ILLINOIS POLLUTION CONTROL BOARD December 15, 2016

PEOPLE OF THE STATE OF ILLINOIS,)	
)	
Complainant,)	
)	
V.)	PCB 13-43
)	(Enforcement - Air)
BLICK'S CONSTRUCTION COMPANY,)	
INC., an Illinois corporation, and RON)	
BRICKER,)	
)	
Respondents.)	

ORDER OF THE BOARD (by G.M. Keenan):

On February 8, 2013, the Office of the Attorney General, on behalf of the People of the State of Illinois (People), filed a four-count complaint against Blick's Construction Co., Inc. (Blick's) and Ron Bricker (collectively, respondents). The complaint concerns alleged asbestos abatement violations in connection with a building demolition and renovation project located at 1201 Broadway in Quincy, Adams 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 (2014)), 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 (2014); 35 Ill. Adm. Code 103. In this case, the People allege that respondents violated Sections 9(a) and 9.1(d)(1) of the Act (415 ILCS 5/9(a), 9.1(d)(1) (2014)); Section 201.141 of the Board's regulations (35 Ill. Adm. Code 201.141), and Sections 61.145(c)(1) and (c)(6) and 61.150(a) and (b) of the National Emission Standards for Hazardous Air Pollutants (NESHAP)¹ for asbestos (40 CFR §§ $61.145(c)(1), (c)(6), 61.150(a), (b)).^2$

¹ Although the Board generally does not have jurisdiction over federal Clean Air Act regulations, Section 9(d) of the Act provides that "no person shall violate any provisions of Sections 111, 112, 165, or 173 of the Clean Air Act . . . or federal regulations adopted pursuant thereto."

² On May 16, 2013, the Board granted Blick's motion to dismiss Count II of the complaint, which had alleged violations of Sections 9.1(d)(1) and 9.13(b) of the Act and Sections 61.145(b)(1) and (b)(3) of the NESHAP for asbestos. Although the Board granted the motion without prejudice and stated that the People "are not precluded from seeking leave to file an amended complaint," the People have not sought leave to do so. <u>People v. Blick's Construction</u> <u>Co. and Ron Bricker</u>, PCB 13-43, slip op. at 11 (May 16, 2013).

On December 2, 2016, the People and respondents 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) (2014)). This filing is authorized by Section 31(c)(2) of the Act (415 ILCS 5/31(c)(2) (2014)), which requires that the public have an opportunity to request a hearing whenever the State and respondents propose settling an enforcement action without a public hearing. *See* 35 Ill. Adm. Code 103.300(a). Under the proposed stipulation, respondents do not affirmatively admit the alleged violations, Blick's agrees to pay a civil penalty of \$15,000, and Bricker agrees to pay a civil penalty of \$500.

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) (2014); 35 Ill. Adm. Code 103.300(b), (c). The Board directs the Clerk to provide the required notice.

IT IS SO ORDERED.

I, John T. Therriault, Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above order on December 15, 2016 by a vote of 4-0, Member Santos voted Present.

1.

John T. Therriault, Clerk Illinois Pollution Control Board