

ILLINOIS POLLUTION CONTROL BOARD
December 17, 1998

PEOPLE OF THE STATE OF ILLINOIS,)
)
Complainant,)
)
v.) PCB 98-83
) (Enforcement - Air)
DONALD SWINSON, an individual d/b/a)
ROCK VIEW STONE COMPANY,)
)
Respondent.)

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

On November 4, 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 the respondent violated Section 9.1(d)(1) of the Environmental Protection Act (Act) (415 ILCS 5/9.1(d) (1996)) and Section 61.145(b) of the National Emission Standard for Hazardous Air Pollutants (40 C.F.R. § 61.145(b) (1996)) by failing to inspect for the presence of asbestos, to provide notice of intent to demolish, and to provide timely and sufficient notification of asbestos demolition or renovation activity.¹

Pursuant to Section 31(c)(2) of the Act (415 ILCS 5/31(c)(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. Respondent admits the alleged violations and agrees to pay a civil penalty of \$10,000. Respondent 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 Donald Swinson d/b/a Rock View Stone Company, concerning asbestos demolition and renovation activity performed at various sites located in Rockford, Winnebago County, Illinois. The stipulation and settlement agreement is incorporated by reference as though fully set forth herein.
2. The respondent shall pay the sum of \$10,000 within one year of the date of this order. Payment shall be made pursuant to the following schedule:
 - a. \$2,500 within 30 days from the date of this final Board order approving the parties' stipulation and proposal for settlement; and
 - b. The remaining balance of \$7,500 shall be paid in quarterly installments of \$2,500. The first installment payment shall be due 120 days after the due 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 the respondent's federal employer identification number (36-2498633) 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:

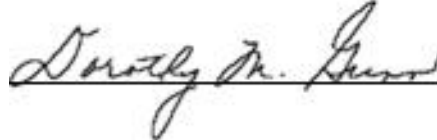
Illinois Environmental Protection Agency
Fiscal Services Division
1021 North Grand Avenue East
P.O. Box 19276
Springfield, Illinois 62794-9276

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. The Respondent 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 17th day of December 1998 by a vote of 6-0.

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

Dorothy M. Gunn, Clerk
Illinois Pollution Control Board