

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

PEOPLE OF THE STATE OF ILLINOIS,)	
by LISA MADIGAN, Attorney)	
General of the State of Illinois,)	
)	
Complainant,)	
)	
v.	)	PCB No. 05-51
)	
ENVIRONMENTAL HEALTH &	)	(Enforcement - Air)
SAFETY SERVICES, INC., an Illinois)	
Corporation,)	
)	
Respondent.)	

NOTICE OF FILING

TO: Schlueter Ecklund (VIA ELECTRONIC FILING)
4023 Charles Street
Rockford, IL 61108-6135

PLEASE TAKE NOTICE that today I have electronically filed with the Office of the Clerk of the Pollution Control Board the following Motion for Summary Judgment on All Counts of the First Amended Complaint, a copy of which is attached and hereby served on you.

Respectfully submitted,

PEOPLE OF THE STATE OF ILLINOIS,
LISA MADIGAN,
Attorney General of the State of Illinois

By: Vanessa Cude
VANESSA M. CORDONNIER
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COMPLAINANT'S MOTION FOR SUMMARY JUDGMENT ON ALL COUNTS OF THE FIRST AMENDED COMPLAINT

Now comes the Complainant, PEOPLE OF THE STATE OF ILLINOIS, by LISA MADIGAN, Attorney General of the State of Illinois, and pursuant to Section 101.516 of the Illinois Pollution Control Board ("Board") Procedural Rules, 35 Ill. Adm. Code 101.516, the September 16, 2004 and January 6, 2005 Board Orders in this cause, hereby moves this Board for Summary Judgment as to Counts I through VII of the First Amended Complaint against Respondent, ENVIRONMENTAL HEALTH & SAFETY SERVICES, INC. In support thereof, Complainant states as follows:

I. INTRODUCTION

On December 6, 2004, the Complainant, PEOPLE OF THE STATE OF ILLINOIS, by LISA MADIGAN, Attorney General of the State of Illinois, filed its First Amended Complaint against Respondent, ENVIRONMENTAL HEALTH & SAFETY SERVICES, INC. ("EH&S"). Complainant alleged violations of Sections 9(a) and 9.1(d) of the Illinois Environmental Protection Act ("Act"), 415 ILCS 5/9(a) and 9.1(d) (2004), Section 201.141 of the Board Air

Pollution Regulations, 35 Ill. Adm. Code 201.141, and Sections 61.145(b)(1), (b)(3)(iv), (b)(4)(vi), (c)(3), and (c)(6)(i), and 61.150(a)(1) and (b)(1) of the United States Environmental Protection Agency's ("U.S. EPA") National Emissions Standards for Hazardous Air Pollutants, ("NESHAP"), 40 C.F.R. 61.145(b)(1), (b)(3)(iv), (b)(4)(vi), (c)(3), and (c)(6)(i) and 61.150(a)(1) and (b)(1).

On May 23, 2005, Respondent filed its Answer to the Complaint which is attached to and incorporated by reference into this motion as Exhibit A. On December 19, 2005, Complainant served its First Request for Admission of Facts on Respondent which are attached to and incorporated by reference into this motion as Exhibit B. On March 3, 2006, Respondent filed its Amended Response to Complainant's First Request for Admission of Facts, which is attached to and incorporated by reference into this motion as Exhibit C. On April 7, 2006, Complainant served on Respondent Complainant's First Set of Interrogatories and Complainant's First Request for Production of Documents. On May 26, 2006, Respondent faxed partial Answers to Complainant's First Set of Interrogatories. Respondent served a signed copy upon Complainant on July 28, 2006.

The complaint and answer filed in this cause, and the Respondent's admissions on file, together with the affidavits supporting this motion, establish all material facts necessary to prove liability on Counts I through VII of the First Amended Complaint and Plaintiff's entitlement to penalties. Accordingly, because there is no genuine issue of material fact, Complainant is entitled to judgment as a matter of law.

II. LEGAL STANDARD FOR SUMMARY JUDGMENT

Section 101.516(b) of the Board's Procedural Regulations, 35 Ill. Adm. Code 101.516(b), provides as follows:

- b) If the record, including pleadings, depositions and admissions on file, together with any affidavits, shows that there is no genuine issue of material fact, and that the moving party is entitled to judgment as a matter of law, the Board will enter summary judgment.

The purpose of the summary judgment procedure is to aid in the expeditious resolution of a lawsuit. *Atwood v. St. Paul Fire & Marine Ins. Co.*, 363 Ill.App.3d 861, 863, 845 N.E.2d 68, 70 (2d Dist. 2006). "The purpose of a summary judgment proceeding is not to try an issue of fact, but to determine whether any genuine issue of material fact exists." *Happel v. Wal-Mart Stores, Inc.*, 199 Ill.2d 179, 186, 766 N.E.2d 1118, 1123 (2002).

III. ARGUMENT

The complaint and answer filed in this cause, and the Respondents' admissions on file, together with the affidavits supporting this motion, establish all material facts necessary to prove Respondent violated Sections 9(a) and 9.1(d) of the Act, 415 ILCS 5/9(a) and 9.1(d) (2004), Section 201.141 of the Board Air Pollution Regulations, 35 Ill. Adm. Code 201.141, and Sections 61.145(b)(1), (b)(3)(iv), (b)(4)(vi), (c)(3), and (c)(6)(i), and 61.150(a)(1) and (b)(1) of the NESHAP for asbestos, 40 C.F.R. 61.145(b)(1), (b)(3)(iv), (b)(4)(vi), (c)(3), and (c)(6)(i) and 61.150(a)(1) and (b)(1). Accordingly, because there is no genuine issue of material fact, Complainant is entitled to judgment as a matter of law on Counts I through VII.

A. Count I: Respondent Caused, Threatened or Allowed Air Pollution

1. The First Amended Complaint in this action was brought by LISA MADIGAN, Attorney General of the State of Illinois, on her own motion and at the request of the Illinois Environmental Protection Agency ("Illinois EPA") against ENVIRONMENTAL HEALTH & SAFETY SERVICES, INC., pursuant to the terms and provisions of Section 31 of the Act, 415 ILCS 5/31 (2004).

2. The Illinois EPA is an administrative agency established in the executive branch of the State government by Section 4 of the Act, 415 ILCS 5/4 (2004), and charged, inter alia, with the duty of enforcing the Act.

3. Environmental Health & Safety Services, Inc., is an Illinois corporation in good standing. [Respondent's Answer to Count I, ¶3 of Complainant's First Amended Complaint]

4. Respondent conducts asbestos consulting services, including building inspections, asbestos abatement project management, and asbestos removal and disposal activities.

[Answer, Count I, ¶4]

5. At all times relevant to the First Amended Complaint in this action, Respondent's business was located at 1304 Derby Lane, Rockford, Winnebago County, Illinois 61107.

[Answer, Count I, ¶5]

6. Respondent contracted with the owner of the former Lincoln Park School located at 4103 West State Street, Rockford, Winnebago County, Illinois ("Facility" or "Site") to remove and dispose of regulated asbestos-containing material ("RACM") from the boiler room located within the Facility. [Answer, Count I, ¶6]

7. At all times relevant to the First Amended Complaint in this action, EH&S was the asbestos removal contractor at the Facility. [Respondent's Response to Complainant's First Request for Admission of Facts, ¶8]

8. On January 7, 2003, Respondent's employees removed dry friable¹ RACM from the boiler and dropped it onto the floor. When the asbestos fell onto the floor, it broke, causing the visible emission of particulate asbestos-containing material. [Dennis Hancock ("Hancock") Affidavit, attached to and incorporated by reference into this motion as Exhibit D, ¶4]

9. On January 7, 2003, Respondent did not use any technology to prevent the emission of asbestos particles into the outside air. There was no containment in the work area, no negative air machine running or even in the area, no bag out area, no decontamination unit, no water being used, and no Hudson sprayers in the area. Additionally, EH&S' employees were not removing outer suits before exiting the work area. [Hancock Affidavit, ¶5]

10. On January 7, 2003, the Illinois EPA inspected one of several bags located within the boiler room area and utilized by Respondent's employee to contain asbestos-containing material. This bag contained dry regulated asbestos-containing material that could easily be crushed and crumbled by hand pressure. No water or condensation was visible within the bag inspected by the Illinois EPA. [Hancock Affidavit, ¶ 11]

11. On January 7, 2003, the Illinois EPA collected two samples of dry friable RACM from inside the boiler room work area, and one sample was collected from the area adjacent to the entry door to the work area. [Hancock Affidavit, ¶7]

12. On January 24, 2003, the Illinois EPA received from EnviroHealth Technologies,

¹ *Friable asbestos material* is "any material containing more than 1 percent asbestos ... that, when dry, can be crumbled, pulverized, or reduced to powder by hand pressure." 40 CFR 61.141.

Inc., test data documenting that one of the samples contained concentrations of chrysotile asbestos from 10% to 20% and all three samples contained concentrations of amosite asbestos from 10% to 30%. [William Lowry ("Lowry") Affidavit, attached to and incorporated by reference into this motion as Exhibit E, ¶ 21][Hancock Affidavit, ¶ 9]

13. Section 9(a) of the Act, 415 ILCS 5/9(a) (2004), provides as follows:

No person shall:

(a) Cause or threaten or allow the discharge or emission of any contaminant into the environment in any State so as to cause or tend to cause air pollution in Illinois, either alone or in combination with contaminants from other sources, or so as to violate regulations or standards adopted by the Board under this Act;

14. Section 201.141 of the Board's Air Pollution Regulations, 35 Ill. Adm. Code 201.141, titled, Prohibition of Air Pollution, provides as follows:

No person shall cause or threaten or allow the discharge or emission of any contaminant into the environment in any State so as, either alone or in combination with contaminants from other sources, to cause or tend to cause air pollution in Illinois, or so as to violate the provisions of this Chapter . . .

15. Section 3.315 of the Act, 415 ILCS 5/3.315 (2004), contains the following definition:

"Person" is any individual, partnership, co-partnership, firm, company, limited liability company, corporation, association, joint stock company, trust, estate, political subdivision, state agency, or any other legal entity, or their legal representative, agent or assigns.

16. Respondent is a corporation and therefore, a "person" as that term is defined by Section 3.315 of the Act, 415 ILCS 5/3.315 (2004).

