 2007, the Respondents violated condition VIII.27 of the 2007 Parcel A Permit, and thereby also violated Section 21(d)(1) of the Act, 415 ILCS 5/21(d)(1) (2010).

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an order against the Respondents, THE CITY OF MORRIS and COMMUNITY LANDFILL COMPANY, INC., on Count II:

1. Authorizing a hearing in this matter at which time the Respondents will be required to answer the allegations herein;
2. Finding that the Respondents have violated Section 21(d)(1) of the Act, and Section VIII.27 of the 2007 Parcel A Permit ;
3. Ordering the Respondents to cease and desist from any further violations of Section 21(d)(1)of the Act, and Section VIII.27 of the 2007 Parcel A Permit;
4. Ordering the Respondents to immediately commence groundwater monitoring and reporting in accordance with the requirements of the Landfill's permits;
5. Assessing a civil penalty of Fifty Thousand Dollars (\$50,000.00) against the Respondents for each violation of the Act, and the 2007 Parcel A Permit, and an additional civil penalty of Ten Thousand Dollars (\$10,000.00) for each day of violation;
6. Ordering the Respondents to pay all costs, pursuant to Section 42(f) of the Act,

including attorney, expert witness, and consultant fees expended by the State in its pursuit of this action; and

7. Granting such other relief as the Board deems appropriate and just.

2. VIOLATIONS OF PERMIT NO. 2000-156-LFM, MODIFICATION NO. 9

COUNT III

FAILURE TO PERFORM GROUNDWATER TESTING ON PARCEL B

1-14. Complainant realleges and incorporates by reference herein paragraphs 1 through 11, and paragraphs 16 through 18 of Count I, as paragraphs 1 through 14 of this Count III.

15. On April 25, 2007, Illinois EPA issued Permit No. 2000-156-LFM, Modification No. 9 (“2007 Parcel B Permit”) to Morris, as owner, and CLC, as operator. The 2007 Parcel B Permit covers Parcel B of the Landfill. The 2007 Parcel B Permit incorporates the groundwater monitoring wells referenced in paragraph 6 of Count I as part of the Landfill’s required groundwater monitoring program.

16. Condition VII.10 of the 2007 Parcel B Permit provides, in pertinent part, as follows:

The monitoring program, approved by Permit No. 2000-156-LFM, shall continue for a minimum period of thirty (30) years after closure and shall not cease until the conditions described in 35 Ill. Adm. Code, 811.319(a)(1)(C) have been achieved. The operator shall collect samples from all of the monitoring points listed in Condition VII.9, test the samples for the parameters listed in Condition VII.12 (lists G1 and G2), and report the results to the Illinois EPA, all in accordance with the schedule in Condition VII.17....

17. Condition VII.12 of the 2007 Parcel B Permit provides, in pertinent part, as follows:

* * *

List G1 (Groundwater-Quarterly)

<u>FIELD PARAMETERS</u>	<u>STORETS</u>	<u>MAPC/AGQS</u>
Ph	00400	5.87-8.44
Specific Conductance	0094	2,380.7

* * *

<u>INDICATOR PARAMETERS</u>	<u>STORETS</u>	<u>MAPC/AGQS</u>
Depth to Water (ft. below land surface)	72019	----
Depth to Water (ft. below measuring point)	72109	----

* * *

List G2 (Groundwater-Annual)

<u>PARAMETERS</u>	<u>STORETS</u>	<u>MAPC/AGQ</u>
<u>UNFILTERED</u> (totals)		
Acetone	81552	100
Acrolein	34210	5
Acrlonitrile	34215	5

* * *

18. Condition VII.17 of the 2007 Parcel B Permit provides, in pertinent part, as follows:

The schedule for sample collection and submission of quarterly monitoring results is as follows:

<u>Sampling Quarter</u>	<u>Sampling Due</u>	<u>Report Due Date</u>
Jan-Feb (1 st)	List G1	April 15
April-May (2d)	List G1 and G2	July 15
July-Aug (3d)	List G1	October 15
Oct-Nov (4 th)	List G1	January 15

G1- Routine Groundwater Parameters
G2- Annual Groundwater Parameters

* * *

19. The Respondents were required under the 2007 Parcel B Permit to collect and test

samples from groundwater monitoring wells at the Landfill on a quarterly basis for parameters listed in Condition VII.12.G1, and on an annual basis for the parameters listed in Condition VII.12.G2, and required to report results to Illinois EPA according to the schedule contained in Condition VII.17.

20. By failing to collect samples, perform testing, and report results to Illinois EPA at any time from July 15, 2007 to the date of filing this complaint, the Respondents violated Conditions VII.10, VII.12, and VII.17 of the 2007 Parcel B Permit, and thereby also violated Section 21(d)(1) of the Act, 415 ILCS 5/21(d)(1) (2010).

