

ILLINOIS POLLUTION CONTROL BOARD
August 4, 2011

PEOPLE OF THE STATE OF ILLINOIS,)
)
Complainant,)
)
v.) PCB 08-89
) (Enforcement - Air)
GELCO MANAGEMENT & DEVELOPERS,)
LLC, an Illinois limited liability corporation,)
)
Respondent.)

ORDER OF THE BOARD (by C. K. Zalewski):

On May 13, 2008, the Office of the Attorney General, on behalf of the People of the State of Illinois (People), filed a three-count complaint against Gelco Management & Developers, LLC (Gelco). The complaint concerns demolition work involving alleged asbestos-containing materials at Gelco's property, which is located at 350 Fifth Street in Benton, Franklin County. The parties now seek to settle without a hearing. For the reasons below, the Board directs the Clerk to provide public notice of the parties' stipulation, proposed settlement, and request for relief from the hearing requirement.

Under the Environmental Protection Act (Act) (415 ILCS 5 (2010)), the Attorney General and the State's Attorneys may bring actions before the Board to enforce Illinois' environmental requirements on behalf of the People. *See* 415 ILCS 5/31 (2010); 35 Ill. Adm. Code 103. In this case, the People allege in count I of the complaint that Gelco violated Section 9.1(d) of the Act (415 ILCS 9.1(d) (2010))¹ and 40 C.F.R. §§61.145(b)(1), 61.145(c)(6), 61.145(c)(8), and 61.150(b)² by (1) failing to provide written notification to the Illinois Environmental Protection Agency prior to commencing demolition; (2) failing to remove all regulated asbestos-containing materials prior to commencing the demolition operation; (3) failing to utilize equipment or methods to properly control the emission of asbestos; (4) failing to adequately wet and keep wet all regulated asbestos-containing materials removed or disturbed during the demolition; (5) failing to have at least one representative trained in the provisions of

¹The pleadings in this case refer to the 2006 version of the Illinois Compiled Statutes. As there is no difference between the relevant sections in the 2004 and 2010 statutes, the Board will consistently reference the 2010 statutes.

² Although the Board generally does not have jurisdiction over federal CAA regulations, Section 9(b) of the Act provides that federal National Emissions Standards for Hazardous Air Pollutants (NESHAP) "are applicable to the state and enforceable under the Act." 415 ILCS 5/9(b) (2010). Pursuant to Section 112(b)(1) of the CAA, 42. U.S.C. 7412(b)(1) (2007), the Administrator of the U.S. Environmental Protection Agency lists asbestos as a hazardous air pollutant. Asbestos is a known human carcinogen for which there is no safe level of exposure.

the NESHAP and the means of compliance with NESHAP; and (6) failing to deposit asbestos-containing waste material as soon as practical in an appropriate waste disposal site.

Count II of the complaint alleges that Gelco threatened the emission of contaminants into the environment so as to tend to cause air pollution, in violation of Section 9(a) of the Act (415 ILCS 5/9(a) (2010)) and 35 Ill. Adm. Code 201.141, by (1) failing to remove all regulated asbestos-containing material prior to the demolition; (2) failing to utilize equipment or methods to properly control the emission of asbestos; and (3) failing to collect and contain all regulated asbestos-containing waste material in leak-tight wrapping in preparation for disposal as soon as practicable at a site permitted to accept such waste. According to count III, Gelco violated Section 9.13 of the Act (415 ILCS 5/9.13 (2010)) by failing to pay the statutorily required fee.

On July 26, 2011, the People and Gelco filed a stipulation and proposed settlement, accompanied by a request for relief from the hearing requirement of Section 31(c)(1) of the Act (415 ILCS 5/31(c)(1) (2010)). This filing is authorized by Section 31(c)(2) of the Act (415 ILCS 5/31(c)(2) (2010)), which requires that the public have an opportunity to request a hearing whenever the State and a respondent propose settling an enforcement action without a public hearing. *See* 35 Ill. Adm. Code 103.300(a). Under the proposed stipulation, Gelco neither admits nor denies the alleged violations but agrees to pay a civil penalty of \$45,000.00.

Unless the Board determines that a hearing is needed, the Board must cause notice of the stipulation, proposed settlement, and request for relief from the hearing requirement. Any person may file a written demand for hearing within 21 days after receiving the notice. If anyone timely files a written demand for hearing, the Board will deny the parties' request for relief and hold a hearing. *See* 415 ILCS 5/31(c)(2) (2010); 35 Ill. Adm. Code 103.300(b), (c). The Board directs the Clerk to provide the required notice.

IT IS SO ORDERED.

I, John Therriault, Assistant Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above order on August 4, 2011, by a vote of 5-0.



John Therriault, Assistant Clerk
Illinois Pollution Control Board