17. Section 3.115 of the Act, 415 ILCS 5/3.115 (2004), defines air pollution as:

"Air pollution" is the presence in the atmosphere of one or more contaminants in sufficient quantities and of such characteristics and duration as to be injurious to

human, plant, or animal life, to health, or to property, or to unreasonably interfere with the enjoyment of life or property.

18. Section 3.165 of the Act, 415 ILCS 5/3.165 (2004), defines contaminant as follows:

“Contaminant” is any solid, liquid, or gaseous matter, any odor, or any form of energy, from whatever source.

19. Asbestos is contaminant as that term is defined by Section 3.165 of the Act, 415 ILCS 5/3.165 (2004).

20. No safe concentration of airborne asbestos has been determined. U.S. EPA, *Asbestos NESHAP Adequately Wet Guidance*, EPA340/1-90-019 (Dec. 1990). Studies have shown a definite association between exposure to asbestos and an increased incidence of lung cancer, pleural and peritoneal mesothelioma, gastrointestinal cancer, and asbestosis. 29 C.F.R. § 1926.1101, App. I. Accordingly, any asbestos that is released to the air causes or threatens injury to human life or health, and thus is air pollution as defined by Section 3.115 of the Act, 415 ILCS 5/3.115 (2004).

21. Respondent, the asbestos removal contractor that removed RACM from within the Facility, removed dry friable RACM from a boiler and the boiler pipes within the Facility without utilizing wet methods or any other measures to control asbestos emissions. Through these asbestos removal actions, Respondent caused, threatened or allowed the presence of asbestos, a contaminant, in the atmosphere so as to cause or tend to cause air pollution, in violation of Section 9(a) of the Act, 415 ILCS 5/9(a) (2004), and 35 Ill. Adm. Code 201.141.

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, prays for the entry of summary judgment in its favor and against Respondent, ENVIRONMENTAL HEALTH

& SAFETY SERVICES, INC., on Count I of the First Amended Complaint for the reason that the pleadings, admissions on file, and affidavits show that there is no genuine issue as to any material fact and that Complainant is entitled to judgment as a matter of law. Specifically, Complainant seeks an order:

1. Finding that Respondent has violated Section 9(a) of the Act and 35 Ill. Adm. Code Section 201.141;
2. Ordering Respondent to cease and desist from any further violations of Sections 9(a) of the Act, and 35 Ill. Adm. Code Section 201.141;
3. Assessing a civil penalty against Respondent of Five Thousand Dollars (\$5,000.00) for the reasons explained more fully herein;
4. Requiring Respondent to pay all costs expended by the State in pursuit of this action, including expert witnesses, consultant, and attorney fees; and
5. Granting such other relief as this Board deems appropriate and just.

B. Count II: Respondent Failed To Provide a Complete Notification of Demolition and Renovation to the Illinois EPA, as Required by Asbestos NESHAP

1. Complainant realleges and incorporates by reference into its motion for summary judgment on Count II all factual statements and statements of law contained in its motion for summary judgment on Count I.
2. Section 9.1(d)(1) of the Act, 415 ILCS 5/9.1(d)(1) (2004) states as follows:
 - (d) No person shall:

Violate any provisions of Sections 111, 112, 165, or 173 of the Clean Air Act, as now or hereafter amended, or federal regulations adopted pursuant thereto.

3. Asbestos is classified as a "hazardous air pollutant" under section 112 of the Clean Air Act. 42 U.S.C. § 7412(b)(1) (2004); 40 C.F.R. § 61.01(a).

4. Pursuant to Section 112 of the CAA, the U.S. EPA adopted the NESHAP for asbestos to protect the public health from asbestos. The USEPA determined that work practice standards rather than emission standards were appropriate for the regulation of asbestos. *See* 42 U.S.C. § 7412(h) (2004).

5. The federal regulations set forth within the NESHAP for asbestos are enforceable through Section 9.1(d)(1) of the Act, 415 ILCS 5/9.1(d)(1) (2004).

6. Section 61.145(a) of the NESHAP for asbestos, 40 CFR 61.145(a) (January 17, 2003), titled, *Standard for Demolition and Renovation*, provides in pertinent part as follows:

(a) **Applicability.** To determine which requirements of paragraphs (a), (b), and (c) of this section apply to the owner or operator of a demolition or renovation activity and prior to the commencement of the demolition or renovation, thoroughly inspect the affected facility or part of the facility where the demolition or renovation operation will occur for the presence of asbestos, including Category I and Category II nonfriable ACM. The requirements of paragraphs (b) and (c) of this section apply to each owner or operator of a demolition or renovation activity, including the removal of RACM as follows:

- (1) In a facility being demolished, all the requirements of paragraphs (b) and (c) of this section apply, except as provided in paragraph (a)(3) of this section, if the combined amount of RACM is
 - (i) At least 80 linear meters (260 linear feet) on pipes or at least 15 square meters (160 square feet) on other facility components, or
 - (ii) At least 1 cubic meter (35 cubic feet) off facility components where the length or area could not be measured previously.

7. Regulated asbestos-containing material is defined in Section 61.141, 40 CFR

61.141, as follows:

(a) Friable asbestos material, (b) Category I nonfriable ACM that has become friable, (c) Category I nonfriable ACM that will be or has been subjected to sanding, grinding, cutting or abrading, or (d) Category II nonfriable ACM that has a high probability of becoming or has become crumbled, pulverized, or reduced to powder by the forces expected to act on the material in the course of demolition or renovation operations regulated by this subpart.

8. EH&S was the owner or operator of a demolition activity at the Site, as defined by the NESHAP for asbestos. "Demolition" is defined as the wrecking or taking out of any load-supporting structural member of a facility "together with any related handling operations..." [40 C.F.R. § 61.141] By "contracting with the owner of the former Lincoln Park School to remove and dispose of regulated asbestos-containing material," in conjunction with the demolition of the facility [Answer, Count I, ¶6], Respondent engaged in the asbestos removal portion of a "demolition" as defined in 40 CFR 61.141.

9. The definition of "owner or operator of a demolition or renovation activity" includes "any person who owns, leases, operates, controls, or supervises the demolition or renovation operation." [40 CFR 61.141] Respondent, the asbestos removal contractor, owned, operated, controlled, or supervised the asbestos removal activities that were required prior to demolition, and thus was the "operator of a demolition or renovation activity" as that term is defined in 40 CFR 61.141.

10. The definition of a "facility" includes "any institutional, commercial, public, industrial, or residential structure, installation, or building..." [40 CFR 61.141] Therefore, the former school constitutes a "facility."

11. On December 9, 2002, the Illinois EPA received a Notification of Demolition and

Renovation (“Notification”) from Respondent, informing the Illinois EPA of scheduled asbestos removal activities to be conducted within the Facility. [Jan McDow (“McDow”) Affidavit attached to and incorporated by reference into this motion as Exhibit F, ¶8, 10, 11; Shannon Coe (“Coe”) Affidavit attached to and incorporated by reference into this motion as Exhibit G, ¶8, 9] The asbestos removal was scheduled to begin on January 2, 2003, and be completed by January 24, 2003. [McDow Affidavit, Attachment 1]

12. The Notification listed EH&S as the “Asbestos Removal Contractor,” and stated that the facility was to be demolished after the asbestos removal activities were completed. [McDow Affidavit, Attachment 1]

13. The Notification stated that 1000 linear feet of RACM on pipes were to be removed, 630 square feet of RACM were to be removed from the boilers, and 12,500 square feet of Category I nonfriable asbestos-containing floor tile were to be removed. [McDow Affidavit, Attachment 1]

14. The Notification did not state an estimate of the approximate amount of asbestos-containing material that would not be removed during demolition of the facility. [McDow Affidavit, Attachment 1]

15. Respondent’s asbestos removal activities within the Facility, as the owner or operator of the demolition activity, were subject to the requirements of 40 CFR 61.145(b) and (c), because more than “80 linear meters (260 linear feet) on pipes or at least 15 square meters (160 square feet) on other facility components” of RACM were to be removed from the facility.

16. Section 61.145(b)(4)(vi), set forth within the NESHAP for asbestos, 40 CFR 61.145(b)(4)(vi) (January 17, 2003), titled *Standard for Demolition and Renovation: Notification Requirements*, provides in pertinent part:

(b) Each owner or operator of a demolition or renovation activity to which this section applies shall:

(4) Include the following in the notice:

(vi) [E]stimate the approximate amount of Category I and Category II nonfriable ACM in the affected part of the facility that *will not be removed before demolition*.

17. In the Notification received by the Illinois EPA from Respondent on December 6, 2002, Respondent did not state the approximate amount of Category I and Category II nonfriable ACM in the affected area of the Facility that would not be removed before demolition of the Facility. [McDow Affidavit, Attachment 1]

18. By not listing on the Notification the amount of Category I and Category II nonfriable ACM that would not be removed before demolition, as required by 40 C.F.R. 61.145(b)(4)(vi), Respondent violated Section 9.1(d)(1) of the Act, 415 ILCS 5/9.1(d)(1) (2004), and 40 CFR 61.145(b)(4)(vi).

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, prays for the entry of summary judgment in its favor and against Respondent, ENVIRONMENTAL HEALTH & SAFETY SERVICES, INC., on Count II of the First Amended Complaint for the reason that the pleadings, admissions on file, and affidavits show that there is no genuine issue as to any material fact and that Complainant is entitled to judgment as a matter of law. Specifically, Complainant seeks an order:

1. Finding that Respondent has violated Section 9.1(d)(1) of the Act and 40 CFR 61.145(b)(4)(vi);

2. Ordering Respondent to cease and desist from any future violations of Section 9.1(d)(1) of the Act and 40 CFR 61.145(b)(4)(vi);

3. Assessing a civil penalty against Respondent of Two Thousand Five Hundred Dollars (\$2,500.00) for the reasons explained more fully herein;

4. Requiring Respondent to pay all costs expended by the State in pursuit of this action, including expert witness, consultant, and attorney fees; and

5. Granting such other relief as this Board deems appropriate and just.

C. Count III: Respondent Failed to Timely Notify the Illinois EPA of the New Start Date of the Demolition and Renovation Operation, as Required by Asbestos NESHAP

1. Complainant realleges and incorporates by reference into its motion for summary judgment on Count III all factual statements and statements of law contained in its motions for summary judgment on Counts I and II.

