



RECEIVED
CLERK'S OFFICE
JUN 29 2006
STATE OF ILLINOIS
Pollution Control Board

OFFICE OF THE ATTORNEY GENERAL
STATE OF ILLINOIS

Lisa Madigan
ATTORNEY GENERAL

June 26, 2006

The Honorable Dorothy Gunn
Illinois Pollution Control Board
James R. Thompson Center, Ste. 11-500
100 West Randolph
Chicago, Illinois 60601

Re: ***People v. J & S Companies, Inc., et al.***
PCB 06-33

Dear Clerk Gunn:

Enclosed for filing please find the original and ten copies of a Motion for Remedies and Civil Penalties Against J&S Companies, Inc., in regard to the above-captioned matter. Please file the original and return a file-stamped copy to me in the enclosed, self-addressed envelope.

Thank you for your cooperation and consideration.

Very truly yours,

A handwritten signature in black ink, appearing to read "Kristen Gale", written in a cursive style.

Kristen Laughridge Gale
Environmental Bureau
500 South Second Street
Springfield, Illinois 62706
(217) 782-9031

KLG/pp
Enclosures

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

RECEIVED
CLERK'S OFFICE

JUN 29 2006

STATE OF ILLINOIS
Pollution Control Board

PEOPLE OF THE STATE OF)
ILLINOIS,)
)
 Complainant,)
)
 vs.)
)
 J & S COMPANIES, INC., a Missouri)
corporation,)
)
 Respondents.)

PCB No. 06-33
(Enforcement)

NOTICE OF FILING

To: J & S Companies, Inc.
c/o C T Corporation System, R.A.
208 S. LaSalle St., Ste. 814
Chicago, IL 60604-1101

Stephen F. Hedinger
Hedinger Law Office
2601 South Fifth Street
Springfield, IL 62703

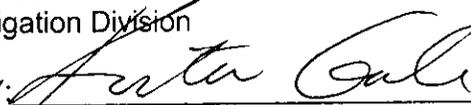
PLEASE TAKE NOTICE that on this date I mailed for filing with the Clerk of the Pollution Control Board of the State of Illinois, a Motion for Remedies and Civil Penalties Against J&S Companies, Inc., a copy of which is attached hereto and herewith served upon you.

Respectfully submitted,

PEOPLE OF THE STATE OF ILLINOIS

LISA MADIGAN,
Attorney General of the
State of Illinois

MATTHEW J. DUNN, Chief
Environmental Enforcement/Asbestos
Litigation Division

BY: 

KRISTEN LAUGHRIDGE GALE
Assistant Attorney General
Environmental Bureau

500 South Second Street
Springfield, Illinois 62706
217/782-9031
Dated: June 26, 2006

CERTIFICATE OF SERVICE

I hereby certify that I did on June 26, 2006, send by First Class Mail, with postage thereon fully prepaid, by depositing in a United States Post Office Box a true and correct copy of the following instruments entitled NOTICE OF FILING and MOTION FOR REMEDIES AND CIVIL PENALTIES AGAINST J&S COMPANIES, INC.

To: J & S Companies, Inc.
c/o C T Corporation System, R.A.
208 S. LaSalle St., Ste. 814
Chicago, IL 60604-1101

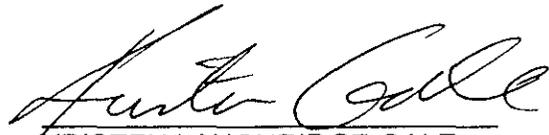
Stephen F. Hedinger
Hedinger Law Office
2601 South Fifth Street
Springfield, IL 62703

and the original and ten copies by First Class Mail with postage thereon fully prepaid of the same foregoing instrument(s):

To: Dorothy Gunn, Clerk
Illinois Pollution Control Board
James R. Thompson Center
Suite 11-500
100 West Randolph
Chicago, Illinois 60601

A copy was also sent by First Class Mail with postage thereon fully prepaid to:

Carol Webb
Hearing Officer
Illinois Pollution Control Board
1021 North Grand Avenue East
Springfield, IL 62794


KRISTEN LAUGHRIDGE GALE
Assistant Attorney General

This filing is submitted on recycled paper.

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

RECEIVED
CLERK'S OFFICE

JUN 29 2006

STATE OF ILLINOIS
Pollution Control Board

PEOPLE OF THE STATE OF ILLINOIS,)
)
Complainant,)
)
vs.)
)
J & S COMPANIES, INC., a Missouri)
corporation,)
)
Respondent.)

No. PCB 06-33
(Enforcement-Land)

MOTION FOR REMEDIES AND CIVIL PENALTIES
AGAINST J&S COMPANIES, INC.

Complainant, PEOPLE OF THE STATE OF ILLINOIS, by LISA MADIGAN, Attorney General of the State of Illinois, pursuant to Sections 33(c) and 42(h) of the Environmental Protection Act ("Act"), 415 ILCS 33(c), 42(h) (2004), hereby moves for remedies and civil penalties against Respondent, J&S COMPANIES, INC.

