

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

PEOPLE OF THE STATE OF ILLINOIS,)	
)	
Complainant,)	
)	
v.)	
)	PCB No. 2011 - 50
The CITY OF MORRIS, an Illinois)	
municipal corporation, and)	(Enforcement-Land)
COMMUNITY LANDFILL COMPANY, INC.,)	
a dissolved Illinois corporation,)	
)	
)	
Respondents.)	

NOTICE OF FILING

TO: Christopher J. Grant	Charles F. Helsten
Office of the Attorney General	Richard S. Porter
Environmental Bureau North	Hinshaw & Culbertson, LLP
69 West Washington, Suite 1800	100 Park Avenue
Chicago, Illinois 60602	P.O. Box 1389
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Scott Belt and Associates, PC	
105 East Main Street, Suite 206	
Morris, Illinois 60450	

PLEASE TAKE NOTICE that on **June 1, 2011**, the undersigned caused to be filed electronically before The Illinois Pollution Control Board the **ANSWER TO COMPLAINT** on behalf of Respondent Community Landfill Co., Inc., a dissolved Illinois Corporation, with the Clerk of the Illinois Pollution Control Board, 100 W. Randolph Street, Suite 11-500, Chicago, Illinois 60601, a copy of which is attached and hereby served upon you.

/s/ Mark A. LaRose
Mark A. LaRose,
Attorney for Respondent,
Community Landfill Company, Inc.

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ANSWER TO COMPLAINT

Respondent, COMMUNITY LANDFILL COMPANY, INC., a dissolved Illinois Corporation, by and through its attorneys, Mark A. LaRose of LaRose & Bosco, Ltd., answers Complainant's Complaint 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).

RESPONSE: Respondent Community Landfill Co. (hereinafter "CLC") is without knowledge sufficient to form a belief as to whether this Complaint is brought by Lisa Madigan on her own motion. Further answering, Respondent CLC denies any liability under Section 31 of the Act.

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.

RESPONSE: Respondent CLC admits that the City of Morris is the permitted owner of the Morris Community Landfill and is located in Grundy County, Illinois but is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations contained in paragraph 2 of Count I of the Complaint.

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).

RESPONSE: Respondent CLC admits that the Board issued an order in *People v. Community Landfill Company, Inc. and the City of Morris*, PCB 03-191 on February 16, 2006. Respondent CLC neither admits nor denies the remaining allegations contained in paragraph 3 of Count I of the complaint and further states that the Board’s February 16, 2006 order speaks for itself.

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.

RESPONSE: Respondent CLC admits that the landfill is approximately 119 acres and divided into two separately permitted parcels designated parcel "A" consisting of approximately 55 acres, and Parcel "B" consisting of approximately 64 acres. Respondent CLC is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations contained in paragraph 4 of Count I of the Complaint.

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

RESPONSE: Respondent CLC admits it was an Illinois corporation and was involuntarily dissolved on May 14, 2010.

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.

RESPONSE: Respondent CLC is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 6 of Count I of the Complaint.

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.

RESPONSE: Respondent CLC is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 7 of Count I of the Complaint.

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.

RESPONSE: Respondent CLC is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 8 of Count I of the Complaint.

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.

RESPONSE: Respondent CLC neither admits nor denies the allegations contained in paragraph 9 and further states that Section 21(d) of the Act speaks for itself.

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.

RESPONSE: Respondent CLC is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 10 of Count I of the Complaint.

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.

RESPONSE: Respondent CLC is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 11 of Count I of the Complaint.

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.

RESPONSE: Respondent CLC admits that on April 25, 2007, the Illinois EPA issued Permit 2000-155-LFM, Modification No. 9 to Morris, as owner, and CLC, as operator, and that said permit covers Parcel A of the Landfill. As to the remaining allegations contained in paragraph 12 of Count I of the complaint, Respondent CLC neither admits nor denies said allegations but states that said permit speaks for itself.

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....

RESPONSE: Respondent CLC admits that Condition VIII.10 of the 2007 Parcel A provides in pertinent part said language contained in paragraph 13 of Count I of the complaint.