2. Section 61.145(b)(1) and (3)(iv) set forth within the NESHAP for asbestos, 40 CFR 61.145(b)(1) and (3)(iv) (January 17, 2003), titled, *Standard for Demolition and Renovation: Notification Requirements*, provide in pertinent part as follows:

(b) Each owner or operator of a demolition or renovation activity to which this section applies shall:

(1) Provide the Administrator with written notice of intention to demolish or renovate. Delivery of the notice by U.S. Postal Service, commercial delivery service, or hand delivery is acceptable.

*

*

*

(3) Postmark or deliver the notice as follows:

(iv) For asbestos stripping or removal work in a demolition or renovation operation, described in paragraphs (a)(1) and (4) (except (a)(4)(iii) and (a)(4)(iv)) of this section, and for a demolition described in paragraph (a)(2) of this section, that will begin on a date other than the one contained in the original notice, notice of the new start date must be provided to the Administrator as follows:

(A) When the asbestos stripping or removal operation or demolition operation covered by this paragraph will begin after the date contained in the notice,

(1) Notify the Administrator of the new start date by telephone as soon as possible before the original start date, and

(2) Provide the Administrator with a written notice of the new start date as soon as possible before, and *no later than, the original start date*. Delivery of the updated notice by the U.S. Postal Service, commercial delivery service, or hand delivery is acceptable.

3. At all times relevant to the First Amended Complaint in this action, Randall Oldenburger was the President of EH&S. [Respondent's Response to Complainant's First Request for Admission of Facts, ¶17]

4. On January 7, 2003, Mr. Oldenburger informed the Illinois EPA that asbestos removal activities in the Facility commenced on January 6, 2003, which was two working days after the scheduled starting date of January 2, 2003 listed in the Notification. [Hancock Affidavit, ¶6]

5. Respondent did not provide written notice of the new start date to the Illinois EPA prior to the original start date of January 2, 2003, as required by 40 CFR 61.145(b)(3)(iv).

[McDow Affidavit, ¶12]

6. Respondent completed asbestos remediation activities in the boiler room on August 14, 2003. [Hancock Affidavit, ¶14 , Attachment 1]

7. Respondent, by failing to notify the Illinois EPA of the new start date prior to commencing asbestos removal activity, violated Section 9.1(d)(1) of the Act, 415 ILCS 5/9.1(d)(1) (2004), and 40 CFR 61.145(b)(1) and (3)(iv) (January 17, 2003).

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, prays for the entry of summary judgment in its favor and against Respondent, ENVIRONMENTAL HEALTH AND SAFETY SERVICES, INC., on Count III of the First Amended Complaint for the reason that the pleadings, admissions on file, and affidavits show that there is no genuine issue as to any material fact and that Complainant is entitled to judgment as a matter of law. Specifically, Complainant seeks an order:

1. Finding that Respondent has violated Section 9.1(d)(1) of the Act and 40 CFR 61.145(b)(1) and (3)(iv);

2. Ordering Respondent to cease and desist from any future violations of Section 9.1(d)(1) of the Act and 40 CFR 61.145(b)(1) and (3)(iv);

3. Assessing against Respondent a civil penalty of Five Thousand Dollars (\$5,000.00) for the reasons explained more fully herein;

4. Requiring Respondent to pay all costs expended by the State in pursuit of this action, including expert witness, consultant, and attorney fees; and

5. Granting such other relief as this Board deems appropriate and just.

D. Count IV: Respondent Failed to Adequately Wet All RACM Prior to Stripping From Structures

1. Complainant realleges and incorporates by reference into its motion for summary judgment on Count IV all factual statements and statements of law contained in its motion for summary judgment on Counts I through III.

2. Section 61.145(c)(3) set forth within the NESHAP for asbestos, 40 CFR 61.145(c)(3) (January 17, 2003), titled, *Standard for Demolition and Renovation: Procedures for Asbestos Emission Control*, provides in pertinent part as follows:

(c) Each owner or operator of a demolition or renovation activity to whom this paragraph applies, according to paragraph (a) of this section, shall comply with the following procedures:

(3) When RACM is stripped from a facility component while it remains in place in the facility, adequately wet the RACM during the stripping operation.

3. Section 61.141 of the NESHAP for asbestos, 40 CFR 61.141, defines “adequately wet” as follows:

Sufficiently mix or penetrate with liquid to prevent the release of particulates. If visible emissions are observed coming from asbestos-containing material, then that material has not been adequately wetted. However, the absence of visible emissions is not sufficient evidence of being adequately wet.

4. On January 7, 2003, during the Illinois EPA inspection, EH&S and its employees were not using any water at all. No water at all was visible on the ACM, the boiler, or the boiler pipes, nor was any water on the floor. Dry RACM material was visible on the floor. [Hancock Affidavit, ¶5, 10, 11]

5. By not wetting the RACM at all prior to removing the RACM at the Facility, EH&S did not "adequately wet" all RACM prior to removal, as required by 40 CFR 61.145 (c)(3).

6. By failing to adequately wet the RACM during asbestos removal activities, Respondent violated Section 9.1(d)(1) of the Act, 415 ILCS 5/9.1(d)(1) (2004), and 40 CFR 61.145(c)(3).

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, prays for the entry of summary judgment in its favor and against Respondent, ENVIRONMENTAL HEALTH & SAFETY SERVICES, INC., on Count IV of the First Amended Complaint for the reason that the pleadings, admissions on file, and affidavits show that there is no genuine issue as to any material fact and that Complainant is entitled to judgment as a matter of law. Specifically, Complainant seeks an order:

1. Finding that Respondent has violated Section 9.1(d)(1) of the Act and 40 CFR 61.145(c)(3);

2. Ordering Respondent to cease and desist from any further violations of Section 9.1(d)(1) of the Act and 40 CFR 61.145(c)(3);

3. Assessing against Respondent a civil penalty of Eleven Thousand Dollars (\$11,000.00) for the reasons explained more fully herein;

4. Requiring Respondent to pay all costs expended by the State in pursuit of this action, including expert witness, consultant, and attorney fees; and

5. Granting such other relief as this Board deems appropriate and just.

E. Count V: Respondent Failed to Adequately Wet all Regulated Asbestos-Containing Material Until Collection

1. Complainant realleges and incorporates by reference into its motion for summary judgment on Count V all factual statements and statements of law contained in its motion for summary judgment on Counts I through IV.

2. Section 61.145(c)(6)(i) set forth within the NESHAP for asbestos, 40 CFR 61.145 (c)(6)(i) (January 17, 2003), titled, *Standard for Demolition and Renovation: Procedures for Asbestos Emission Control*, provides in pertinent part as follows:

- (6) For all RACM, including material that has been removed or Stripped:
 - (i) Adequately wet the material and ensure that it remains wet until collected and contained or treated in preparation for disposal in accordance with §61.150; . . .

3. Respondent did not use water at the facility at all during the January 2003 asbestos removal activities. [Hancock Affidavit, ¶ 5, 10, 11] Accordingly, Respondent failed to adequately wet and maintain wet all RACM and regulated asbestos-containing waste material until collected and contained in preparation for disposal.

4. By failing to ensure that the RACM and regulated asbestos-containing waste material remained wet until collected and contained, Respondent violated Section 9.1(d)(1) of the Act, 415 ILCS 5/9.1(d)(1) (2004), and 40 CFR 61.145(c)(6)(i).

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, prays for the entry of summary judgment in its favor and against Respondent, ENVIRONMENTAL HEALTH & SAFETY SERVICES, INC., on Count V of the First Amended Complaint for the reason that the pleadings, admissions on file, and affidavits show that there is no genuine issue as to any

material fact and that Complainant is entitled to judgment as a matter of law. Specifically, Complainant seeks an order:

1. Finding that Respondent has violated Section 9.1(d)(1) of the Act and 40 CFR 61.145(c)(6)(i);
2. Ordering Respondent to cease and desist from any further violations of Section 9.1(d)(1) of the Act and 40 CFR 61.145(c)(6)(i);
3. Assessing against Respondent a civil penalty of Eleven Thousand Dollars (\$11,000.00) for the reasons explained more fully herein;
4. Requiring Respondent to pay all costs expended by the State in pursuit of this action, including expert witness, consultant, and attorney fees; and
5. Granting such other relief as this Board deems appropriate and just.

F. Count VI: Respondent Failed to Adequately Wet, Store in a Leak-tight Container and Label the Regulated Asbestos-Containing Material Waste

1. Complainant realleges and incorporates by reference into its motion for summary judgment on Count VI all factual statements and statements of law contained in its motion for summary judgment on Counts I through V.

2. Section 61.150(a)(1) set forth within the NESHAP for asbestos, 40 CFR 61.150(a)(1) (October 10, 2003), titled, *Standard for Waste Disposal for Manufacturing, Fabricating, Demolition, Renovation, and Spraying Operations*, provides in pertinent part as follows:

Each owner or operator of any source covered under the provisions of §§61.144, 61.145, 61.146, and 61.147 shall comply with the following provisions:

- (a) Discharge no visible emissions to the outside air during the collection, processing (including incineration), packaging, or transporting of any asbestos-containing waste material generated by the source, or use one of the emission control and waste treatment methods specified in paragraphs (a)(1) through (4) of this section.

follows:

- (1) Adequately wet asbestos-containing waste materials as
 - (i) Mix control device asbestos waste to form a slurry; adequately wet other asbestos-containing waste material; and
 - (ii) Discharge no visible emissions to the outside air from collection, mixing, wetting, and handling operations, or use the methods specified by § 61.152 to clean emissions containing particulate asbestos material before they escape to, or are vented to, the outside air; and
 - (iii) After wetting, seal all asbestos-containing waste material in leak-tight containers while wet...; and
 - (iv) Label the containers or wrapped materials specified in paragraph (a)(1)(iii) of this section using warning labels specified by Occupational Safety and Health Standards of the Department of Labor, Occupational Safety and Health Administration (OSHA) under 29 CFR 1910.1001(j)(2) or 1926.58(k)(2)(iii). The labels shall be printed in letters of sufficient size and contrast so as to be readily visible and legible.
 - (v) For asbestos-containing waste material to be transported off the facility site, label containers or wrapped materials with the name of the waste generator and the location at which the waste was generated.

