

ILLINOIS POLLUTION CONTROL BOARD

July 21, 2005

PEOPLE OF THE STATE OF ILLINOIS,)	
)	
Complainant,)	
)	
v.)	PCB 04-162
)	(Enforcement – Air)
ASBESTOS CONTROL AND)	
ENVIRONMENTAL SERVICES CORP, an)	
Illinois corporation,)	
)	
Respondent.)	

OPINION AND ORDER OF THE BOARD (by T.E. Johnson):

On March 17, 2004, the Office of the Attorney General, on behalf of the People of the State of Illinois (People), filed a complaint against Asbestos Control and Environmental Services Corp, an Illinois corporation (ACES). ACES is engaged in the removal and disposal of regulated asbestos-contained material (RACM). Its principal place of business is P.O. Box 945, Wheaton. The complaint concerns the demolition and renovation of a property located at 816 West 47th Place, Chicago, Cook County. The Board accepted the complaint for hearing on April 1, 2004.

In the complaint, the People allege that ACES violated Section 9(a) and 9.1(d)(1) of the Environmental Protection Act (Act) (415 ILCS 9(a) and 9.1(d)(1) (2004)); 35 Ill. Adm. Code 201.141; and 40 C.F.R. 61.145 (c)(3) and (6), and 61.150(a) by failing to wet all asbestos and allowing dry, friable asbestos to remain in a friable state, by failing to adequately wet all RACM in place before stripping it from facility components and by failing to adequately seal all asbestos containing material in a leak tight container at the demolition property in Cook County.

On June 10, 2005, the People and ACES 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) (2004). Under the Environmental Protection Act (Act) (415 ILCS 5/1 *et seq.* (2004)), 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 (2004); 35 Ill. Adm. Code 103. The June 10, 2005, stipulation and proposed settlement was accompanied by a request for relief from the hearing requirement of Section 31(c)(1) of the Act. 415 ILCS 5/31(c)(1) (2004). These filings are authorized by Section 31(c)(2) of the Act. 415 ILCS 5/31(c)(2) (2004). *See* 35 Ill. Adm. Code 103.300(a). Under the proposed stipulation, ACES neither admits nor denies the violations alleged in the complaint, but agrees to pay a civil penalty of \$20,000.

The Board provided notice of the stipulation, proposed settlement, and request for relief from hearing. The Board published newspaper notice in the *Chicago Sun-Times* on June 16, 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 the respondents' 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) (2004)), which bears on the reasonableness of the circumstances surrounding the alleged violations.

As previously stated, ACES neither admits nor denies the violations alleged in the complaint, but agrees to pay a civil penalty. The stipulation also addresses the factors of Section 42(h) of the Act (415 ILCS 5/42(h) (2004), *as amended by* P.A. 93-575, (eff. Jan. 1, 2004), which may mitigate or aggravate the civil penalty amount. The People determined that a civil penalty of \$20,000 was appropriate.

The People and the respondent 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. Asbestos Control and Environmental Services Corp, an Illinois corporation (ACES) must pay a civil penalty of \$20,000 within 100 days from the date of this order. ACES must pay \$7,500 of the total penalty amount on or before July 28, 2005, that being the seventh day after the date of this order. ACES must pay an additional \$2,500 on or before August 29, 2005, the first business day thirty days thereafter. ACES must pay an additional \$2,500 thirty days thereafter, on or before September 28, 2005. ACES must pay the final \$7,500 thirty days thereafter, on or before October 28, 2005.
3. ACES must pay the civil penalty by certified check, money order or electronic funds transfer, payable to the Environmental Protection Trust Fund. The case number, case name, and ACES' federal employer identification number must be included on the certified check or money order. If submitting an electronic funds transfer to the Agency, the electronic funds transfer must be made in accordance to the specific instructions provided to ACES.
4. ACES must submit its certified check, money order or electronic funds transfer to:

Illinois Environmental Protection Agency

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

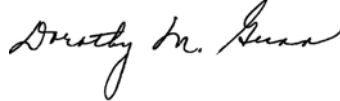
5. A copy of the certified check, money order or record of the electronic funds transfer and any transmittal letter must be sent to the following:

Ms. Bridget M. Carlson
Assistant Attorney General
Environmental Bureau
188 West Randolph Street, 20th Floor
Chicago, Illinois 60601

6. Penalties unpaid within the time prescribed will accrue interest under Section 42(g) of the Environmental Protection Act (415 ILCS 5/42(g) (2004)) at the rate set forth in Section 1003(a) of the Illinois Income Tax Act. 35 ILCS 5/1003(a) (2004).
7. ACES must cease and desist from the alleged violations.

IT IS SO ORDERED.

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above opinion and order on July 21, 2005, by a vote of 5-0.



Dorothy M. Gunn, Clerk
Illinois Pollution Control Board