

ILLINOIS POLLUTION CONTROL BOARD

October 5, 2006

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| PEOPLE OF THE STATE OF ILLINOIS, |) | |
| |) | |
| Complainant, |) | |
| |) | |
| v. |) | PCB 06-27 |
| |) | (Enforcement - Air) |
| JOEL HILLMAN, |) | |
| |) | |
| Respondent. |) | |

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

On August 24, 2005, the Office of the Attorney General, on behalf of the People of the State of Illinois (People), filed a four-count complaint against Joel Hillman (Hillman). The complaint alleged asbestos-related violations concerning the renovation of two commercial buildings at a site owned or operated by Hillman. The site is located at 133-135 Park Avenue in Barrington, Lake County. The parties now seek to settle without a public hearing. For the reasons below, the Board accepts the parties' stipulation and proposed settlement.

Under the Environmental Protection Act (Act) (415 ILCS 5 (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. In this case, the People allege that Hillman violated the Act (415 ILCS 5/9(a), 9.1(d) (2004)), Board regulations (35 Ill. Adm. Code 201.141), and United States Environmental Protection Agency regulations (40 C.F. R. 61.145(a), (b), (c)(1), (c)(6), 61.150(b)). According to the complaint, Hillman violated these provisions by: (1) causing, threatening, or allowing air pollution; (2) failing to notify the Illinois Environmental Protection Agency before stripping, removing, or disturbing friable regulated asbestos-containing material (RACM); (3) failing to follow proper asbestos emission control procedures; and (4) failing to properly dispose of asbestos-containing waste material.

On August 31, 2006, the People and Hillman 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)). This filing is authorized by Section 31(c)(2) of the Act (415 ILCS 5/31(c)(2) (2004)), 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. On September 7, 2006, newspaper notice was published in the *Algonquin Countryside*, the *Arlington Heights Post*, the *Barrington Courier-Review*, the *Buffalo Grove Countryside*, the *Cary-Grove Countryside*, the *Elk Grove Times*, the *Hoffman Estates Review*, the *Lake in the Hills Countryside*, the *Lake Zurich Courier*, the *Palatine Countryside*, the *Rolling Meadows Review*, the *Schaumburg Review*, and the *Wauconda*. 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. *See* 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 Hillman'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) (2004)), which bears on the reasonableness of the circumstances surrounding the alleged violations. The People and Hillman have satisfied Section 103.302. Hillman admits the alleged violations. The stipulation also addresses the factors of Section 42(h) of the Act (415 ILCS 5/42(h) (2004)), which may mitigate or aggravate the civil penalty amount. Hillman agrees to pay a civil penalty of \$40,000, which the parties stipulate "includes the economic benefit accrued as a result of Hillman's non-compliance." Stipulation at 6. 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. Hillman must pay a civil penalty of \$40,000 no later than November 6, 2006, which is the first business day following the 30th day after the date of this order. Hillman must pay the civil penalty by certified check, money order, or electronic funds transfer payable to the Illinois Environmental Protection Agency, designated to the Illinois Environmental Protection Trust Fund. The case number and case name must be included on any certified check or money order. Under the settlement, Hillman has provided his social security number so as to allow proper tracking of the payment.
3. Hillman must send the certified check, money order, or record of electronic funds transfer and any transmittal letter to:

Stephen J. Sylvester
Assistant Attorney General
Environmental Bureau
188 W, Randolph St., 20th Floor
Chicago, Illinois 60601

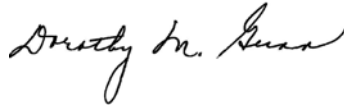
Chris Pressnall
Assistant Counsel
Illinois Environmental Protection Agency
1021 North Grand Avenue East
P.O. Box 19276
Springfield, Illinois 62794-9276

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. Hillman must cease and desist from future 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 October 5, 2006, by a vote of 4-0.



Dorothy M. Gunn, Clerk
Illinois Pollution Control Board