3. On January 7, 2003, the Illinois EPA inspector asked an EH&S worker to bring out a bag containing RACM that was bagged, cleaned and ready to be removed from the facility. [Hancock Affidavit, ¶11] The bag that EH&S' worker brought out in response to this request did not contain any moisture and was easily crumbled by hand. [Hancock Affidavit, ¶11]

4. The bag containing RACM was not labeled with an OSHA-specified label.

[Hancock Affidavit, ¶11]

5. Respondent failed to adequately wet and keep wet, containerize, and label all regulated asbestos-containing waste materials. Additionally, asbestos was found outside of the work area, which was exposed to the outside air. Respondent did not use a containment area at the facility. These conditions caused the discharge of visible emissions. [Hancock Affidavit, ¶¶4-5, 7-11] Accordingly, Respondent did not comply with 40 CFR 61.150(a)(1), because it both; (1) discharged visible emissions of particulate asbestos-containing material; and (2) did not use one of the emission control and waste treatment methods outlined in 40 CFR 61.150(a)(1)-(4).²

6. By violating 61.150(a)(1), Respondent also violated Section 9.1(d)(1) of the Act, 415 ILCS 5/9.1(d)(1) (2004).

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, prays for the entry of summary judgment in its favor and against Respondent, ENVIRONMENTAL HEALTH & SAFETY SERVICES, INC., on Count VI of the First Amended Complaint for the reason that the pleadings, admissions on file, and affidavits show that there is no genuine issue as to any material fact and that Complainant is entitled to judgment as a matter of law. Specifically, Complainant seeks an order:

1. Finding that Respondent has violated Section 9.1(d)(1) of the Act and 40 CFR 61.150(a)(1);

2. Ordering Respondent to cease and desist from further violations of Section 9.1(d)(1) of the Act and 40 CFR 61.150(a)(1);

² Also, Respondent did not comply with 40 CFR 61.150(a)(1)-(4): (a)(2) requires forming the ACM into non-friable pellets; (a)(3) applies to demolition activities where the asbestos is *not* removed; and (a)(4) requires prior Illinois EPA approval. See 40 CFR 61.150(a)(1)-(4).

3. Assessing against Respondent a civil penalty of Eleven Thousand Dollars (\$11,000.00) for the reasons explained more fully herein.

4. Requiring Respondent to pay all costs expended by the State in pursuit of this action, including expert witness, consultant, and attorney fees; and

5. Granting such other relief as this Board deems appropriate and just.

G. Count VII: Respondent Failed to Deposit RACM At A Permitted Site as Soon as Was Practical

1. Complainant realleges and incorporates by reference into its motion for summary judgment on Count VII all factual statements and statements of law contained in its motion for summary judgment on Counts I through VI.

2. Sections 61.150(b)(1) set forth within the NESHAP for asbestos, 40 CFR 61.150(b)(1) (October 10, 2003), titled, *Standard for Waste Disposal for Manufacturing, Fabricating, Demolition, Renovation, and Spraying Operations*, provides in pertinent part as follows:

- (b) All asbestos-containing waste material shall be deposited as soon as is practical by the waste generator at:
 - (1) A waste disposal site operated in accordance with the provisions of § 61.154, or
 - (2) An EPA-approved site that converts RACM and asbestos-containing waste material into nonasbestos (asbestos-free) material according to the provisions of § 61.155.

3. Respondent failed to dispose of all RACM and asbestos-containing waste material generated during asbestos removal activities as soon as was practical. [Hancock Affidavit, ¶12]

4. Respondent, by its failure as alleged herein, has violated Section 9.1(d)(1) of the Act, 415 ILCS 5/9.1(d)(1) (2004), and 40 CFR 61.150(b).

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, prays for the entry of summary judgment in its favor and against Respondent, ENVIRONMENTAL HEALTH & SAFETY SERVICES, INC., on Count VII of the First Amended Complaint for the reason that the pleadings, admissions on file, and affidavits show that there is no genuine issue as to any material fact and that Complainant is entitled to judgment as a matter of law. Specifically, Complainant seeks an order:

1. Finding that Respondent has violated Section 9.1(d)(1) of the Act and 40 CFR 61.150(b);
2. Ordering Respondent to cease and desist from any further violations of Section 9.1(d)(1) of the Act and 40 CFR 61.150(b);
3. Assessing against Respondent a civil penalty of Eleven Thousand Dollars (\$11,000.00) for the reasons explained more fully herein;
4. Requiring Respondent to pay all costs expended by the State in pursuit of this action, including expert witness, consultant, and attorney fees; and
5. Granting such other relief as this Board deems appropriate and just.

IV. REMEDY

The September 16, 2004 and January 6, 2005 Board Orders in this cause provide, in pertinent part, as follows:

Accordingly, the Board further directs the hearing officer to advise the parties that in summary judgment motions and responses, at hearing, and in briefs, each party should consider: (1) proposing a remedy for a violation, if any (including whether to impose a civil penalty), and supporting its position with facts and arguments that address any or all of the Section 33(c) factors; and (2) proposing a civil penalty, if any (including a specific total dollar amount and the portion of that amount attributable to the respondent's economic benefit, if any, from delayed

compliance), and supporting its position with facts and arguments that address any or all of the Section 42(h) factors. . . .

Pursuant to the September 16, 2004 and January 6, 2005 Board Orders,

Complainant is proposing a remedy for Respondent's violations of Sections 9(a) and 9.1(d) of the Act, 415 ILCS 5/9(a) and 9.1(d) (2004), Section 201.141 of the Board Air Pollution Regulations, 35 Ill. Adm. Code 201.141, and Sections 61.145(b)(1), (b)(3)(iv), (b)(4)(vi), (c)(3), and (c)(6)(i), and 61.150(a)(1) and (b)(1) of the NESHAP for asbestos, 40 C.F.R. 61.145(b)(1), (b)(3)(iv), (b)(4)(vi), (c)(3), and (c)(6)(i) and 61.150(a)(1) and (b)(1), and states as follows:

A. Section 33(c) Factors:

Section 33(c) of the Act, 415 ILCS 5/33(c) (2006), provides as follows:

In making its orders and determinations, the Board shall take into consideration all the facts and circumstances bearing upon the reasonableness of the emissions, discharges, or deposits involved including, but not limited to:

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. The impact to the public resulting from Respondent's failure to utilize work practice standards prescribed by the asbestos NESHAP during asbestos removal activities resulted in the emission of asbestos, a known carcinogen, which threatened human health and the environment, especially the workers on site and the nearby neighborhood.

In addition, the Illinois EPA and the public were not privy to information that is important to the control of air pollution in Illinois. First, Respondent failed to state an estimate of the amount of Category I and II non-friable asbestos that would not be removed from 4103 W. State Street, Rockford, Winnebago County, Illinois. Second, Respondent did not notify the Illinois EPA that asbestos removal activities commenced on January 6, 2003, rather than January 2, 2003, as it was stated in Respondent's Notification of Demolition and Renovation.

2. The Site that is the subject of the Complaint, has potential social and economic value in the even the land is sold and developed as commercial property following removal of asbestos and demolition of the building.

3. Given that the violations of the Act, Board Regulations, and NESHAP for asbestos that are the subject of the State's complaint resulted from the improper handling and disposal of RACM at a facility, the suitability or unsuitability of the pollution source is not an issue in this matter.

4. Complying with the applicable provisions of the Act, the Board's Air Pollution Regulations and the NESHAP for asbestos was both technically practicable and economically reasonable. EH&S failed to take even the most minimal actions necessary

to control asbestos emissions, including a containment area with negative air, a decontamination unit, a bagout area, or utilizing amended water spray.

5. Complainant states that Respondent has subsequently complied with the Act, the Board Regulations, and the NESHAP for asbestos.

A civil penalty should be assessed against Respondent because of the adverse impact the exposure to asbestos, a known carcinogen, could have had on human health and the environment.

V. EXPLANATION OF CIVIL PENALTIES REQUESTED

Section 2(b) of the Act, 415 ILCS 5/2(b) (2006), provides:

It is the purpose of this Act, as more specifically described in later sections, to establish a unified, state-wide program supplemented by private remedies, to restore, protect and enhance the quality of the environment, *and to assure that adverse effects upon the environment are fully considered and borne by those who cause them.* (emphasis added)

The principal reason for penalties for violations of the Act is to aid in enforcement. Punitive considerations are secondary. *Tri-County Landfill Company v. Illinois Pollution Control Board*, 41 Ill.App.3d 249, 353 N.E.2d 316, 325 (2nd Dist. 1976).

Section 42(a) of the Act, 415 ILCS 5/42(a) (2006), provides in pertinent part, as follows:

- a) Except as provided in this Section, any person that violates any provision of this Act or any regulation adopted by the Board, or any permit or term or condition thereof, or that violates any order of the Board pursuant to this Act, shall be liable for a civil penalty of not to exceed \$50,000 for the violation and an additional civil penalty of not to exceed \$10,000 for each day during which the violation continues;

Penalties for violations of the Act and regulations are calculated according to the formula contained in Section 42(a), 415 ILCS 5/42(a) (2006). The statutory maximum is calculated as follows:

Count I

1 violation of Section 9(a)	\$50,000
1 violation of Section 201.141	\$50,000

Count II

1 violation of Section 9.1(d)(1)/40 C.F.R. 61.145(b) (iv)(6)	\$50,000
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Count III

1 violation of Section 9.1(d)(1)/40 C.F.R. 61.145(b)(1)	\$50,000
1 violation of Section 9.1(d)(1)/40 C.F.R. 61.145(b)(3)(iv)	\$50,000

Count IV

1 violation of Section 9.1(d)(1)/40 C.F.R. 61.145(c)(3)	\$50,000
1 violation continuing 17 days	\$170,000

Count V

1 violation of Section 9.1(d)(1)/40 C.F.R. 61.145(c)(6)(i)	\$50,000
1 violation continuing 17 days	\$170,000

Count VI

1 violation of Section 9.1(d)(1)/40 C.F.R. 61.150(a)(1)	\$50,000
1 violation continuing 17 days	\$170,000

Count VII

1 violation of Section 9.1(d)(1)/40 C.F.R. 61.150(b)(1)	\$50,000
1 violation continuing 17 days	\$170,000

Total	\$1,130,000
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Consideration of Section 42(H) Factors

Section 42(h) of the Act, 415 ILCS 5/42(h) (2006), provides:

In determining the appropriate civil penalty to be imposed under ..., the Board is authorized to consider any matters of record in mitigation or aggravation of penalty, including but not limited to the following factors:

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 violator 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 violator.
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 duration of the violations that are the subject of the Complaint are alleged by Complainant to have occurred from at least January 7, 2003 through August 14, 2003. The gravity of the alleged violations is severe, as a significant amount of asbestos containing material was disturbed during the renovation of the buildings at the

facility, exposing workers and the public to carcinogenic asbestos fibers. Furthermore, on or after August 25, 2003, Illinois EPA received information that the asbestos abatement activities at the facility were not completed until August 14, 2003.

