ILLINOIS POLLUTION CONTROL BOARD November 5, 2009

PEOPLE OF THE STATE OF ILLINOIS,)	
)	
Complainant, v.)	
)	PCB 07-68
)	(Enforcement - Air)
CHIPPEWA LOFT, LLC, a Missouri)	(Emorcement - Am)
corporation,)	
)	
Respondent.)	

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

On January 22, 2007, the Office of the Attorney General, on behalf of the People of the State of Illinois (People), filed a three-count complaint against Chippewa Loft, LLC, a Missouri corporation (respondent). The complaint concerns asbestos removal during renovation activities at the building formerly known as the "Collinsville Herald Building" located at 113 E. Clay St. in Collinsville, Madison County. The parties now seek to settle without a hearing. For the reasons below, 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 (2008)), ¹ 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 (2008); 35 Ill. Adm. Code 103. In this case, the People allege that respondent violated provisions of the Act, the National Emissions Standards for Hazardous Air Pollutants (NESHAP) for asbestos, ² and the Board's air pollution regulations. According to the complaint, respondent violated (1) Section 9.1(d) of the Act (415 ILCS 5/9.1(d)) (2008)) and 40 C.F.R. §§61.145(b)(1), 61.145(c)(6), and 61.150(b)(1) by failing to provide notification at least ten working days prior to commencing renovation activities and failing to properly wet, collect, contain, and deposit as soon as practicable all regulated asbestos-containing material (RACM) and asbestos-containing waste materials; (2) Section 9(a) of the Act (415 ILCS 5/9(a) (2008)) and 35 Ill. Adm. Code 201.141 by threatening the emission of contaminants into the environment so as to tend to cause air pollution; and (3) Section 9.13 of the Act (415 ILCS 5/9.13 (2008)) by failing to pay the statutory fee for commencing renovation without the proper filing of the 10-day notice.

¹ All citations to the Act will be to the 2008 compiled statutes because the provisions at issue have not been substantively amended in the 2008 compiled statutes.

² 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) (2008). Under Section 112 of the CAA (42 U.S.C. §7412), the United States Environmental Protection Agency adopted NESHAP regulations for asbestos.

On October 30, 2009, the People and respondent 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) (2008)). This filing is authorized by Section 31(c)(2) of the Act (415 ILCS 5/31(c)(2) (2008)), 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 admits the alleged violations and agrees to pay a civil penalty of \$33,000. In addition, respondent agrees to perform a supplemental environmental project (SEP), consisting of paying \$12,000 to fund an upgrade of the City of Collinsville's water disinfection system.

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) (2008); 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 November 5, 2009, by a vote of 5-0.

John Therriault, Assistant Clerk Illinois Pollution Control Board