

ILLINOIS POLLUTION CONTROL BOARD

August 4, 2006

PEOPLE OF THE STATE OF ILLINOIS,)
)
Complainant,)
)
v.) PCB 04-7
) (Enforcement - Air)
4832 S. VINCENNES, L.P., an Illinois)
limited partnership, and BATTEAST)
CONSTRUCTION COMPANY, an Indiana)
corporation,)
)
Respondents.)

ORDER OF THE BOARD (by T.E. Johnson):

On July 14, 2003, the Office of the Attorney General, on behalf of the People of the State of Illinois (People), filed a complaint against 4832 S. Vincennes, L.P. (Vincennes) and Batteast Construction Company of Illinois, Inc. (Batteast). The People alleged that respondents caused or allowed air pollution and violated various asbestos-related provisions in the renovation of a Chicago apartment building located at 4832 S. Vincennes, Chicago, Cook County.

The People and Batteast filed a stipulation and proposed settlement on December 30, 2005. On March 16, 2006, the Board issued an order that accepted the stipulation and proposed settlement entered into by People and Batteast. In that order, the Board noted that Batteast admitted the alleged violations, and directed Batteast to pay a civil penalty of \$1,500.

On June 22, 2006, the People and Vincennes filed a stipulation and proposed settlement, accompanied by a request for relief from the hearing requirement of Section 31(c)(1) of the Illinois Environmental Protection Act (Act) (415 ILCS 5/31(c)(1) (2004)). These filings are authorized by Section 31(c)(2) of the Act. 415 ILCS 5/31(c)(2) (2004). See 35 Ill. Adm. Code 103.300(a). Under the proposed stipulation, Vincennes admits the violations alleged in the first amended complaint, and agrees to pay a civil penalty of \$2,500.

The Board provided notice of the stipulation, proposed settlement, and request for relief from hearing. The Board published newspaper notice in the *Chicago Sun-Times* on June 27, 2006. The Board did not receive any requests for hearing. The Board grants the parties' request for relief from the hearing requirement. See 415 ILCS 5/31(c)(2) (2004); 35 Ill. Adm. Code 103.300(b).

Section 103.302 of the Board's procedural rules sets forth the required contents of stipulations and proposed settlements. 35 Ill. Adm. Code 103.302. These requirements include stipulating to facts on the nature, extent, and causes of the alleged violations and the nature of the respondents' operations. Section 103.302 also requires that the parties stipulate to facts called

for by Section 33(c) of the Act (415 ILCS 5/33(c) (2004)), which bears on the reasonableness of the circumstances surrounding the alleged violations.

As previously stated, Vincennes admits the violations alleged in the first amended complaint, and agrees to pay a civil penalty of \$2,500. The stipulation also addresses the factors of Section 42(h) of the Act (415 ILCS 5/42(h) (2004), *as amended by* P.A. 93-575, (eff. Jan. 1, 2004), which may mitigate or aggravate the civil penalty amount. The People determined that a civil penalty of \$2,500 was appropriate.

The People and Vincennes have satisfied Section 103.302. The Board accepts the stipulation and proposed settlement.

This opinion constitutes the Board's findings of fact and conclusions of law.

ORDER

1. The Board accepts and incorporates by reference the stipulation and proposed settlement.
2. 4832 S. Vincennes, L.P. (Vincennes) must pay a civil penalty of \$2,500 upon receipt of this order.
3. Vincennes must pay the civil penalty by certified check, money order or electronic funds transfer, payable to the Environmental Protection Trust Fund. The case number, case name, and respondents' federal employer identification or social security numbers must be included on the certified check or money order. If submitting an electronic funds transfer to the Agency, the electronic funds transfer must be made in accordance to the specific instructions provided to Vincennes.
4. Vincennes must submit the certified check, money order or electronic funds transfer to:

Illinois Environmental Protection Agency
Fiscal Services Section
1021 North Grand Avenue East
P.O. Box 19276
Springfield, Illinois 62794-9276

5. A copy of the certified check, money order or record of the electronic funds transfer and any transmittal letter must be sent to the following:

Ms. Paula Becker Wheeler
Assistant Attorney General
Environmental Bureau
188 W. Randolph Street, 20th Floor

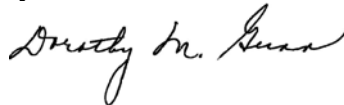
Chicago, Illinois 60601

Mr. Christopher Pressnall
Assistant Counsel
Illinois Environmental Protection Agency
1021 North Grand Avenue East
P.O. Box 19276
Springfield, Illinois 62794-9276

6. Penalties unpaid within the time prescribed will accrue interest under Section 42(g) of the Environmental Protection Act (415 ILCS 5/42(g) (2004)) at the rate set forth in Section 1003(a) of the Illinois Income Tax Act. 35 ILCS 5/1003(a) (2004).
7. Vincennes must cease and desist from the alleged violations.

IT IS SO ORDERED.

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above order on August 4, 2006, by a vote of 4-0.



Dorothy M. Gunn, Clerk
Illinois Pollution Control Board