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DEC 08 2006

STATE OF ILLINOIS
Pollution Control Board

OFFICE OF THE ATTORNEY GENERAL
STATE OF ILLINOIS

Lisa Madigan
ATTORNEY GENERAL

December 6, 2006

PCB07-45

The Honorable Dorothy Gunn
Illinois Pollution Control Board
James R. Thompson Center, Ste. 11-500
100 West Randolph
Chicago, Illinois 60601

Re: ***People v. General Waste Services, Inc.***

Dear Clerk Gunn:

Enclosed for filing please find the original and ten copies of a Notice of Filing, Entry of Appearance and Complaint in regard to the above-captioned matter. Please file the originals and return file-stamped copies to me in the enclosed, self-addressed envelope.

Thank you for your cooperation and consideration.

Very truly yours,

Michael D. Mankowski
Environmental Bureau
500 South Second Street
Springfield, Illinois 62706
(217) 782-9031

MDM/pp
Enclosures

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

RECEIVED
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DEC 08 2006

STATE OF ILLINOIS
Pollution Control Board

PEOPLE OF THE STATE OF)
ILLINOIS,)
)
 Complainant,)
)
 vs.)
)
 GENERAL WASTE SERVICES, INC.,)
 an Illinois corporation,)
)
 Respondent.)

PCB No. 07-45
(Enforcement)

NOTICE OF FILING

To: General Waste Services, Inc.
c/o Thomas J. Immel
1307 South Seventh Street
P.O. Box 2418
Springfield, IL 62705

PLEASE TAKE NOTICE that on this date I mailed for filing with the Clerk of the Pollution Control Board of the State of Illinois, a COMPLAINT, a copy of which is attached hereto and herewith served upon you. Failure to file an answer to this Complaint within 60 days may have severe consequences. Failure to answer will mean that all allegations in this Complaint will be taken as if admitted for purposes of this proceeding. If you have any questions about this procedure, you should contact the hearing officer assigned to this proceeding, the Clerk's Office or an attorney.


FURTHER, please take notice that financing may be available, through the Illinois Environmental Facilities Financing Act, 20 ILCS 3515/1 (2004), to correct the pollution alleged in the Complaint filed in this case.

Respectfully submitted,

PEOPLE OF THE STATE OF ILLINOIS

LISA MADIGAN,
Attorney General of the
State of Illinois

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

BY: 
MICHAEL D. MANKOWSKI
Assistant Attorney General
Environmental Bureau

500 South Second Street
Springfield, Illinois 62706
217/782-9031
Dated: December 6, 2006

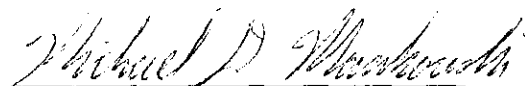
CERTIFICATE OF SERVICE

I hereby certify that I did on December 6, 2006, send by certified mail, with postage thereon fully prepaid, by depositing in a United States Post Office Box a true and correct copy of the following instruments entitled NOTICE OF FILING, ENTRY OF APPEARANCE and COMPLAINT:

To: General Waste Services, Inc.
c/o Thomas J. Immel
1307 South Seventh Street
P.O. Box 2418
Springfield, IL 62705

and the original and ten copies by First Class Mail with postage thereon fully prepaid of the same foregoing instrument(s):

To: Dorothy Gunn, Clerk
Illinois Pollution Control Board
James R. Thompson Center
Suite 11-500
100 West Randolph
Chicago, Illinois 60601



Michael D. Mankowski
Assistant Attorney General

This filing is submitted on recycled paper.

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

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PEOPLE OF THE STATE OF)
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)
 Complainant,)
)
 vs.)
)
 GENERAL WASTE SERVICES, INC.,)
 an Illinois corporation,)
)
 Respondent.)

PCB No. **07-45**
(Enforcement)

ENTRY OF APPEARANCE

On behalf of the Complainant, PEOPLE OF THE STATE OF ILLINOIS, MICHAEL D. MANKOWSKI, Assistant Attorney General of the State of Illinois, hereby enters his appearance as attorney of record.

Respectfully submitted,

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

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

BY: *Michael D. Mankowski*
MICHAEL D. MANKOWSKI
Environmental Bureau
Assistant Attorney General

500 South Second Street
Springfield, Illinois 62706
217/782-9031
Dated: December 6, 2006

DEC 08 2006

STATE OF ILLINOIS
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PEOPLE OF THE STATE OF)
ILLINOIS,)
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 GENERAL WASTE SERVICES, INC.,)
 an Illinois corporation,)
)
 Respondent.)

