

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

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JUN 02 2005

STATE OF ILLINOIS  
Pollution Control Board

PEOPLE OF THE STATE OF ILLINOIS, )  
 )  
Complainant, )  
 )  
-vs- )  
 )  
4832 S. VINCENNES, L.P., an )  
Illinois limited partnership, and )  
BATTEAST CONSTRUCTION COMPANY, )  
INC., an Indiana corporation, )  
 )  
Respondents. )

No. 04-7  
(Enforcement - Air)

TO: Mr. Oliver Spurlock, Esq./Mr. Gregory Miller  
Attorneys for Respondent  
4832 S. Vincennes, L.P.  
9415 South State Street  
Chicago, IL. 60619 and

Mr. Zachary Hamilton  
Attorney for Respondent  
Batteast Const. Co., Inc.  
3340 E. Forest View Trail  
Crete, IL. 60417

NOTICE OF FILING

PLEASE TAKE NOTICE that we have today, June 2, 2005, filed with the Office of the Clerk of the Illinois Pollution Control Board an original and four copies of our Request for Admission of Facts on Respondent, 4832 S. Vincennes, L.P., a copy of which is attached herewith and served upon you.

Respectfully submitted,

PEOPLE OF THE STATE OF ILLINOIS  
LISA MADIGAN  
Attorney General of the  
State of Illinois

BY: Paula Becker Wheeler  
PAULA BECKER WHEELER  
Assistant Attorney General  
Environmental Bureau  
188 W. Randolph St., 20<sup>th</sup> Flr.  
Chicago, IL 60601  
(312) 814-1511

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STATE OF ILLINOIS  
Pollution Control Board

PEOPLE OF THE STATE OF ILLINOIS, )  
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 Complainant, )  
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 v. )  
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 4832 S. VINCENNES, L.P., )  
 an Illinois limited partnership, )  
 and BATTEAST CONSTRUCTION COMPANY, )  
 INC., an Indiana corporation, )  
 )  
 Respondent. )

No. PCB 04-07  
(Enforcement - Air)

COMPLAINANT'S FIRST REQUEST FOR ADMISSION OF FACTS  
ON RESPONDENT 4832 S. VINCENNES, L.P.

Complainant, PEOPLE OF THE STATE OF ILLINOIS, by LISA MADIGAN, Attorney General of the State of Illinois, pursuant to Section 101.616 of the Illinois Pollution Control Board's Procedural Regulations and Illinois Supreme Court Rule 216, hereby serves the following First Request for Admission of Facts upon Respondent 4832 S. VINCENNES, L.P., to admit the truth of the following facts in writing within 28 days from the date of service hereof.

INSTRUCTIONS AND DEFINITIONS

1. With respect to any requested admission which Respondent refuses to answer because of a claim of privilege, provide a statement signed by an attorney representing Respondent setting forth as to each:

- a. the nature of the claim of privilege;
- b. the statute, rule or decision which is claimed to give rise to the claim of privilege;
- c. all facts relied upon in support of the claim of privilege;
- d. an identification of all documents related to the claim of privilege;

- e. an identification of all persons having knowledge of any facts related to the claim of privilege; and
- f. an identification of all events, transactions or occurrences related to the claim of privilege.

2. For all requested admissions which Respondent denies or which Respondent can neither admit nor deny, pursuant to Illinois Supreme Court Rule 216(c), Respondent is required to provide Plaintiff with a sworn statement denying specifically the matters of which admission is requested or setting forth in detail the reasons why Respondent cannot truthfully admit or deny those matters.

3. "Complaint" shall mean the First Amended Complaint filed in this case by Complainant on October 6, 2003.

4. "Complainant" shall mean the Complainant listed in the complaint and any of his agents, representatives, or persons who acted as Complainant's representative.

5. "Respondent" shall refer to 4832 S. Vincennes, L.P., and the agents, employees, representatives or any other person or persons acting for or in concert with 4832 S. Vincennes, L.P.

6. "Site" shall mean the property located 4832 South Vincennes Avenue, Chicago, Cook County, Illinois, as referenced in paragraph 3 Count I of the amended complaint.

7. "Act" shall mean the Illinois Environmental Protection Act, 415 ILCS 5/1 et. seq. (2002).