Accordingly, from at least January 7, 2003 through August 14, 2003, Respondent caused or threatened air pollution exposing persons in the neighborhood to the severe health effects of carcinogenic asbestos fibers resulting from the improper handling and disposal of RACM.

2. Respondent did not act diligently in this matter. Respondent failed to ensure that all asbestos containing material was properly removed, wetted and maintained wet, sealed in leak-proof containers, and transported to a waste disposal site permitted to receive such waste. Additionally, Respondent failed to inform the Illinois EPA that the asbestos removal activities commenced on January 6, 2003, rather than January 2, 2003, the date stated in the original Notification of Demolition and Renovation. Finally, the Notification of Demolition and Renovation did not state the amount of asbestos that would not be removed during demolition of the building.

3. Respondent received an economic benefit by failing to properly conduct asbestos removal activities in compliance with the Act, Board Regulations, and asbestos NESHAP regulations. It is unclear the extent of this economic benefit of non-compliance, because Respondent has repeatedly failed to provide the necessary financial information to Complainant. Notwithstanding, given that Respondent delayed or avoided costs associated with the proper removal of RACM utilizing the requisite work methods and procedures to ensure compliance with the NESHAP for asbestos, the Act, and Board

regulations, the Complainant maintains that Respondent received an economic benefit resulting from its noncompliance.

4. Although the maximum civil penalty is \$1,130,000, Complainant believes that \$56,500, or 5% of the maximum civil penalty will serve to deter further violations by Respondent and to otherwise aid in enhancing voluntary compliance with the Act, Board Regulations, and the NESHAP for asbestos by Respondent and other persons similarly subject to the Act, Board Regulations, and the NESHAP for asbestos.

5. To Complainant's knowledge, Respondent has had no previously adjudicated violations of the pertinent laws and regulations.

6. Self-disclosure is not at issue in this matter.

7. Respondent did not offer to perform a supplemental environmental program.

These aggravating and mitigating factors provide guidance to the Board in determining the appropriate amount of a civil penalty in an environmental enforcement case. Accordingly, the Complainant brings these factors to the Board's attention and requests a civil penalty of \$56,500.00

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board grant its Motion for Summary Judgment against Respondent, ENVIRONMENTAL HEALTH & SAFETY, SERVICES, INC., an Illinois corporation, on all Counts, award the relief requested of \$56,500.00, and take such other action as the Board believes to be appropriate and just.

Respectfully submitted,

PEOPLE OF THE STATE OF ILLINOIS
by LISA MADIGAN
Attorney General of the State of Illinois

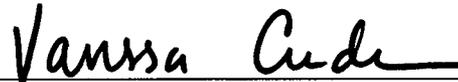
MATTHEW J. DUNN, Chief
Environmental Enforcement/Asbestos
Litigation Division

ROSEMARIE CAZEAU, Chief
Environmental Bureau
Assistant Attorney General

BY: 
VANESSA M. CORDONNIER
Assistant Attorney General
Environmental Bureau North
69 W. Washington, Suite 1800
Chicago, Illinois 60602
(312) 814-0608

CERTIFICATE OF SERVICE

I, VANESSA M. CORDONNIER, an Assistant Attorney General, do certify that I caused to be mailed this 31st day of March, 2008, the foregoing Motion for Summary Judgment upon the person listed on said notice, by certified mail.



VANESSA M. CORDONNIER
Assistant Attorney General
Environmental Bureau
69 West Washington, 18th Floor
Chicago, IL 60602
312-814-0608

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

PEOPLE OF THE STATE OF ILLINOIS,)
 LISA MADIGAN, Attorney General of)
 the State of Illinois,)
)
 Complainant,)
)
 vs)
)
 ENVIRONMENTAL HEALTH & SAFETY)
 SERVICES, INC.)
)
 Respondent.)

PCB No. 05-51
(Enforcement-Air)

ANSWER

NOW COMES the Respondent, ENVIRONMENTAL HEALTH & SAFETY SERVICES, INC., by its attorneys, SCHLUETER ECKLUND and for its answer to the First Amended Complaint states as follows:

COUNT I

AIR POLLUTION

1. Respondent admits the allegations contained in paragraph 1.
2. Respondent admits the allegations contained in paragraph 2.
3. Respondent admits the allegations contained in paragraph 3.
4. Respondent admits the allegations contained in paragraph 4.
5. Respondent admits the business was based in Winnebago County, Illinois, but denies that the registered office was located at 1304 Derby Lane.

A | EXHIBIT

6. Respondent admits contracting with the owner of the former Lincoln Park School to remove and dispose of regulated asbestos-containing material, but denies the remaining allegations contained in paragraph 6.

7. Respondent has insufficient knowledge regarding the allegations contained in paragraph 7 to form an opinion and therefore denies the same.

8. Respondent has insufficient knowledge as to the allegations contained in paragraph 8, notes the notification would speak for itself, therefore denies the same.

9. Respondent has insufficient knowledge regarding the allegations contained in paragraph 9 to form an opinion and therefore denies the same.

10. Respondent denies the allegations contained in paragraph 10.

11. Respondent denies the allegations contained in paragraph 11.

12. Respondent denies the allegations contained in paragraph 12.

13. Respondent has insufficient knowledge about the allegations contained in paragraph 13 and therefore denies the same.

14. Respondent has insufficient knowledge as to the allegations contained in paragraph 14 and therefore denies the same.

15. Complainant purports to state the law which Respondent maintains speaks for itself.

16. Complainant purports to state the law which Respondent maintains speaks for itself.

17. Complaint purports to state the law which Respondent maintains speaks for itself.

18. Complaint purports to state the law which Respondent maintains speaks for itself.

19. Complaint purports to state the law which Respondent maintains speaks for itself.

20. Complaint purports to state the law which Respondent maintains speaks for itself.

21. Complaint purports to state the law which Respondent maintains speaks for itself.

22. Respondent denies the allegations contained in paragraph 22.

WHEREFORE, the Respondent, ENVIRONMENTAL HEALTH & SAFETY SERVICES, INC., respectfully requests that the Board enter an Order against the Complainant in favor of the Respondent, dismissing the complaint awarding to Complainant all costs, including expert witnesses, consultant and attorney's fees, and to grant such other and further relief as the Board deems appropriate and just.

COUNT II

FAILURE TO PROVIDE A COMPLETE NESHAP FOR ASBESTOS NOTIFICATION

14. Respondent realleges and incorporates by reference herein its answers to paragraphs 1 through 14 of Count I as its answers to paragraph 1 through 14 of this Count II.

15. Complainant has cited the law which Respondent maintains speaks for itself.

16. Complainant has cited the law which Respondent maintains speaks for itself.

17. Complainant has cited the law which Respondent maintains speaks for itself.

18. Complainant has cited the law which Respondent maintains speaks for itself.

19. Respondent has insufficient information to form an opinion as to the allegations stated in paragraph 19 and therefore denies the same.

20. Respondent has insufficient information to form an opinion as to the allegations stated in paragraph 20 and therefore denies the same.

21. Complainant has cited the law which Respondent maintains speaks for itself.

22. Respondent has insufficient knowledge to form a belief as to the allegations contained in paragraph 22 and therefore denies the same.

23. Respondent denies the allegations contained in paragraph 23.

24. Respondent denies the allegations contained in paragraph 24.

25. Complainant has cited the law which Respondent maintains speaks for itself.

26. Respondent has insufficient knowledge to form a belief as to the allegation contained in paragraph 26 and therefore denies the same.

27. Respondent denies the allegations contained in paragraph 27.

28. Complainant has cited the law which Respondent maintains speaks for itself.

29. Respondent denies the allegations contained in paragraph 29.

30. Respondent denies the allegations contained in paragraph 30.

WHEREFORE, the Respondent, ENVIRONMENTAL HEALTH & SAFETY SERVICES, INC., respectfully requests that the Board enter an Order against the Complainant and in favor of the Respondent dismissing this Count and requiring Complainant to pay all costs of this proceeding, including expert witnesses, consultant and attorney's fees, and grant such other and further relief as the Board deems appropriate and just.

COUNT III

FAILURE TO TIMELY SUBMIT A NESHAP FOR ASBESTOS NOTIFICATION

1-29. Respondent realleges and incorporates by reference herein, Respondent's answers to paragraphs 1 through 29 of Count II as paragraphs 1 through 29 of this Count III.

30. Complainant has cited the law which Respondent maintains speaks for itself.

31. Respondent denies the allegations contained in paragraph 31.

32. Respondent denies the allegations contained in paragraph 32.

WHEREFORE, the Respondent, ENVIRONMENTAL HEALTH & SAFETY SERVICES, INC., respectfully requests that the Board enter an Order against the Complainant and in favor of the Respondent dismissing this Count and requiring Complainant to pay all costs of this proceeding, including expert witnesses, consultant and attorney's fees, and grant such other and further relief as the Board deems appropriate and just.

COUNT IV

FAILURE TO ADEQUATELY WET ALL RACM
PRIOR TO STRIPPING FROM STRUCTURES

1-27. Respondent realleges and incorporates by reference its answers to paragraphs 1 through 27 of Count II as its answers to paragraphs 1 through 27 of this Count IV.