On June 15, 2006, the Board issued an Order granting the People's Motion for Summary Judgment against Respondent, J&S Companies, finding it in violation of Sections 21(a), (d)(1), (e), (p)(1), and (7) of the Act, 415 ILCS 21(a), (d)(1), (e), (p)(1), and (7) (2004). The Board directed the People to address the issue of remedies and civil penalties against Respondent, J&S Companies, Inc., pursuant to Sections 33(c) and 42(h) of the Act, 415 ILCS 33(c), 42(h) (2004).

After the Board finds a violation, the Board considers the factors set forth in Section 33(c) of the Act, 415 ILCS 5/33(c)(2004), to create an appropriate remedy. Those factors are:

1. the character and degree of injury to, or interference with the protection of the health, general welfare and physical property of the people;
2. the social and economic value of the pollution source;

3. the suitability or unsuitability of the pollution source to the area in which it is located, including the question of priority of location in the area involved;
4. the technical practicability and economic reasonableness of reducing or eliminating the emissions, discharges or deposits resulting from such pollution source; and
5. any subsequent compliance.

In response to these factors, the Complainant states the following:

1. Human health and the environment were threatened by the Respondent's open dumping and improper disposal of construction and demolition debris.
2. There is a social and economic benefit to the Respondent's demolition business.
3. Operating a demolition business is suitable for the area in which they are operating.
4. Properly disposing of construction and demolition debris is both technically practicable and economically reasonable.
5. Respondent has subsequently complied with the Act and the Board Regulations.

To impose a civil penalty, the Board must consider the factors contained within Section 42(h) of the Act, 415 ILCS 5/42(h)(2004). Those factors are:

1. the duration and gravity of the violation;
2. the presence or absence of due diligence on the part of the respondent in attempting to comply with requirements of this Act and regulations thereunder or to secure relief therefrom as provided by this Act;
3. any economic benefits accrued by the respondent because of delay in compliance with requirements, in which case the economic benefits shall be determined by the lowest cost alternative for achieving compliance;
4. the amount of monetary penalty which will serve to deter further violations by the respondent and to otherwise aid in enhancing voluntary compliance with this Act by the respondent and other persons similarly subject to the Act;

5. the number, proximity in time, and gravity of previously adjudicated violations of this Act by the respondent;
6. whether the respondent voluntarily self-disclosed, in accordance with subsection i of this Section, the non-compliance to the Agency; and
7. whether the respondent has agreed to undertake a "supplemental environmental project," which means an environmentally beneficial project that a respondent agrees to undertake in settlement of an enforcement action brought under this Act, but which the respondent is not otherwise legally required to perform.

In response to these factors, the Complainant states as follows:

1. The Respondent improperly disposed of construction and demolition debris from a demolition site and caused or allowed the open dumping of general construction and demolition debris in a manner resulting in litter. The Respondent conducted a waste-storage or waste-disposal operation without a permit granted by the Illinois EPA and in violation of the Board regulations and standards, and disposed, stored or transported waste at and to a site which did not meet the requirements of the Act and standards and regulations promulgated thereunder. These violations started on or about February 6, 2003 until on or about December 3, 2003.

2. Upon notice of its violations, Respondent was diligent in attempting to come back into compliance with the Act, Board regulations and applicable federal regulations, by removing the waste from the site .

3. There was an economic benefit for disposing of the waste for no cost instead of properly disposing it in a landfill.

4. Complainant has determined, based upon the specific facts of this matter, that a penalty of Twenty-Five Thousand Dollars (\$25,000.00) will serve to deter further violations and aid in future voluntary compliance with the Act and Board regulations.

5. To Complainant's knowledge, Respondent has no previously adjudicated violations of the Act.

6. Respondent did not self report the violations.
7. The adjudication of this matter does not include a supplemental environmental project.

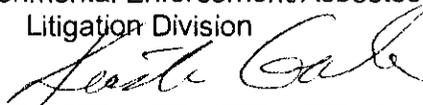
WHEREFORE, Complainant, People of the State of Illinois, respectfully request that the Board enter a final order:

- A) Order the Respondent, J&S Companies, Inc., to cease and desist from any further violations of the Act and associated regulations;
- B) Award the Complainant a penalty of \$25,000 for the violations of the Act;
- C) Grant such other relief as the Board deems appropriate.

Respectfully submitted,

PEOPLE OF THE STATE OF ILLINOIS
LISA MADIGAN
ATTORNEY GENERAL

MATTHEW J. DUNN, Chief
Environmental Enforcement/Asbestos
Litigation Division

BY: 
KRISTEN LAUGHRIDGE GALE
Environmental Bureau
Assistant Attorney General

500 South Second Street
Springfield, Illinois 62706
217/782-7968
Dated: June 26, 2006