8. "Own" means have good legal title to, hold as property, possess.

9. "Operate" means use, exercise control over, or having responsibility for the daily operation of.

10. "Entity" means a corporation, an incorporated business, or a limited liability company or partnership.

11. "Current" or "Present" means the filing date of this First Request for Admissions of Facts.

12. "Illinois EPA" means the Illinois Environmental Protection Agency.

13. "Board" shall mean the Illinois Pollution Control

Board.

14. "Person" shall include, but is not limited to, any natural person; business or corporation, whether for profit or not; firm, partnership, or other non-corporate business organization; charitable, religious, education, governmental, or other non-profit institution, foundation, body, or other organization; or employee, agent, or representative of any of the foregoing.

15. "Or" shall mean and/or wherever appropriate.

16. All terms not specifically defined herein shall have their logical ordinary meaning, unless such terms are defined in the Act or the regulations promulgated thereunder, in which case the appropriate or regulatory definitions shall apply.

### FACTS

#### Request No. 1

Please admit that at all times relevant to the Complaint, Respondent was and is an Illinois limited partnership organized and existing under the laws of the State of Illinois and is in good standing.

#### Response:

#### Request No. 2

Please admit that at all times relevant to the Complaint, Respondent owned the property and building(s) located at 4832 S. Vincennes, Chicago, Illinois and retained Batteast Construction Company, Inc. as its general contractor to renovate the site.

#### Response:

#### Request No. 3

Please admit that Respondent knew before January 1, 2002, that suspect asbestos containing material ("ACM") was present in the basement area of the Site.

#### Response:

Request No. 4

Please admit that Respondent did not discontinue the work on the renovation at the site after January 1, 2002 until February 5, 2002.

Response:

Request No. 5

Please admit that on January 31, 2002, dry, friable suspect ACM was found on the pipes and floor of the basement at the Site.

Response:

Request No. 6

Please admit that Respondent refused to instruct the contractor or its agents or employees to stop work on January 31, 2003 when requested to do so by the Illinois EPA.

Response:

Request No. 7

Please admit that on January 31, 2002, several workers were present at the site doing work on or around the first floor, and that some doors and windows were open.

Response:

Request No. 8

Please admit that from January 1, 2002 until January 31, 2002, workers were present at the site without wearing personal protective equipment and were working without utilizing any emission control procedures.

Response:

Request No. 9

Please admit that Respondent failed to conduct a thorough inspection of the site for the presence and location of asbestos before starting renovation activities at the site.

Response:

Request No. 10

Please admit that Respondent failed to remove all regulated ACM from the site before beginning renovation activities that would break up, dislodge or similarly disturb the material.

Response:

Request No. 11

Please admit that Respondent failed to adequately wet all the regulated ACM and keep it wet until collected and contained in preparation for disposal.

Response:

Request No. 12

Please admit that Respondent failed to adequately wet all the regulated ACM and keep it wet until treated in preparation for disposal.

Response:

Respectfully submitted,

PEOPLE OF THE STATE OF ILLINOIS,  
ex rel. LISA MADIGAN,  
Attorney General of the  
State of Illinois

MATTHEW J. DUNN, Chief  
Environmental Enforcement/  
Asbestos Litigation Division

ROSEMARIE CAZEAU, Chief  
Environmental Bureau  
Assistant Attorney General

By: *Paula Becker Wheeler*  
PAULA BECKER WHEELER  
Assistant Attorney General  
Environmental Bureau  
188 W. Randolph St. 20th Fl.  
Chicago, Illinois 60601  
(312) 814-1511

CERTIFICATE OF SERVICE

I, PAULA BECKER WHEELER, an attorney, do certify that I caused to be served this 2nd day of June, 2005, the Complainant's Request for Admission of Facts on Respondent 4832 S. Vincennes, L.P.'s to the persons named below by placing the same in overnight mail with U.P.S., postage prepaid, at 188 W. Randolph, Chicago, Illinois 60601.

Mr. Oliver Spurlock/Gregory Miller  
Attorneys at Law  
9415 South State Street  
Chicago, Illinois 60619

Mr. Zachary Hamilton  
Attorney at Law  
3340 E. Forestview Trail  
Crete, IL 60417



Paula Becker Wheeler  
Assistant Attorney General  
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