PCB No. 07- **45**
(Enforcement-Air)

COMPLAINT

The PEOPLE OF THE STATE OF ILLINOIS, by LISA MADIGAN, Attorney General of the State of Illinois, on her own motion, complains of the Respondent, GENERAL WASTE SERVICES, INC., as follows:

COUNT I

VIOLATIONS OF THE NATIONAL EMISSIONS STANDARDS FOR ASBESTOS

1. This count is brought on behalf of the People of the State of Illinois, by Lisa Madigan, the Attorney General of the State of Illinois, on her own motion and at the request of the ILLINOIS ENVIRONMENTAL PROTECTION AGENCY, pursuant to the terms and provisions of Section 31 of the Illinois Environmental Protection Act ("Act"), 415 ILCS 5/31 (2004).
2. The Illinois Environmental Protection Agency ("Illinois EPA") is an agency of the State of Illinois created by the Illinois General Assembly in Section 4 of the Act, 415 ILCS 5/4 (2004), and charged, *inter alia*, with the duty of investigating and enforcing violations of the Act.
3. GENERAL WASTE SERVICES, INC. ("General Waste"), is an Illinois

corporation in good standing. The registered agent is Richard C. Graulein, 2398 Belle Street, Alton, Illinois 62002.

4. Belleville Memorial Hospital owns a two-story apartment building located at 3701 Memorial Drive, Belleville, St. Clair County, Illinois. Each story has a total of approximately five thousand (5,000) square feet. General Waste was hired to conduct an asbestos abatement project at the facility.

5. General Waste had timely submitted a written notification of the asbestos abatement project to the Illinois EPA.

6. The Illinois EPA inspected the facility on August 4, 2005. On this date, General Waste employees were removing some of the 6,714 square feet of asbestos-containing ceiling material listed in the project notification.

7. On August 4, 2005, the General Waste employees were not utilizing water to wet the asbestos-containing ceiling material being removed and were dropping the asbestos-containing ceiling material over a railing on the second floor into the foyer area of the first floor. Debris suspected to contain asbestos was located on the stairs located on the north side of the building. The subsequent analysis of a sample revealed asbestos in a range of one to five per cent.

8. Section 9.1(d) of the Act, 415 ILCS 5/9.1(d)(2004) provides as follows:

(d) No person shall:

(1) violate any provisions of Sections 111, 112, 165 or 173 of the Clean Air Act, as now or hereafter amended, or federal regulations adopted pursuant thereto;

9. The regulations on National Emission Standards for Hazardous Air Pollutants (“NESHAP”) for asbestos, 40 CFR Part 61, Subpart M, were adopted pursuant to Section 112 of the Clean Air Act, 42 USC §7412. Asbestos is regulated as a hazardous air pollutant because it is a carcinogen. RACM contains more than one percent asbestos and is generally “friable,” which means such materials, when dry, can be crumbled, pulverized, or reduced to powder by hand pressure.

10. 40 CFR §61.141 provides the following pertinent definitions:

Adequately wet means sufficiently mix or penetrate with liquid to prevent the release of particulates. If visible emissions are observed coming from asbestos-containing material, then that material has not been adequately wetted. However, the absence of visible emissions is not sufficient evidence of being adequately wet.

Asbestos-containing waste materials means mill tailings or any waste that contains commercial asbestos and is generated by a source subject to the provisions of this subpart. . . . As applied to demolition and renovation operations, this term also includes regulated asbestos-containing material waste and materials contaminated with asbestos including disposable equipment and clothing.

Facility means any institutional, commercial, public, industrial, or residential structure, installation, or building. . . .

Friable asbestos material means any material containing more than 1 percent asbestos as determined using the method specified in appendix E, subpart E, 40 CFR part 763 section 1, Polarized Light Microscopy, that, when dry, can be crumbled, pulverized, or reduced to powder by hand pressure. If the asbestos content is less than 10 percent as determined by a method other than point counting by polarized light microscopy (PLM), verify the asbestos content by point counting using PLM.

Owner or operator of a demolition or renovation activity means any person who owns, leases, operates, controls, or supervises the facility being demolished or renovated or any person who owns, leases, operates, controls, or supervises the demolition or renovation operation, or both.