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an order against the Respondents, THE CITY OF MORRIS and COMMUNITY LANDFILL COMPANY, INC., on Count III:

1. Authorizing a hearing in this matter at which time the Respondents will be required to answer the allegations herein;
2. Finding that the Respondents have violated Section 21(d)(1) of the Act, and Sections VII.10, VII.12, and VII.17 of the 2007 Parcel B Permit;
3. Ordering the Respondents to cease and desist from any further violations of Section 21(d)(1) of the Act, and Sections VII.10, VII.12, and VII.17 of the 2007 Parcel B Permit;
4. Ordering the Respondents to immediately commence groundwater monitoring and reporting in accordance with the requirements of the Landfill's permits;
5. Assessing a civil penalty of Fifty Thousand Dollars (\$50,000.00) against the Respondents for each violation of the Act and of the 2007 Parcel B Permit, and an additional civil penalty of Ten Thousand Dollars (\$10,000.00) for each day of violation;

6. Ordering the Respondents to pay all costs, pursuant to Section 42(f) of the Act, including attorney, expert witness, and consultant fees expended by the State in its pursuit of this action; and

7. Granting such other relief as the Board deems appropriate and just.

COUNT IV
FAILURE TO PERFORM GROUNDWATER MONITORING ASSESSMENT
ON PARCEL B MONITORING WELLS

1-15. Complainant realleges and incorporates by reference herein paragraphs 1 through 15 of Count III as paragraphs 1 through 15 of this Count IV.

16. From at least October 1, 2006 to the date of filing this Complaint, the Respondents have failed to perform a groundwater monitoring assessment on the groundwater monitoring wells installed for Parcel B of the Landfill.

17. From October 15, 2007 to the date of filing this Complaint, the Respondents have failed to report the results of a groundwater monitoring assessment to Illinois EPA, and failed to submit an application for significant modification of the 2007 Parcel B Permit.

18. Condition VII.26 of the 2007 Parcel B Permit provides, in pertinent part, as follows:

The operator shall conduct the groundwater monitoring assessment program for wells G130 (total ammonia, dissolved ammonia, dissolved chloride, and total nickel), G131 (total ammonia, dissolved ammonia, total chloride, dissolved chloride, specific conductance, dissolved boron, and total nickel)...beginning 4th Quarter 2006 and ending 3d Quarter 2007, as proposed in Log Nos. 2006-139, 2006-266, and 2006-403. Groundwater monitoring wells shall be monitored in accordance with the schedule proposed in Log No. 2006-403.

* * *

The operator shall submit the results of the assessment monitoring program to the Illinois EPA in the form of a significant modification application by October 15,

2007. The application shall include, at a minimum, available historical data and analyses for the constituents of concern, 40 CFR 258 Appendix II results, and conclusions demonstrating whether the exceeding parameter concentrations in parcel B wells are attributable to the facility. If the facility is determined to be the source of impacts, the application shall include a proposal for further assessment in accordance with 35 Ill. Adm. Code 811.319(b)(3).

19. By failing to conduct a groundwater monitoring assessment of the wells designated, and for the contaminants specified in Condition VII.26 of the 2007 Parcel B Permit, and by failing to submit the results and remedial plan in a significant modification application by October 15, 2007, the Respondents violated condition VII.26 of the 2007 Parcel B Permit, and thereby also violated Section 21(d)(1) of the Act, 415 ILCS 5/21(d)(1) (2010).

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an order against the Respondents, THE CITY OF MORRIS and COMMUNITY LANDFILL COMPANY, INC., on Count IV:

1. Authorizing a hearing in this matter at which time the Respondents will be required to answer the allegations herein;
2. Finding that the Respondents have violated Section 21(d)(1) of the Act, and Section VII.26 of the 2007 Parcel B Permit;
3. Ordering the Respondents to cease and desist from any further violations of Section 21(d)(1) of the Act, and Section VII.26 of the 2007 Parcel B Permit;
4. Ordering the Respondents to immediately commence groundwater monitoring and reporting in accordance with the requirements of the Landfill's permits;
5. Assessing a civil penalty of Fifty Thousand Dollars (\$50,000.00) against the Respondents for each violation of the Act and the 2007 Parcel B Permit, and an additional civil penalty of Ten Thousand Dollars (\$10,000.00) for each day of violation;

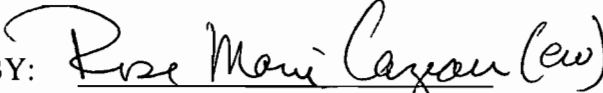
6. Ordering the Respondents to pay all costs, pursuant to Section 42(f) of the Act, including attorney, expert witness, and consultant fees expended by the State in its pursuit of this action; and

7. Granting such other relief as the Board deems appropriate and just.

PEOPLE OF THE STATE OF ILLINOIS,

LISA MADIGAN
Attorney General of the
State of Illinois

MATTHEW J. DUNN, Chief
Environmental Enforcement/Asbestos Litigation Division

BY:  (ew)
ROSEMARIE CAZEAU, Chief
Environmental Bureau
Assistant Attorney General

OF COUNSEL

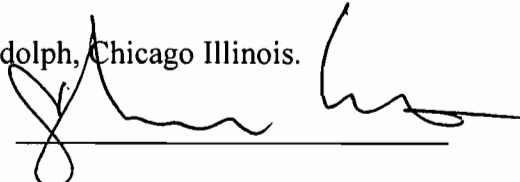
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a dissolved Illinois corporation,)	
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Respondents.)	

CERTIFICATE OF SERVICE

I, CHRISTOPHER GRANT, an attorney, do certify that I caused to be served this 18th day of February, 2011 the foregoing Complaint and Notice of Filing upon the persons listed below, by certified mail, by placing same in an envelope bearing sufficient postage with the United States Postal Service located at 100 W. Randolph, Chicago Illinois.



CHRISTOPHER GRANT

Service List:
The Honorable Richard P. Kopczick
Mayor, City of Morris
Morris City Hall
700 N. Division Street
Morris, Illinois 60450

Community Landfill Company, Inc.
c/o Mark LaRose, Registered Agent
LaRose & Bosco, Ltd.
200 N La Salle Street, Suite 2810
Chicago, IL 60601-1131