## ILLINOIS POLLUTION CONTROL BOARD January 7, 2010

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| ) | (Enforcement - Air) |
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ORDER OF THE BOARD (by C.K. Zalewski):

On April 6, 2009, the Office of the Attorney General, on behalf of the People of the State of Illinois (People), filed a two-count complaint against David J. Schultz (Schultz). *See* 415 ILCS 5/31(c)(1) (2008); 35 Ill. Adm. Code 103.204. The complaint concerns Mr. Schultz' real property located 400 N. Ninth Street, Springfield, Sangamon County. The real property is a commercial building (Building T), and formerly a part of St. John's Hospital of the Sisters of the Third Order of St. Francis.

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.

<sup>2</sup> While the Board generally does not have jurisdiction over rules adopted by the United States Environmental Protection Agency (USEPA), Section 9(b) of the Act provides that federal NESHAPs "are applicable to the state and enforceable under the Act." 415 ILCS 5/9(b) (2008). Pursuant to Section 112(b)(1) of the Clean Air Act, 42 U.S.C. 7412(b)(1) (2007), the USEPA Administrator lists asbestos as a hazardous air pollutant. Asbestos is a known human carcinogen for which there is no known safe level of exposure.

<sup>&</sup>lt;sup>1</sup> 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.

failing to properly wet, collect, and deposit "asbestos-containing material" (RACM); improperly disposing of RACM; and, by failing to have a person properly trained in NESHAP requirements present during the renovation activities.

On December 17, 2009, the People and Schultz 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, Schultz admits the alleged violations and agrees to pay a civil penalty of \$7,000.

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 January 7, 2010, by a vote of 5-0.

John Therriault, Assistant Clerk Illinois Pollution Control Board