

ILLINOIS POLLUTION CONTROL BOARD

March 3, 2005

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| PEOPLE OF THE STATE OF ILLINOIS, |) | |
| |) | |
| Complainant, |) | |
| |) | |
| v. |) | PCB 05-78 |
| |) | (Enforcement - Air) |
| RALPH STONE, Mayor of the Village of |) | |
| Gorham, |) | |
| |) | |
| Respondent. |) | |

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

On November 3, 2004, the Office of the Attorney General, on behalf of the People of the State of Illinois (People), filed a complaint against Ralph Stone, the Mayor of the Village of Gorham. *See* 415 ILCS 5/31(c)(1) (2002); 35 Ill. Adm. Code 103.204. The complaint concerns Mayor Ralph Stone's demolition of the closed Gorham High School facility at the corner of Washington and Walnut Streets, Gorham, Jackson County. The parties now seek to settle. 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 Mayor Ralph Stone violated Section 9.1(d)(1) of the Environmental Protection Act (415 ILCS 5/9.1(d)(1) (2002)) and 40 C.F.R. 61.145(a), (b)(1), and (c)(9) and 61.150(b). The People further allege that Mayor Ralph Stone violated these provisions by (1) failing to conduct a thorough inspection for asbestos prior to beginning demolition; (2) failing to provide written notice of demolition to the Agency prior to beginning demolition; and (3) failing to use proper work practices, including not having a trained person trained in asbestos removal and failing to properly wet asbestos-containing materials (ACMs) during removal, thereby allowing emission of asbestos fibers.

On December 23, 2004, the People and Mayor Ralph Stone 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 *Southern Illinoisan* on February 1, 2005. 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 Ralph Stone'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.

Mayor Ralph Stone 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. Mayor Ralph Stone agrees to pay a civil penalty of \$500.

The People and Mayor Ralph Stone 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

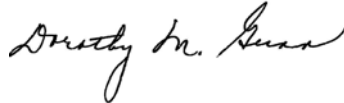
1. The Board accepts and incorporates by reference the stipulation and proposed settlement.
2. Mayor Ralph Stone must pay a civil penalty of \$500 no later than April 4, 2005, which is the first business day after the 30th day after the date of this order. Mayor Ralph Stone must pay the civil penalty by certified check or money order, payable to the Environmental Protection Trust Fund. The case number, case name, and Ralph Stone's social security number or federal employer identification number must be included on the certified check or money order.
3. Mayor Ralph Stone 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. Mayor Ralph Stone 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 March 3, 2005, by a vote of 5-0.

A handwritten signature in cursive script, appearing to read "Dorothy M. Gunn".

Dorothy M. Gunn, Clerk
Illinois Pollution Control Board