28. Complainant has cited the law which Respondent maintains speaks for itself.

29. Respondent denies the allegations contained in paragraph 29.

30. Respondent denies the allegations contained in paragraph 30.

WHEREFORE, the Respondent, ENVIRONMENTAL HEALTH & SAFETY SERVICES, INC., respectfully requests that the Board enter an Order against the Complainant and in favor of the Respondent dismissing this Count and requiring Complainant to pay all costs of this proceeding, including expert witnesses, consultant and attorney's fees, and grant such other and further relief as the Board deems appropriate and just.

COUNT V

FAILURE TO ADEQUATELY WET ALL RACM
UNTIL COLLECTION

1-27. Respondent realleges and incorporates by reference herein its answers to paragraphs 1 through 27 of Count II as its answers to paragraphs 1 through 27 of this Count V.

28. Complainant has cited the law which Respondent maintains speaks for itself.

29. Respondent denies the allegations contained in paragraph 29.

30. Respondent denies the allegations contained in paragraph 30.

WHEREFORE, the Respondent, ENVIRONMENTAL HEALTH & SAFETY SERVICES, INC., respectfully requests that the Board enter an Order against the Complainant and in favor of the Respondent dismissing this Count and requiring Complainant to pay all costs of this proceeding, including expert witnesses, consultant and attorney's fees, and grant such other and further relief as the Board deems appropriate and just.

COUNT VI

FAILURE TO ADEQUATELY WET AND KEEP WET
ASBESTOS-CONTAINING WASTE MATERIAL

1-27. Respondent realleges and incorporates by reference herein its answers to

paragraphs 1 through 27 of Count II as its answers to paragraphs 1 through 27 of this Count VI.

28. Complainant has cited the law which Respondent maintains speaks for itself.

29. Respondent denies the allegations contained in paragraph 29.

30. Respondent denies the allegations contained in paragraph 30.

WHEREFORE, the Respondent, ENVIRONMENTAL HEALTH & SAFETY SERVICES, INC., respectfully requests that the Board enter an Order against the Complainant and in favor of the Respondent dismissing this Count and requiring Complainant to pay all costs of this proceeding, including expert witnesses, consultant and attorney's fees, and grant such other and further relief as the Board deems appropriate and just.

COUNT VII

FAILURE TO DEPOSIT RACM AT A PERMITTED SITE

1-27. Respondent realleges and incorporates by reference herein its answers to paragraphs 1 through 27 of Count II as its answers to paragraphs 1 through 27 of this Count VII.

28. Complainant has cited the law which Respondent maintains speaks for itself.

29. Respondent denies the allegations contained in paragraph 29.

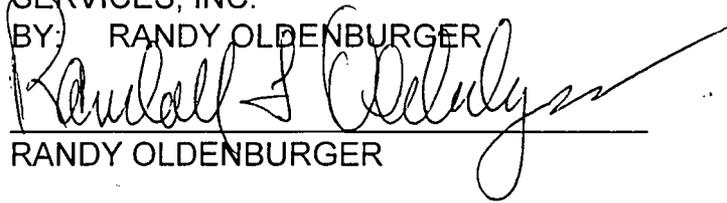
30. Respondent denies the allegations contained in paragraph 30.

WHEREFORE, the Respondent, ENVIRONMENTAL HEALTH & SAFETY SERVICES, INC., respectfully requests that the Board enter an Order against the Complainant and in favor of the Respondent dismissing this Count and requiring Complainant to pay all costs of

this proceeding, including expert witnesses, consultant and attorney's fees, and grant such other and further relief as the Board deems appropriate and just.

ENVIRONMENTAL HEALTH & SAFETY
SERVICES, INC.

BY: RANDY OLDENBURGER



RANDY OLDENBURGER

Bryan G. Selander #316
SCHLUETER ECKLUND
4023 Charles Street
Rockford, IL 61108
(815) 229-5333

ILLINOIS POLLUTION CONTROL BOARD

PEOPLE OF THE STATE OF ILLINOIS)
)
Complainant,)
vs.)
)
ENVIRONMENTAL HEALTH AND SAFETY, an)
Illinois corporation,)
)
Respondent.)

PCB 05-51
(Enforcement-Air)

NOTICE OF FILING

TO: Mr. Bryan G. Selander
Schlueter Ecklund
4023 Charles Street
Rockford, IL 61108

Mr. Bradley P. Halloran, Hearing Officer
Illinois Pollution Control Board
James R. Thompson Center
100 West Randolph, Suite 11-500
Chicago, IL 60601

PLEASE TAKE NOTICE that I have today electronically filed with the Office of the Clerk of the Pollution Control Board a copy of the Complainant's Request for Admission of Facts, a copy of which is attached and herewith served upon you.

By: Katherine M. Hausrath Dated: December 19, 2005
Katherine M. Hausrath

PEOPLE OF THE STATE OF ILLINOIS
LISA MADIGAN
Attorney General of the State of Illinois
By: Assistant Attorney General Katherine M. Hausrath
Environmental Bureau
188 West Randolph, 20th Floor
Chicago, IL 60601
312-814-0660

B

EXHIBIT

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

PEOPLE OF THE STATE OF ILLINOIS,)	
by LISA MADIGAN, Attorney General)	
of the State of Illinois,)	
)	
Complainant,)	
)	
vs.	)	PCB No. 05-51
	)	(Enforcement - Air)
ENVIRONMENTAL HEALTH AND SAFETY)	
SERVICES, INC., an Illinois corporation)	
)	
Respondent.)	

**COMPLAINANT'S FIRST REQUEST FOR ADMISSION OF FACTS
ON RESPONDENT ENVIRONMENTAL HEALTH AND SAFETY SERVICES, INC.**

Complainant, PEOPLE OF THE STATE OF ILLINOIS, by LISA MADIGAN, Attorney General of the State of Illinois, pursuant to 35 Illinois Administrative Code Section 101.618, hereby serves the following Request for Admission of Facts upon Respondent, ENVIRONMENTAL HEALTH AND SAFETY SERVICES, INC., to be answered in writing, under oath, within 28 days for the date of service hereof.

Failure to respond to the following requests to admit within 28 days may have severe consequences. Failure to respond to the following requests will result in all the facts requested being deemed admitted as true for this proceeding. If you have any questions about this procedure, you should contact the hearing officer assigned to this proceeding or an attorney.

INSTRUCTIONS

The Illinois Pollution Control Board ("Board")'s Rules for Hearings, Evidence and Discovery, 35 Ill. Adm. Code 101.618 provides as follows:

- a) General. All requests to admit must be served upon a party no later than 35 days

before hearing. All answers or objections to requests to admit must be served upon the party requesting the admission within 28 days after the service of the request.

- b) Extension of Time. In accordance with Sections 101.522 and 101.610 of this Part, the hearing officer may extend the time for filing any request, answer, or objection either before or after the expiration of time.

* * *

- f) Admission in the Absence of Denial. Each of the matters of fact and the genuineness of each document of which admission is requested is admitted unless, within 28 days after service thereof, the party to whom the request is directed serves upon the party requesting the admission either a sworn statement denying specifically the matters of which admission is requested or setting forth in detail the reasons why the party cannot truthfully admit or deny those matters, or written objections on the ground that some or all of the requested admissions are privileged or irrelevant or that the request is otherwise improper in whole or in part. If written objections to a part of the request are made, the remainder of the request must be answered within the period designated in the request. A denial must fairly address the substance of the requested admission.
- g) Partial Denial or Qualification. If good faith requires that a party deny a part of a matter for which an admission is requested, or if a part requires qualification, the party must specify the part which is denied or qualified and admit only the remainder.
- h) Objection. Any objection to a request or to any answer must be stated with specificity, and will be heard by the hearing officer upon notice and motion of the party making the request.
- i) Effect of Admission. Any admission made by a party pursuant to a request under this Section is for the purpose of the pending proceeding only. It does not constitute an admission by the party for any other purpose and may not be used against him in any other proceeding.

DEFINITIONS

1. "Respondent" or "EH&S" shall mean Environmental Health and Safety Services, Inc., and any of Respondent's , agents, representatives, successors or assigns, or any other person acting or believed by Respondents to have acted on their behalf.

2. "Facility" shall mean the former Lincoln Park School, located at 4103 West State Street, Rockford, Winnebago County, Illinois.

3. "Or" shall mean and/or wherever appropriate.

4. "Illinois EPA" and/or "IEPA" means the Illinois Environmental Protection Agency.

5. "ACM" shall mean asbestos-containing material.

6. "Notification" shall mean the Notification of Demolition and Renovation, sent by EH&S to Illinois EPA, dated December 6, 2002.

7. Unless otherwise stated, all Requests to Admit refer to the time period of January 2002 until the time of this filing.

8. All terms not specifically defined herein shall have their logical ordinary meaning, unless such terms are defined in the Act or the regulations promulgated thereunder, in which case the appropriate or regulatory definitions shall apply.

FACT NO. 1:

Admit that EH&S was located at 1304 Derby Lane, Rockford, Winnebago County, Illinois 61107.

RESPONSE:

FACT NO. 2:

Admit that EH&S' registered agent is located at 4023 Charles Street, Rockford, Winnebago County, Illinois 61108.

RESPONSE:

FACT NO. 3:

Admit that EH&S conducts asbestos consulting services, including building inspections, asbestos abatement project management, and asbestos removal and disposal activities, in Illinois.

RESPONSE:

FACT NO. 4:

Admit that EH&S owned the demolition or renovation operation at the Facility.

RESPONSE:

FACT NO. 5:

Admit that EH&S operated the demolition or renovation operation at the Facility.

RESPONSE:

FACT NO. 6:

Admit that EH&S controlled the demolition or renovation operation at the Facility.

RESPONSE:

FACT NO. 7:

Admit that EH&S supervised the demolition or renovation operation at the Facility.

RESPONSE:

FACT NO. 8:

Admit that EH&S was the asbestos removal contractor at the Facility.

RESPONSE:

FACT NO. 9:

Admit that EH&S sent a Notification of Demolition and Renovation ("Notification") to the Illinois Environmental Protection Agency ("Illinois EPA") dated December 6, 2002.

RESPONSE:

FACT NO. 10:

Admit that the Notification informed the Illinois EPA of scheduled asbestos removal activities to be conducted within the Facility.

RESPONSE:

FACT NO. 11:

Admit that the Notification reported the presence of asbestos at the Facility.

RESPONSE:

FACT NO. 12:

Admit that the Notification stated that the asbestos removal was scheduled to begin on January 2, 2003.

