

ILLINOIS POLLUTION CONTROL BOARD
October 3, 2013

PEOPLE OF THE STATE OF ILLINOIS,)
)
Complainant,)
)
v.) PCB 13-51
) (Enforcement - Air)
MIDWEST ENVIRONMENTAL)
CONSULTING SERVICES, INC., an Illinois)
corporation, and UNIVERSAL ASBESTOS)
REMOVAL INC., an Illinois corporation)
)
Respondents.)

OPINION AND ORDER OF THE BOARD (by J.D. O’Leary):

On March 29, 2013, the Office of the Attorney General, on behalf of the People of the State of Illinois (People), filed a three-count complaint against Midwest Environmental Consulting Services, Inc. and Universal Asbestos Removal, Inc. (collectively, respondents). The complaint concerns respondents’ work at the Sheffield Elementary School located at 306 South East Street, Sheffield, Bureau County. The parties now seek to settle without a hearing. For the reasons below, the Board accepts the parties’ stipulation and proposed settlement.

Under the Environmental Protection Act (Act) (415 ILCS 5 (2012)), the Attorney General and the State’s Attorneys may bring actions before the Board on behalf of the People to enforce Illinois’ environmental requirements. *See* 415 ILCS 5/31 (2012); 35 Ill. Adm. Code 103. In this case, the People allege that respondents violated sections 9(a) and 9.1(d)(1) of the Act (415 ILCS 5/9(a), 9.1(d)(1) (2012)) and Section 201.141 of the Board’s air pollution regulations (35 Ill. Adm. Code 201.141). The People also allege violations of Sections 61.145(a) and (c)(1) of the National Emissions Standards for Hazardous Air Pollutants (NESHAP) for asbestos (40 C.F.R. §§ 61.145(a), (c)(1))¹. According to the complaint, respondents violated these provisions by (1) threatening the discharge or emission of a contaminant so as to cause or tend to cause air pollution in Illinois; (2) failing to thoroughly inspect the School prior to conducting renovation activities at the School; and (3) failing to remove all regulated asbestos-containing material (RACM) from the School before demolition.

On August 14, 2013, the People and respondents filed two separate stipulations and proposed settlements, accompanied by requests for relief from the hearing requirement of Section 31(c)(1) of the Act (415 ILCS 5/31(c)(1) (2012)). These filings are authorized by

¹ Section 9.1(d)(1) of the Act prohibits violation of any provisions of Section 111, 112, 165, or 173 of the federal Clean Air Act (CAA) or federal regulations adopted thereunder. *See* 415 ILCS 5/9.1(d)(1) (2012). Under Section 112 of the CAA (42 U.S.C. § 7412), the United States Environmental Protection Agency adopted NESHAP regulations for asbestos at 40 C.F.R. 61, Subpart M.

Section 31(c)(2) of the Act (415 ILCS 5/31(c)(2) (2012)), 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). The Board provided notice of the stipulations, proposed settlements, and requests for relief. The newspaper notice was published in *The Bureau County Republican* on August 31, 2013. 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) (2012); 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. *See* 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 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) (2012)), which bears on the reasonableness of the circumstances surrounding the alleged violations. Respondents do not affirmatively admit the alleged violations. The stipulation also addresses the factors of Section 42(h) of the Act (415 ILCS 5/42(h) (2012)), which may mitigate or aggravate the amount of a civil penalty. Midwest Environmental Consulting Services, Inc. agrees to pay a civil penalty of \$15,000. Universal Asbestos Removal, Inc. agrees to pay a civil penalty of \$15,000. The People and respondents 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 with Midwest Environmental Consulting Services, Inc. and with Universal Asbestos Removal, Inc.
2. Midwest Environmental Consulting Services, Inc. must pay a civil penalty of \$15,000 no later than November 4, 2013, which is the first business day following the 30th day after the date of this order. Midwest Environmental Consulting Services, Inc. must pay the civil penalty by certified check or money order, payable to the Illinois Environmental Protection Agency for deposit into the Environmental Protection Trust Fund. The case name, case number, and the respondents' federal employer identification number must appear on face of the certified check or money order.

Universal Asbestos Removal, Inc. must pay a civil penalty of \$15,000 no later than November 4, 2013, which is the first business day following the 30th day after the date of this order. Universal Asbestos Removal, Inc. must pay the civil penalty by certified check or money order, payable to the Illinois Environmental Protection Agency for deposit into the Environmental Protection Trust Fund. The case name, case number, and the respondents' federal employer identification number must appear on face of the certified check or money order.

3. Each respondent must submit payment of the civil penalty to:

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

Each respondent must send a copy of each certified check or money order, and any transmittal letter to:

Kathryn A. Pamenter, Assistant Attorney General
Environmental Bureau
Illinois Attorney General's Office
69 W. Washington Street, Suite 1800
Chicago, Illinois 60602

4. Penalties unpaid within the time prescribed will accrue interest under Section 42(g) of the Environmental Protection Act (415 ILCS 5/42(g) (2012)) at the rate set forth in Section 1003(a) of the Illinois Income Tax Act (35 ILCS 5/1003(a) (2012)).
5. Respondents must cease and desist from future violations of the Act and Board regulations that were the subject matter of the complaint.

IT IS SO ORDERED.

Section 41(a) of the Environmental Protection Act provides that final Board orders may be appealed directly to the Illinois Appellate Court within 35 days after the Board serves the order. 415 ILCS 5/41(a) (2012); *see also* 35 Ill. Adm. Code 101.300(d)(2), 101.906, 102.706. Illinois Supreme Court Rule 335 establishes filing requirements that apply when the Illinois Appellate Court, by statute, directly reviews administrative orders. 172 Ill. 2d R. 335. The Board's procedural rules provide that motions for the Board to reconsider or modify its final orders may be filed with the Board within 35 days after the order is received. 35 Ill. Adm. Code 101.520; *see also* 35 Ill. Adm. Code 101.902, 102.700, 102.702.

Il, John T. Therriault, Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above order on October 3, 2013, by a vote of 4-0.



John T. Therriault, Clerk
Illinois Pollution Control Board