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</u> (totals)		
Acetone	81552	100
Acrolein	34210	5
Acrlonitrile	34215	5

* * *

RESPONSE: Respondent CLC admits that the language contained in paragraph 14 of Count I of the complaint is set forth in the 2007 Parcel A Permit in pertinent part, except that in List G1, Specific Conductance should be **00094, not 0094.**

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

* * *

RESPONSE: Respondent CLC admits that the language contained in paragraph 15 of Count I of the complaint is set forth in the 2007 Parcel A permit in pertinent part.

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;

RESPONSE: Respondent CLC admits the allegations contained in paragraph 16 of Count I of the complaint.

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.

RESPONSE: Respondent CLC admits the allegations contained in paragraph 17 of the complaint.

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

RESPONSE: Respondent CLC admits the allegations contained in paragraph 18 of Count I of the Complaint.

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.

RESPONSE: Respondent CLC admits the allegations contained in paragraph 19 of Count I of the complaint.

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).

RESPONSE: Respondent CLC denies the allegations contained in paragraph 20 of Count I of the complaint.

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.

RESPONSE: Respondent CLC realleges and incorporates by reference its answers to paragraphs 1 through 12, and paragraphs 16 through 18 of Count I, as its answers to paragraphs 1 through 15 of 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.

RESPONSE: Respondent CLC is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 16 of Count II of the complaint.

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.

RESPONSE: Respondent CLC is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 17 of Count II of the complaint.

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).

RESPONSE: Respondent CLC that admits that the language in paragraph 18 of Count II, above, is set forth in the 2007 Parcel A Permit, except that **Log No. 2007-023** was excluded from the language "as proposed in Log Nos. 2006-139, 2006-265, and 2006-402."

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).

RESPONSE: Respondent CLC denies the allegations contained in paragraph 19 of Count II of the complaint.

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.

RESPONSE: Respondent CLC realleges and incorporates by reference its answers to paragraphs 1 through 11, and paragraphs 16 through 18 of Count I, as its answer to paragraphs 1 through 14 of Count III of the complaint.

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.

RESPONSE: Respondent CLC admits that on April 25, 2007, the Illinois EPA issued Permit 2000-156-LFM, Modification No. 9 to Morris, as owner, and CLC, as operator, and that said permit covers Parcel B of the Landfill. As to the remaining allegations contained in paragraph 15 of Count III of the Complaint, Respondent CLC neither admits nor denies said allegations but states that said permit speaks for itself.

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....

RESPONSE: Respondent CLC admits that the above language stated in paragraph 16 of Count III of the complaint is set forth in the 2007 Parcel B Permit in pertinent part.

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

* * *

RESPONSE: Respondent CLC admits that the language contained in paragraph 17 of Count III of the complaint is set forth in the 2007 Parcel B Permit in pertinent part, except that in List G1, Specific Conductance should be **00094, not 0094.**

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

* * *

RESPONSE: Respondent CLC admits that the language contained in paragraph 18 of Count III of the Complaint is set forth in Condition VII.17 of the 2007 Parcel B Permit in pertinent part.

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.

RESPONSE: Respondent CLC admits the allegations contained in paragraph 19 of Count III of the complaint.

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).

RESPONSE: Respondent CLC denies the allegations contained in paragraph 20 of Count III of the complaint.

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.

RESPONSE: Respondent CLC realleges and incorporates by reference its answers to paragraphs 1 through 15 of Count III as its answers to 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.

RESPONSE: Respondent CLC is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 16 of Count IV of the complaint.

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.

RESPONSE: Respondent CLC is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 17 of Count IV of the complaint.

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).

RESPONSE: Respondent CLC denies that “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)” is the quoted language as set forth in Condition VII.26 of the 2007 Parcel B Permit, and admits that the remaining language as set forth above is contained in Condition VII.26 of the 2007 Parcel B Permit.

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).

RESPONSE: Respondent CLC denies the allegations contained in paragraph 19 of Count IV of the complaint.

COMMUNITY LANDFILL CO.
a dissolved Illinois corporation,

By: /s/ Mark A. LaRose
One of Its Attorneys

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CERTIFICATE OF SERVICE

I, Mark A. LaRose, an attorney, hereby certify that I caused to be served a copy of the foregoing **ANSWER TO COMPLAINT AND NOTICE OF FILING**, by emailing, and by placing same in first-class postage prepaid envelopes and depositing same in the U.S. Mail Box located at 200 North LaSalle Street, Chicago, Illinois, this **1ST** day of **JUNE, 2011**, to all parties of record, addressed as follows:

By U.S. Mail and email

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