

ILLINOIS POLLUTION CONTROL BOARD
October 1, 1998

PEOPLE OF THE STATE OF ILLINOIS,)
)
Complainant,)
)
v.) PCB 98-86
) (Enforcement - Air)
HARRIS BANK BARRINGTON, as Trustee)
for Trust No. 11-5062, KURT KRESMERY,)
individually and as beneficiary of Trust No. 11-)
5062, and KENNETH KRESMERY,)
)
Respondents.)

OPINION AND ORDER OF THE BOARD (by J. Yi):

On August 14, 1998, the parties filed a stipulation and proposal for settlement. The Board accepts the stipulation and proposal for settlement filed by the parties in this matter. The complaint alleged that respondents violated Section 9.1(d)(1) of the Environmental Protection Act (Act) (415 ILCS 5/9.1(d)(1)(1996)) and 40 C.F.R. 61.145(b)(1), (c)(1)(6) (8), and 61.150(a)(1)(iii), (iv) by failing to provide timely and sufficient notification of asbestos demolition or renovation activity, failing to follow procedures for asbestos emission control, and violating the standards for waste disposal in asbestos renovation operations.¹

Pursuant to Section 31(a)(2) of the Environmental Protection Act (415 ILCS 5/31(a)(2) (1996)), the Board caused publication of the required newspaper notice of the stipulation and proposal for settlement and request for relief from the hearing requirement. The Board did not receive any requests for hearing. Accordingly, the Board grants a waiver from the hearing requirement.

The stipulation and proposal for settlement sets forth the facts relating to the nature, operations, and circumstances surrounding the allegations in the complaint. Respondents admit the alleged violations and agree to pay a civil penalty of \$10,000. Respondents must continue to comply with any federal, State, or local regulations including, but not limited to, the Act and the Board's regulations.

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

¹ While the Board does not generally enforce the provisions of the Code of Federal Regulations, 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.

ORDER

1. The Board hereby accepts the stipulation and settlement agreement executed by the People of the State of Illinois and Harris Bank Barrington, as Trustee for Trust No. 11-5062, Kurt Kresmery, individually and as beneficiary of Trust No. 11-5062, and Kenneth Kresmery concerning asbestos demolition and renovation activity performed at 18 North State Street, Elgin, Kane County. The stipulation and settlement agreement is incorporated by reference as though fully set forth herein.
2. Respondents, shall pay the sum of \$10,000 within 30 days of the date of this order. Such payment 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. The case number, case name, and Kurt Kresmery's social security number 323-54-6869 shall also be included on the check (or money order) and should clearly indicate that payment is directed to the Environmental Protection Trust Fund.
3. The check (or money order) shall be sent by first class mail to:

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

A copy of the payment transmittal and check shall be simultaneously submitted to:

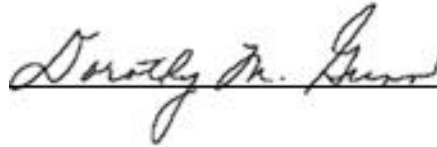
Alyssa Fron Newcomb
Assistant Attorney General
Environmental Bureau
Office of the Illinois Attorney General
100 West Randolph Street, 11th Floor
Chicago, Illinois 60601

4. Any such penalty 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 payment is due until the date payment is received. Interest shall not accrue during the pendency of an appeal during which payment of the penalty has been stayed.
5. Respondents shall cease and desist from the alleged violations.

IT IS SO ORDERED.

Section 41 of the Environmental Protection Act (415 ILCS 5/41 (1996)) provides for the appeal of final Board orders to the Illinois Appellate Court within 35 days of service of this order. Illinois Supreme Court Rule 335 establishes such filing requirements. See 172 Ill. 2d R. 335; 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 1st day of October 1998 by a vote of 7-0.

A handwritten signature in cursive script that reads "Dorothy M. Gunn". The signature is written in black ink and is positioned above a solid horizontal line.

Dorothy M. Gunn, Clerk
Illinois Pollution Control Board