

ILLINOIS POLLUTION CONTROL BOARD
December 4, 2008

PEOPLE OF THE STATE OF ILLINOIS,)
)
Complainant,)
)
v.) PCB 09-26
) (Enforcement - Air)
TRIPLE A ASBESTOS SERVICE, INC., an)
Illinois corporation,)
)
Respondent.)

OPINION AND ORDER OF THE BOARD (by G.T. Girard):

On October 21, 2008, the Office of the Attorney General, on behalf of the People of the State of Illinois (People), filed a one-count complaint against Triple A Asbestos Service, Inc. (Triple A). The complaint concerns an asbestos abatement project at St. Mary's Church and Parish, located at 1621 Tenth St. in Madison, Madison County. The parties now seek to settle without a hearing. For the reasons below, the Board accepts the parties' stipulation and proposed settlement.

Under the Environmental Protection Act (Act) (415 ILCS 5 (2006)), 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 (2006); 35 Ill. Adm. Code 103. In this case, the complaint alleges that Triple A violated Sections 9(a) and 9.1(d)(1) of the Act (415 ILCS 9(a), 9.1(d)(1) (2006)), Sections 61.145(c)(3) and (c)(6)(i) of the federal regulations on National Emission Standards for Hazardous Air Pollutants ("NESHAP") for asbestos (40 C.F.R. §§61.145(c)(3), (c)(6)(i)),¹ and Section 201.141 of the Board's air pollution regulations (35 Ill. Adm. Code 201.141). The People further allege that Triple A violated these provisions (1) by failing to adequately wet and keep wet all regulated asbestos-containing material (RACM) removed during renovation operations until such asbestos-containing waste materials were collected and contained in leak-tight wrapping in preparation for disposal, and (2) by failing to maintain adequate containment of RACM, threatening the release of asbestos fibers into the environment.

On October 21, 2008, the People and Triple A also 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) (2006)). This filing is authorized by Section 31(c)(2) of the Act (415 ILCS 5/31(c)(2) (2006)), which requires that the public have an opportunity to request a

¹ Section 9.1(d)(1) of the Act prohibits persons from violating any provisions of Section 111, 112, 165 or 173 of the federal Clean Air Act (CAA) or federal regulations adopted thereunder. 415 ILCS 5/9.1(d)(1) (2006). Under Section 112 of the CAA (42 U.S.C. §7412), the United States Environmental Protection Agency adopted NESHAP regulations for asbestos.

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. The newspaper notice was published in the *Granite City Press Record Journal* on November 3, 2008. 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) (2006); 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 respondent'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) (2006)), which bears on the reasonableness of the circumstances surrounding the alleged violations. Triple A neither admits nor denies the alleged violations. The stipulation also addresses the factors of Section 42(h) of the Act (415 ILCS 5/42(h) (2006)), which may mitigate or aggravate the civil penalty amount. Triple A agrees to pay a civil penalty of \$20,750. The People and Triple A 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. Triple A must pay a civil penalty of \$20,750 no later than January 5, 2009, which is the first business day following the 30th day after the date of this order. Triple A must pay the civil penalty by certified check or money order payable to the Illinois Environmental Protection Agency, designated to the Illinois Environmental Protection Trust Fund. The case name, case number, and Triple A's federal tax identification number must appear on the face of the certified check or the money order.
3. Triple A must submit payment of the civil penalty to:

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

Triple A must send a copy of the certified check or money order and any transmittal letter to:

Environmental Bureau
Illinois Attorney General's Office

500 South Second Street
Springfield, Illinois 62706

4. Penalties unpaid within the time prescribed will accrue interest under Section 42(g) of the Environmental Protection Act (415 ILCS 5/42(g) (2006)) at the rate set forth in Section 1003(a) of the Illinois Income Tax Act (35 ILCS 5/1003(a) (2006)).

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) (2006); *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, John Therriault, Assistant Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above opinion and order on December 4, 2008, by a vote of 5-0.



John Therriault, Assistant Clerk
Illinois Pollution Control Board