ILLINOIS POLLUTION CONTROL BOARD February 19, 2009

PEOP	LE OF THE STATE OF ILLINOIS,)	
)	
	Complainant,)	
)	
	v.)	PCB 07-144
)	(Enforcement - Air)
MICK	MORFEY,)	
)	
	Respondent.)	

ORDER OF THE BOARD (by S.D. Lin):

On June 15, 2007, the Office of the Attorney General, on behalf of the People of the State of Illinois (People), filed a six-count complaint against Mick Morfey (Morfey) and William Knauer (Knauer). The five-count complaint concerns asbestos removal, handling, and disposal during renovation activities in January 2006 at barracks buildings 266 and 267 situated within the former Savanna Army Depot, Savanna, Carroll County. The People and the sole remaining respondent, Mick Morfey, now seek to settle without a hearing. The Board directs the Clerk to provide public notice of the parties' stipulation, proposed settlement, and request for relief from the hearing requirement.

Under the Environmental Protection Act (Act) (415 ILCS 5/1 et seq. (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 People allege that respondent violated various provisions of the Act, the National Emissions Standards for asbestos, and a Board rule. The People further allege that respondents violated Sections 9(a), 9. 1(d), 9.13(a) and 9(c) of the Act, 415 ILCS 5/9(a), 9.1 (d), 9. 13(a), 9(c) (2006). Complainant also alleged respondent violated Sections 61.145(a) and (b), 61.145(c)(i), (c)(2), (c)(6) and (c)(8), 61.150(b) of the National Emissions Standards for Hazardous Air Pollutants (NESHAPs) for asbestos, 40 C.F.R. 61.145(a) and (b), 61.145(c)(i), (c)(2), (c)(6) and (c)(8), 61.150(b)(1)² by failure to provide timely advance notification of renovation, failure to

Mick Morfey and William Knauer, PCB 07-144 (March 31, 2008).

¹ As to respondent Knauer, by order of March 31, 2008, the Board granted the People's motions to deem facts admitted and for summary judgment. The Board found that Knauer committed the alleged violations, and assessed a civil penalty of \$100,000. People v.

² While the Board generally does not have jurisdiction of enforcement of USEPA rules, Section 9(b) of the Act provides that the federal NESHAPs "are applicable to the state and enforceable under the Act." 415 ILCS 5/9(b)(2006). Pursuant to Section 112(b)(l) of the Clean Air Act (CAA), 42 U.S.C. 7412(b)(l) (2007), the Administrator of the United States Environmental

properly wet, collect and deposit of renovation, failure to properly wet, collect and deposit "regulated asbestos-containing material" (RACM), improper disposal of RACM, failure to pay asbestos fee, open burning of refuse, and by threatening the emission of contaminants so as to tend to cause air pollution.

On February 11, 2009, the People and respondent Morfey 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 hearing whenever the State and a respondent propose settling an enforcement action without a public hearing. *See* 35 Ill. Adm. Code 103.300(a). Under the proposed stipulation, respondent Morfey admits to the alleged violations and agrees to pay a civil penalty of \$1,000.

Unless the Board determines that a hearing is needed, the Board must cause notice of the stipulation, proposed settlement, and request for relief from the hearing requirement. Any person may file a written demand for hearing within 21 days after receiving the notice. If anyone timely files a written demand for hearing, the Board will deny the parties' request for relief and hold a hearing. *See* 415 ILCS 5/31(c)(2) (2006); 35 Ill. Adm. Code 103.300(b), (c). The Board directs the Clerk to provide the required notice.

IT IS SO ORDERED.

I, John Therriault, Assistant Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above order on February 19, 2009, by a vote of 5-0.

John Therriault, Assistant Clerk Illinois Pollution Control Board

John T. Therrian

Protection Agency (U.S. EPA) lists asbestos as a hazardous air pollutant. Asbestos is a known human carcinogen for which there is no known safe level of exposure. Comp. para. 18-19.