

ILLINOIS POLLUTION CONTROL BOARD
February 20, 1997

PEOPLE OF THE STATE OF ILLINOIS,)
)
Complainant,)
)
v.) PCB 96-260
) (Enforcement-Air)
)
PIPE AND PILING SUPPLIES)
(U.S.A.), LTD.,)
)
Respondent.)

OPINION AND ORDER OF THE BOARD (by G.T.Girard):

This matter comes before the Board upon a four-count complaint filed June 24, 1996 by the Attorney General of the State of Illinois, on behalf of the Illinois Environmental Protection Agency (Agency) and the People of the State of Illinois (complainant), against Pipe and Piling Supplies (U.S.A.), Ltd., (respondent) whose facility is located in LaSalle County, Illinois. The complaint alleges that respondent has violated Section 3.26, 9.1(a), (d) of the Illinois Environmental Protection Act (Act) (415 ILCS 5/3.26, 9.1(a), (d) (1994)) and 35 Ill. Adm. Code 201.141. The complaint also alleges that respondent has violated 40 CFR Subpart M, 61.145 and 61.150 and Sections 112(b)(1), (d) and (h) of the Clean Air Act. (42 USC 7412(b)(1), (d), (h).) ¹ Specifically, the complaint charges respondent with: having asbestos-covered pipes in excess of one percent asbestos, improperly handling loose asbestos, and failing to submit notification of its intent to renovate the facility.

Pursuant to 415 ILCS 5/31(a)(2), on November 26, 1996, the parties filed a joint motion requesting relief from the Act's hearing requirement. The Board also published a notice of the waiver on November 26, 1996; no objection to grant of the waiver was received. Waiver of hearing is hereby granted.

The parties also filed a stipulation and agreement on November 26, 1996. The stipulation sets forth facts relating to the nature, operations, and circumstances surrounding the claimed violations. Respondent denies the violations alleged by complainant. Respondent agrees to pay a civil penalty of eighteen thousand dollars (\$18,000.00) into the Illinois Environmental Protection Trust Fund. The penalty shall be paid in four (4) monthly installments of four thousand five hundred dollars (\$4,500.00).

¹ While the Board does not generally enforce the provisions of the Code of Federal Regulations or the Clean Air Act, Section 9.1(d)(1) of the Act authorizes enforcement of Sections 111, 112, 165, and 173 of the Clean Air Act and the regulations adopted pursuant thereto.

The Board finds the settlement agreement acceptable under 35 Ill. Adm. Code 103.180. This settlement agreement in no way affects respondent's responsibility to comply with any federal, state or local regulations, including but not limited to the Act and the Board's pollution control regulations.

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

ORDER

- 1) The Board hereby accepts the stipulation and settlement agreement executed by the People of the State of Illinois and Pipe and Piling Supplies (U.S.A.) Ltd., concerning respondent's facility located in LaSalle County, Illinois. The stipulation and settlement agreement are incorporated by reference as if thoroughly set forth herein.
- 2) Respondent shall pay the sum of eighteen thousand dollars (\$18,000.00). The penalty shall be paid in four (4) installments of four thousand five hundred dollars (\$4,500.00). The first payment is to be made within thirty (30) days of the date of this order. The subsequent three (3) payments shall be made every three (3) months thereafter. Such payments shall be made by certified check or money order payable to the Treasurer of the State of Illinois, designated to the Environmental Protection Trust Fund, and shall be sent by First Class mail to:

Illinois Environmental Protection Agency
Fiscal Services Division
2200 Churchill Road
P.O. Box 19276
Springfield, IL 62794-9276

A copy of the check shall be sent to:

Genevieve M. Watts
Assistant Attorney General
Environmental Bureau
100 West Randolph Street, 11th Floor
Chicago, Illinois 60601

The certified check or money order shall clearly indicate on its face, respondent's Federal Employment Identification Number or Social Security Number and that payment is directed to the Environmental Protection Trust Fund.

- 3) Any such payment not paid within the time prescribed shall incur interest at the rate set forth in subsection (a) of Section 1003 of the Illinois Income Tax Act (35 ILCS 5/1003), as now or hereafter amended, from the date of payment is due until the date

the payment is received. Interest shall not accrue during the pendency of an appeal during which payment of the penalty has been stayed.

- a. Interest on unpaid amounts shall begin to accrue from the date the penalty payment is due and continue to accrue to the date payment is received.
- b. Where partial payment is made on any payment amount that is due, such partial payment shall be first applied to any interest on unpaid amounts then owing.
- c. All interest on amounts owed complainant shall be paid by certified check payable to the Treasurer of the State of Illinois for deposit in the Environmental Protection Trust Fund and delivered in the same manner as described in Section 2 herein.
- d. In the event respondent defaults on any portion of the \$18,000.00 penalty, the remaining unpaid balance of the \$18,000.00, plus any accrued interest shall be due and owing within five (5) days of said default.

IT IS SO ORDERED.

Section 41 of the Environmental Protection Act (415 ILCS 5/41 (1994)) provides for the appeal of final Board orders within 35 days of the date of service of this order. The Rules of the Supreme Court of Illinois establish filing requirements. (See also 35 Ill. Adm. Code 101.246 "Motions for Reconsideration".)

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, hereby certify that the above opinion and order was adopted on the ____ day of _____, 1997, by a vote of _____.

Dorothy M. Gunn, Clerk
Illinois Pollution Control Board