RESPONSE:

FACT NO. 13:

Admit that the Notification stated that the asbestos removal was scheduled to be completed by January 24, 2003.

RESPONSE:

FACT NO. 14:

Admit that the Notification stated that the Facility was to be demolished.

RESPONSE:

FACT NO. 15:

Admit that EH&S was the entity designated to transport waste from the Facility.

RESPONSE:

FACT NO. 16:

Admit that Randall Oldenberger signed the Notification as Owner/Operator of the Facility.

RESPONSE:

FACT NO. 17:

Admit that Randy Oldenberger was the president of EH&S at the time he signed the Notification.

RESPONSE:

FACT NO. 18:

Admit that the Notification stated that 1,000 linear feet of ACM on pipes was to be removed from the Facility.

RESPONSE:

FACT NO. 19:

Admit that the Notification stated that 630 square feet of ACM was to be removed from the boilers at the Facility.

RESPONSE:

FACT NO. 20:

Admit that the Notification stated that 12,500 square feet of Category I nonfriable asbestos-containing floor tile was to be removed from the Facility.

RESPONSE:

FACT NO. 21:

Admit that the Notification did not state the approximate amount of asbestos that will not be removed during demolition of the Facility.

RESPONSE:

FACT NO. 22:

Admit that on January 7, 2003, Illinois EPA inspected the Facility.

RESPONSE:

FACT NO. 23:

Admit that on January 7, 2003, EH&S informed Illinois EPA that asbestos removal activities had commenced on January 6, 2003.

RESPONSE:

FACT NO. 24:

Admit that EH&S commenced asbestos removal activities at the Facility two working days after the date stated in the Notification.

RESPONSE:

FACT NO. 25:

Admit that EH&S did not submit to Illinois EPA a notification revising the scheduled starting date for asbestos removal activities prior to the expiration of the original scheduled starting date of January 2, 2003.

RESPONSE:

FACT NO. 26:

Admit that on January 7, 2003, EH&S removed dry friable asbestos-containing boiler insulation located on one boiler and boiler pipes.

RESPONSE:

FACT NO. 27:

Admit that EH&S dropped said dry friable asbestos-containing boiler insulation onto the boiler room floor.

RESPONSE:

FACT NO. 28:

Admit that on January 7, 2003 EH&S conducted asbestos removal activities within the boiler area without utilizing a containment area with negative air.

RESPONSE:

FACT NO. 29:

Admit that on January 7, 2003 EH&S conducted asbestos removal activities within the boiler area without utilizing a decontamination unit.

RESPONSE:

FACT NO. 30:

Admit that on January 7, 2003 EH&S conducted asbestos removal activities within the boiler area without utilizing a bagout area.

RESPONSE:

FACT NO. 31:

Admit that on January 7, 2003 EH&S conducted asbestos removal activities within the boiler area without utilizing water spray to control asbestos emissions.

RESPONSE:

FACT NO. 32:

Admit that EH&S did not wet all ACM during asbestos removal activities.

RESPONSE:

FACT NO. 33:

Admit that EH&S did not keep all ACM wet until it was collected for disposal.

RESPONSE:

FACT NO. 34:

Admit that on January 7, 2003, Illinois EPA inspected one of several bags located in the boiler room area of the Facility utilized by EH&S to contain insulation.

RESPONSE:

FACT NO. 35:

Admit that on January 7, 2003, the Illinois EPA found that at least one bag located within the boiler room contained dry friable asbestos-containing boiler insulation.

RESPONSE:

FACT NO. 36:

Admit that the dry friable asbestos-containing boiler insulation that the Illinois EPA found in said bag on January 7, 2003, could be easily crumbled by hand pressure.

RESPONSE:

FACT NO. 37:

Admit that within at least one bag utilized to contain dry friable asbestos-containing boiler insulation inspected by the Illinois EPA on January 7, 2003, neither water nor condensation was visible.

RESPONSE:

FACT NO. 38:

Admit that on January 7, 2003, Illinois EPA collected three samples of dry friable ACM from the Facility for analytical testing.

RESPONSE:

FACT NO. 39:

Admit that two of the three samples of dry friable ACM collected on January 7, 2003 were collected from inside the boiler room work area.

RESPONSE:

FACT NO. 40:

Admit that one of the three samples of dry friable ACM collected on January 7, 2003 was collected from the area adjacent to the entry door to the work area.

RESPONSE:

FACT NO. 41:

Admit that the analytical testing of the three samples collected on January 7, 2003 revealed that each sample contained concentrations of 10-30% of amosite asbestos.

RESPONSE:

FACT NO. 42:

Admit that EH&S did not containerize all ACM at the Facility following the removal of the ACM.

RESPONSE:

FACT NO. 43:

Admit that EH&S did not label all ACM at the Facility.

RESPONSE:

FACT NO. 44:

Admit that EH&S did not wet all ACM at the Facility.

RESPONSE:

FACT NO. 45:

Admit that during the collection of ACM at the Facility, there was a discharge of emissions to the outside air.

RESPONSE:

FACT NO. 46:

Admit that during the processing of ACM at the Facility, there was a discharge of emissions to the outside air.

RESPONSE:

FACT NO. 47:

Admit that during the packaging of ACM at the Facility, there was a discharge of emissions to the outside air.

RESPONSE:

FACT NO. 48:

Admit that during the transport of ACM at the Facility, there was a discharge of emissions to the outside air.

RESPONSE:

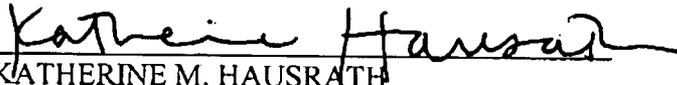
Respectfully submitted,

PEOPLE OF THE STATE OF ILLINOIS
ex rel. LISA MADIGAN
Attorney General of the State of Illinois

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

ROSEMARIE CAZEAU, Chief
Environmental Bureau
Assistant Attorney General

BY:


KATHERINE M. HAUSRATH
Assistant Attorney General
Environmental Bureau
188 W. Randolph Street, 20th Floor
Chicago, Illinois 60601
Tel: (312) 814-0660
Fax: (312) 814-2347
khausrath@atg.state.illinois.us

DATE: December 19, 2005.

CERTIFICATE OF SERVICE

I, KATHERINE M. HAUSRATH, an Assistant Attorney General, do certify that I caused to be mailed this 19 day of December, 2005, the foregoing REQUESTS FOR ADMISSION OF FACTS to the persons listed on the said NOTICE by first-class mail in a postage prepaid envelope and depositing same with the United States Postal Service located at 188 West Randolph Street, Chicago, Illinois, 60601.

It is hereby certified that a true copy of the foregoing Notice was electronically filed with the following on December 19, 2005:

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


KATHERINE M. HAUSRATH
Assistant Attorney General
Environmental Bureau
188 West Randolph, 20th Floor
Chicago, IL 60601
312-814-0660

and therefore denies the remaining facts stated.

10. Respondent states that the notification speaks for itself.

11. Respondent states that the notification speaks for itself.

12. Respondent states that the notification speaks for itself.

13. Respondent states that the notification speaks for itself.

14. Respondent states that the notification speaks for itself.

15. Respondent denies Fact No. 15.

16. Respondent denies Fact No. 16.

17. Respondent admits Fact No. 17.

18. Respondent states that the notification speaks for itself.

19. Respondent states that the notification speaks for itself.

20. Respondent states that the notification speaks for itself.

21. Respondent states that the notification speaks for itself.

22. Respondent has insufficient knowledge to form an opinion, therefore denies

the same.

23. Respondent denies Fact No. 23.

24. Respondent denies Fact No. 24.

25. Respondent denies Fact No. 25.

26. Respondent denies Fact No. 26.

27. Respondent denies Fact No. 27.

28. Respondent denies Fact No. 28.

29. Respondent denies Fact No. 29.

30. Respondent denies Fact No. 30.

31. Respondent denies Fact No. 31.
32. Respondent denies Fact No. 32.
33. Respondent denies as the temperatures were below freezing.
34. Respondent has insufficient information to form a belief as to the statement made in Fact No. 34 and therefore denies the same.
35. Respondent has insufficient information to form a belief as to the statement made in Fact No. 35 and therefore denies the same.
36. Respondent denies Fact No. 36.
37. Respondent denies Fact No. 37.
38. Respondent has insufficient information therefore denies the same.
39. Respondent denies Fact No. 39.
40. Respondent has insufficient information to form a belief as to the statement made in Fact No. 40 and therefore denies the same.
41. Respondent has insufficient information to form a belief as to the statement made in Fact No. 41 and therefore denies the same.
42. Respondent denies Fact No. 42.
43. Respondent denies Fact No. 43.
44. Respondent denies Fact No. 44.
45. Respondent denies Fact No. 45.
46. Respondent denies Fact No. 46.
47. Respondent denies Fact No. 47.
48. Respondent denies Fact No. 48.

Respectfully submitted,
ENVIRONMENTAL HEALTH AND SAFETY
SERVICES, INC., an Illinois corporation, Respondent

By: SCHLUETER ECKLUND



BRYAN G. SELANDER, One of its attorneys

DATE: January 17, 2006

Bryan G. Selander #316
SCHLUETER ECKLUND
4023 Charles Street
Rockford, IL 61108
(815) 229-5333

CERTIFICATE OF SERVICE

I, BRYAN G. SELANDER, Attorney for Respondent, do certify that I caused to be mailed this 17th day of January, 2006, the foregoing RESPONSES TO ADMISSION OF FACTS to the persons listed on the said NOTICE by first class mail in a postage prepaid envelope and depositing same with the United States Postal Service located at 5225 Harrison Avenue, Rockford, IL 61125.

It is hereby certified that a true copy of the foregoing Notice was electronically filed with the following on January 17, 2006:

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


BRYAN G. SELANDER
Attorney for Respondent
Schlueter Ecklund
4023 Charles Street
Rockford, IL 61108
(815) 229-5333

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

PEOPLE OF THE STATE OF ILLINOIS,)
 by LISA MADIGAN, Attorney)
 General of the State of Illinois,)
)
 Complainant,)
)
 v.)
)
 ENVIRONMENTAL HEALTH &)
 SAFETY SERVICES, INC., an Illinois)
 Corporation,)
)
 Respondent.)

