

ILLINOIS POLLUTION CONTROL BOARD

July 11, 2002

PEOPLE OF THE STATE OF ILLINOIS,)	
)	
Complainant,)	
)	
v.)	PCB 01-17
)	(Enforcement - Air)
N.E. FINCH, a Delaware corporation, and)	
PEORIA ASSOCIATES, an Illinois)	
corporation,)	
)	
Respondents.)	

OPINION AND ORDER OF THE BOARD (by C.A. Manning):

On August 1, 2000, the Office of the Attorney General, on behalf of the People of the State of Illinois (People), filed a two-count complaint against N.E. Finch and Peoria Associates (respondents). *See* 415 ILCS 5/31(c)(1) (2000); 35 Ill. Adm. Code 103.204. The People allege that respondents violated Sections 9(a) and 9.1(d) of the Environmental Protection Act (Act) (415 ILCS 5/9(a), 9.1(d) (2000)), and the Board's air pollution regulations. The People further allege that respondents violated these provisions by failing to properly remove, handle, and dispose of asbestos-containing waste. The complaint concerns respondent Finch's demolition of the former Burlington Coat Factory in Peoria County.

On May 28, 2002, the People and respondents 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) (2000)). This filing is authorized by Section 31(c)(2) of the Act (415 ILCS 5/31(c)(2) (2000)). *See* 35 Ill. Adm. Code 103.300(a). The Board provided notice of the stipulation, proposed settlement, and request for relief. The newspaper notice was published in the *Journal Star* on May 30, 2002. 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) (2000); 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 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) (2000)). The People and respondents have satisfied Section 103.302. Respondents deny the alleged violations, but agree to pay a civil penalty of \$10,000. The Board accepts the stipulation and proposed settlement.

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

ORDER

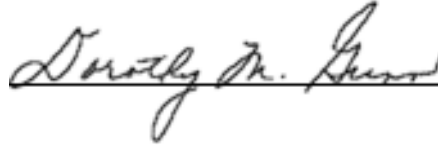
1. The Board accepts and incorporates by reference the stipulation and proposed settlement.
2. N.E. Finch and Peoria Associates (respondents) must pay a civil penalty of \$10,000. Each respondent shall make a payment of \$1,000 to the Environmental Protection Trust Fund no later than August 11, 2002, which is the 30th day after the date of this order. Respondents shall each continue to make a payment of \$1,000 for the following four months. Respondents must pay the civil penalty by certified check or money order, payable to the Environmental Protection Trust Fund. The case number, case name, and the respondents' social security number or federal employer identification number must be included on the certified check or money order.
3. Respondents must send the certified check or money order to:

Illinois Environmental Protection Agency
Fiscal Services Division
1021 North Grand Avenue East
P.O. Box 19276
Springfield, Illinois 62794-9276
4. Penalties unpaid within the time prescribed will accrue interest under Section 42(g) of the Environmental Protection Act (415 ILCS 5/42(g) (2000)) at the rate set forth in Section 1003(a) of the Illinois Income Tax Act (35 ILCS 5/1003(a) (2000)).
5. Respondents must cease and desist from the alleged violations.

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) (2000); *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.

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above opinion and order on July 11, 2002, by a vote of 5-0.

A handwritten signature in cursive script, reading "Dorothy M. Gunn", is written over a horizontal line.

Dorothy M. Gunn, Clerk
Illinois Pollution Control Board