

ILLINOIS POLLUTION CONTROL BOARD

January 5, 2006

PEOPLE OF THE STATE OF ILLINOIS,	)	
	)	
Complainant,	)	
	)	
v.	)	PCB 05-99
	)	(Enforcement – Air, Land)
JAMES ZELLER, THOMAS ZELLER, and	)	
MATTHEW SHORT,	)	
	)	
Respondents.	)	

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

On November 29, 2004, the Office of the Attorney General, on behalf of the People of the State of Illinois (People), filed a complaint against James Zeller, Thomas Zeller, and Matthew Short (respondents). *See* 415 ILCS 5/31(c)(1) (2004); 35 Ill. Adm. Code 103.204. 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.* (2004)), the Attorney General and the State's Attorneys may bring actions before the Board to enforce Illinois' environmental requirements on behalf of the People. *See* 415 ILCS 5/31 (2004); 35 Ill. Adm. Code 103. In this case, the People allege that the respondents violated Section 9.1(d) and (d)(1) of the Act (415 ILCS 5/9.1(d) and (d)(1) (2004)) and 40 C.F.R. 61.145(b)(2) and (c)(1) by: (1) violating the national emission standard for hazardous air pollutants for asbestos; and (2) failing to adhere to required work practices during demolition of a building that contained regulated asbestos-containing materials. The complaint concerns the respondents' demolition of a building at 408 South Court Street, in Marion, Williamson County.

On November 1, 2005, the People and all three respondents 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). 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). The Board provided notice of the stipulation, proposed settlement, and request for relief. The newspaper notice was published in the *Marion Daily Republican* on November 22, 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) (2004); 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)). The People and the respondents have

satisfied Section 103.302. Under the proposed stipulation, the respondents admit the violations alleged in the complaint, and agree to pay a civil penalty of \$7,500.

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. James Zeller, Thomas Zeller, and Matthew Short (respondents) must pay a civil penalty of \$7,500 no later than February 6, 2006, which is the first business day after the 30th day after the date of this order. The respondents stipulate that payment has been tendered to Randy Patchett, attorney of record for respondent Matthew Short. The respondents must pay the civil penalty by certified check, money order, or electronic funds payable to the Illinois Environmental Protection Trust Fund. The case number, case name, and respondents' social security number or federal employer identification number must be included on the certified check, money order, or transfer of electronic funds.
3. Respondents must send the 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

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

Raymond G. Callery  
Assistant Attorney General  
Environmental Bureau  
500 South Second Street  
Springfield, Illinois 62702

And

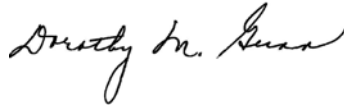
Dennis Brown  
Assistant Counsel  
Illinois Environmental Protection Agency  
1021 North Grand Avenue East  
P.O. Box 19276  
Springfield, Illinois 62794-9276

4. Penalties unpaid within the time prescribed will accrue interest under Section 42(g) of the Environmental Protection Act (415 ILCS 5/42(g) (2004)) at the rate set forth in Section 1003(a) of the Illinois Income Tax Act (35 ILCS 5/1003(a) (2004)).
5. Respondents 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) (2004); *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 January 5, 2006, by a vote of 4-0.



Dorothy M. Gunn, Clerk  
Illinois Pollution Control Board