Regulated asbestos-containing material (RACM) means (a) Friable asbestos material, (b) Category I nonfriable ACM that has become friable, (c) Category I nonfriable ACM that will be or has been subjected to sanding, grinding, cutting, or abrading, or (d) Category II nonfriable ACM that has a high probability of becoming or has become crumbled,

pulverized, or reduced to powder by the forces expected to act on the material in the course of demolition or renovation operations regulated by this subpart.

Remove means to take out RACM or facility components that contain or are covered with RACM from any facility.

11. 40 CFR §61.145 provides in pertinent part as follows:

Standard for demolition and renovation.

(a) *Applicability.* To determine which requirements of paragraphs (a), (b), and (c) of this section apply to the owner or operator of a demolition or renovation activity and prior to the commencement of the demolition or renovation, thoroughly inspect the affected facility or part of the facility where the demolition or renovation operation will occur for the presence of asbestos, including Category I and Category II nonfriable ACM. The requirements of paragraphs (b) and (c) of this section apply to each owner or operator of a demolition or renovation activity, including the removal of RACM as follows:

* * *

(4) In a facility being renovated . . . all the requirements of paragraphs (b) and (c) of this section apply if the combined amount of RACM to be stripped, removed, dislodged, cut, drilled, or similarly disturbed is

- (i) At least 80 linear meters (260 linear feet) on pipes or at least 15 square meters (160 square feet) on other facility components, or
- (ii) At least 1 cubic meter (35 cubic feet) off facility components where the length or area could not be measured previously.

* * *

(c) *Procedures for asbestos emission control.* Each owner or operator of a demolition or renovation activity to whom this paragraph applies, according to paragraph (a) of this section, shall comply with the following procedures:

* * *

(3) When RACM is stripped from a facility component while it remains in place in the facility, adequately wet the RACM during the stripping operation.

(I) In renovation operations, wetting is not required if:

- (A) The owner or operator has obtained prior written approval from the Administrator based on a written application that wetting

to comply with this paragraph would unavoidably damage equipment or present a safety hazard; and

(B) The owner or operator uses of the following emission control methods:

(1) A local exhaust ventilation and collection system designed and operated to capture the particulate asbestos material produced by the stripping and removal of the asbestos materials. The system must exhibit no visible emissions to the outside air or be designed and operated in accordance with the requirements in § 61.152.

* * *

(6) For all RACM, including material that has been removed or stripped:

(i) Adequately wet the material and ensure that it remains wet until collected and contained or treated in preparation for disposal in accordance with §61.150; and

(ii) Carefully lower the material to the ground and floor, not dropping, throwing, sliding, or otherwise damaging or disturbing the material.

* * *

12. The two-story apartment building located at 3701 Memorial Drive in Belleville is a “facility” and the Respondent is an “operator” of a “renovation” as these terms are defined at 40 CFR 61.141.

13. During the August 4, 2005, inspection, large amounts of dry friable asbestos-containing waste materials were on the floor of the facility and scattered around on the site.

14. The Respondent failed to adequately wet the RACM during its removal and thereby violated Section 9.1(d) of the Act, 415 ILCS 9.1(d)(2004) and 40 CFR 61.145(c)(3).

15. The Respondent failed to adequately wet and keep wet all RACM removed during renovation operations until such asbestos-containing waste materials were collected and contained in leak-tight wrapping in preparation for disposal, and thereby violated Section 9.1(d)

of the Act, 415 ILCS 9.1(d)(2004) and 40 CFR 61.145(c)(6).

PRAYER FOR RELIEF


WHEREFORE, the Complainant, People of the State of Illinois, respectfully requests that this Board enter an Order against the Respondent:

- A. Authorizing a hearing in this matter at which time the Respondent will be required to answer the allegations herein;
- B. Finding that the Respondent has violated the Act and regulations as alleged herein;
- C. Ordering Respondent to cease and desist from any further violations of the Act and associated regulations;
- D. Pursuant to Section 42(a) of the Act, 415 ILCS 5/42(a) (2004), impose a civil penalty of not more than the statutory maximum; and
- E. Grant such other and further relief as the Board deems appropriate.

Respectfully submitted,

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

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

BY: 
THOMAS DAVIS, Chief
Environmental Bureau
Assistant Attorney General

Of Counsel:

Michael D. Mankowski
Assistant Attorney General
500 South Second Street
Springfield, Illinois 62706
217/557-0586

Dated: 12/04/06