

ILLINOIS POLLUTION CONTROL BOARD
December 16, 2004

PEOPLE OF THE STATE OF ILLINOIS,)	
)	
Complainant,)	
)	
v.)	PCB 05-75
)	(Enforcement - Air)
DENNIS ELAHI, d/b/a PARAMOUNT)	
MANAGEMENT AND CONSTRUCTION)	
COMPANY,)	
)	
Respondent.)	

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

On October 22, 2004, the Office of the Attorney General, on behalf of the People of the State of Illinois (People), filed a complaint against Dennis Elahi. *See* 415 ILCS 5/31(c)(1) (2002); 35 Ill. Adm. Code 103.204. Accompanying the complaint was a stipulation and proposal for settlement. The complaint concerns Dennis Elahi’s eight-unit apartment complex at 5636 South Prairie Avenue, Chicago, Cook County. For the reasons below, the Board accepts the parties’ stipulation and proposed settlement.

Under the Environmental Protection Act (Act) (415 ILCS 5/1 *et seq.* (2002)), 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 (2002); 35 Ill. Adm. Code 103. In this case, the People allege that Dennis Elahi violated Sections 9(a) and 9.1(d) of the Act (415 ILCS 5/9(a), 9.1(d) (2002)); 35 Ill. Adm. Code 201.141; and 40 C.F.R. 61.104(b); 61.145(a), (c)(1), (c)(2), (c)(6), and (c)(8); and 61.150(b). The People further allege that Dennis Elahi violated these provisions by (1) engaging in renovation work that caused, allowed, or threatened air pollution by the discharge of asbestos; (2) failing to conduct a thorough inspection of the facility for the presence and amount of asbestos and failing to provide a written notice to the Agency of renovation involving more than one cubic meter of asbestos before commencing renovation activities; (3) failing to adequately wet and maintain as wet all regulated asbestos-containing material until collected and contained for treated for disposal; (4) failing to properly handle and store asbestos-containing waste material by wetting it, failing to place it in leak-tight containers, failing to provide legible and visible warning labels, failing to label the containers with the source and location where it was generated, and failing to dispose of asbestos-containing waste as soon as practical at a compliant disposal facility.

On October 22, 2004, the People and Dennis Elahi 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) (2002)). This filing is authorized by Section 31(c)(2) of the Act (415 ILCS 5/31(c)(2) (2002)), 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 stipulation, proposed settlement, and request for relief from hearing. The Board published newspaper notice in the *Sun-Times* on October 29, 2004. 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) (2002); 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 Dennis Elahi's 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) (2002)), which bears on the reasonableness of the circumstances surrounding the alleged violations.

Dennis Elahi neither admits nor denies the alleged violations. The stipulation also addresses the factors of Section 42(h) of the Act (415 ILCS 5/42(h) (2002), as amended by P.A. 93-575, (eff. Jan. 1, 2004), which may mitigate or aggravate the civil penalty amount. Dennis Elahi agrees to pay a civil penalty of \$30,000, which the parties stipulate is at least as great as Dennis Elahi's economic benefit from delayed compliance, if any.

The People and Dennis Elahi 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.
2. Dennis Elahi must pay a civil penalty of \$30,000 no later than January 17, 2005, which is the first business day after the 30th day after the date of this order. Dennis Elahi must pay the civil penalty by certified check or money order, payable to the Environmental Protection Trust Fund. The case number, case name, and Dennis Elahi's social security number or federal employer identification number must be included on the certified check or money order.
3. Dennis Elahi 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) (2002)) at the rate

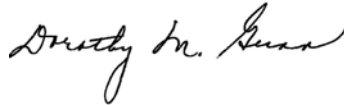
set forth in Section 1003(a) of the Illinois Income Tax Act (35 ILCS 5/1003(a) (2002)).

5. Dennis Elahi 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) (2002); *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 December 16, 2004, by a vote of 5-0.



Dorothy M. Gunn, Clerk
Illinois Pollution Control Board