PCB No. 05-51
 (Enforcement - Air)

AFFIDAVIT

I, Dennis Hancock, being duly sworn on oath, depose and state that I am over 21 years of age, have personal knowledge of the facts stated herein, and, if called as a witness, could competently testify to facts as set forth herein as follows:

1. I am currently employed by the Illinois Environmental Protection Agency ("Illinois EPA") as an Inspector in the Bureau of Air ("BOA") Asbestos Unit, located in the LaSalle District Office, 12 Gunia Drive, LaSalle, Illinois. I have held this position since February 1999. In 2003, I was, and continue to be, an Asbestos Supervisor and Building Inspector licensed by the State of Illinois.

2. As an Inspector, my duties and responsibilities include, in part, performing inspections of asbestos removal and/or demolition activities to monitor and ensure such

D

EXHIBIT

activities are performed in compliance with the federal National Emission Standards for Hazardous Air Pollutants ("NESHAP") for asbestos, the Illinois Environmental Protection Act ("Act") and Pollution Control Board ("Board") regulations. I am also responsible for collecting material samples for analysis by an independent laboratory to determine the presence of asbestos.

3. On January 7, 2003, I inspected the former Lincoln Park School located at 4103 W. State St., Rockford, Illinois ("facility").

4. During the January 7, 2003 inspection, I observed Environmental Health & Safety Services, Inc. ("EH&SS") employees removing dry friable regulated asbestos-containing material ("RACM") from the boiler, located within the facility, and dropping it onto the floor. When the material fell onto the floor, it broke, causing the visible emission of particulate asbestos-containing material.

5. During the January 7, 2003, inspection, I did not observe EH&SS use work methods or procedures to prevent the emission of particulate asbestos-containing material into the outside air. EH&SS did not establish a negative air containment in the work area, a bag out area, decontamination unit, obtain a written approval from the Administrator prior to commencing renovation activities allowing the use of an alternative method to remove RACM, maintain at the facility for inspection a daily temperature log documenting ambient air temperature within the work area, or use amended water with Hudson sprayers. Additionally, EH&SS' employees were not removing protective outer suits utilized during renovation activities before exiting the boiler room area.

6. During the January 7, 2003 inspection, I spoke with EH&SS' president, Randall Oldenburger. Mr. Oldenburger, informed me that asbestos removal activities in the Facility commenced on January 6, 2003, which was two working days after the scheduled starting date of January 2, 2003 listed in the Notification of Demolition and Renovation submitted to the Illinois EPA by EH&SS.

7. During the January 7, 2003 inspection, I collected two samples of dry friable RACM from inside the boiler room work area, and one sample from the area adjacent to the entry door to the boiler room area. I labeled the samples as "LPS-001", "LPS-002", and "LPS-003".

8. On January 8, 2003, I mailed the three samples with an Illinois EPA Chain of Custody form to EnviroHealth Technologies, located at 3830 Washington Boulevard, St. Louis, Missouri, for analytical testing of the samples.

9. On January 24, 2003, the Illinois EPA received from EnviroHealth Technologies test data evidencing the presence of asbestos in concentrations greater than 1% within samples collected by the Illinois EPA, numbered LPS-001, LPS-002, and LPS-003, a copy of which is maintained by the Illinois EPA as an official record during the normal course of business.

10. During the January 7, 2003 inspection, I did not observe EH&SS employees using wet methods to control the discharge of particulate asbestos-containing material. I did not observe moisture on the boiler or the boiler pipes, nor was any liquid or water on the floor. Dry friable suspect RACM material was visible at various locations within the boiler room, including on the floor.

11. During the January 7, 2003 inspection, I asked an EH&SS worker to bring out a bag stored at the facility containing RACM that was cleaned and ready to be removed from the facility. Having inspected the bag produced by EH&SS, I did not observe any moisture within the bag and material contained within the bag was easily broken and crumbled by hand pressure. Additionally, the bag containing RACM was not labeled with an OSHA-specified label.

13. EH&SS did not promptly dispose of all RACM and asbestos-containing waste material generated during asbestos removal activities as soon as was practical having stored bags containing RACM removed from facility components within the building.

14. Attached to this affidavit is a certified copy of the following:

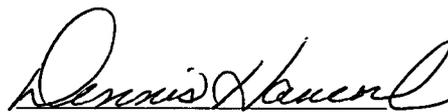
a. Bi-Weekly Report from Public Health & Safety, Inc. summarizing asbestos remediation and air clearance activities performed, in part, at the facility from August 11, 2003 through August 21, 2003 to facilitate the removal and disposal of regulated asbestos-containing waste material and asbestos contamination generated by EH&SS.

15. I received the above-described document via fax on August 26, 2003.

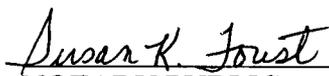
16. On March 19, 2009, I verified that the above-described document is a true and correct copy of the document maintained within the Illinois EPA's file, located in LaSalle, Illinois, relative to "Environmental Health and Safety Services Inc.", and that the original copy of the document received by the Illinois EPA remains in the aforementioned file.

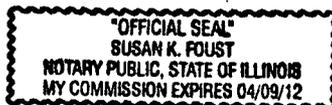
17. I recognize the document described in paragraph 14 of this affidavit because I verified that the document exists in the appropriate file.

FURTHER, AFFIANT SAYETH NOT.


DENNIS HANCOCK

SUBSCRIBED and SWORN to
before me this 23rd day
of March, 2009.


NOTARY PUBLIC



- (3) An organization chart for each corporation, partnership, or other business you owned, operated, or participated in the past 5 years
- (4) A list of all affiliated, owned, or otherwise related entities, including name, nature of the relationship, and description of the ownership or other interest.
- (5) Copies of statements for all bank accounts for the past 12 months.

PLEASE NOTE: IF ADDITIONAL SPACE IS NEEDED TO COMPLETE THIS AFFIDAVIT, PLEASE NOTE IN THE RESPONSE TO AN ITEM THAT ADDITIONAL INFORMATION IS ATTACHED. WHEN ATTACHING ADDITIONAL INFORMATION, IDENTIFY THE ITEM TO WHICH THE INFORMATION CORRESPONDS. INCOMPLETE INFORMATION WILL RESULT IN THE OFFICE OF THE STATE FIRE MARSHAL (O.S.F.M) DENYING YOUR REQUEST TO REDUCE THE AMOUNTS DEMANDED. OSFM RESERVES THE RIGHT TO REQUEST FURTHER INFORMATION IT DEEMS NECESSARY IN MAKING ITS DETERMINATION. THESE REQUESTS ARE MADE SOLELY FOR THE PURPOSE OF AIDING OSFM IN MAKING A DETERMINATION OF THE FINANCIAL STATUS OF THE PARTY AND IMPOSE NO OBLIGATION WHATSOEVER UPON OSFM.

Under the penalties as provided by law pursuant to Section 1-109 of the Code of Civil Procedure, the undersigned certifies that the statements set forth in this instrument are true and correct, except as to matters stated to be on information and belief and as to such matters the undersigned certifies as aforesaid that he/she verily believes the same to be true.

Further affiant sayeth naught.

Leonardo J. Bollaudo
 Signature

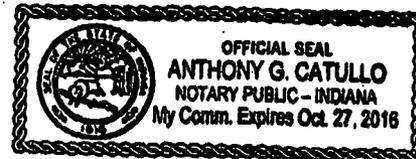
 Name (print or type)

 Title

Address: _____

Subscribed and sworn to before me
 this 29 day of March, 2009
A. Catullo

 NOTARY PUBLIC



BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

PEOPLE OF THE STATE OF ILLINOIS,)	
by LISA MADIGAN, Attorney)	
General of the State of Illinois,)	
)	
Complainant,)	
)	
v.	)	PCB No. 05-51
)	
ENVIRONMENTAL HEALTH &	)	(Enforcement - Air)
SAFETY SERVICES, INC., an Illinois)	
Corporation,)	
)	
Respondent.)	

AFFIDAVIT

I, William J. Lowry, being duly sworn on oath, depose and state that I am over 21 years of age, have personal knowledge of the facts stated herein, and, if called as a witness, could competently testify to facts as set forth herein as follows:

1. From November 6, 1998 to Present, I have been president of EnviroHealth Technologies, Inc., located at 3830 Washington Blvd., Suite 123, St. Louis, Missouri.
2. As president, I was ultimately responsible for all functions performed by EnviroHealth Technologies, Inc. ("EnviroHealth").
3. EnviroHealth is an industrial hygiene laboratory specializing in the recognition, evaluation, and control of environmental conditions that may result in adverse health effects. Asbestos related activities conducted include, but are not limited to the following: inspecting buildings for the presence of suspected asbestos-containing materials, retrieving samples of suspect materials by State-licensed building inspectors, analyzing suspect materials for the presence of asbestos by polarized light microscopy.

E

EXHIBIT

Analysis is conducted in accordance with protocol established by the National Voluntary Laboratory Accreditation Program ("NVLAP") under the National Institute Standards and Technology, reporting findings of materials detected by microscopists, consulting any party engaging EnviroHealth for asbestos-related activity, asbestos abatement project management, and air sampling.

4. EnviroHealth is accredited in the NVLAP for Bulk Asbestos Fiber Analysis (Laboratory ID Number 200374-0).

5. In January, 2003, I had the following qualifications:

- a. BA, Chemistry, Westminster College, Fulton, Missouri, 1968
Certified Industrial Hygienist
- b. MS, Industrial Hygiene, Central Missouri State University,
Warrensburg, Missouri, 1993
- c. Certified Industrial Hygienist, American Board of Industrial
Hygiene, Certificate No. 6209, 1993
- d. Licensed Industrial Hygienist, State of Illinois - License No.
00108, 1994

6. I am familiar with EnviroHealth's testing methods in analyzing and identifying samples submitted to it by various companies, agencies and organizations.

7. I am familiar with EnviroHealth's reporting system once the samples are tested, analyzed and identified.

8. Attached to this affidavit is a certified copy of the laboratory analysis report issued by EnviroHealth to the Illinois Environmental Protection Agency ("Illinois EPA") on January 24, 2003. This report was kept on file at the laboratory as a record of this particular testing.

9. I recognize the record described in paragraph 8 of this affidavit because it is on EnviroHealth letterhead, it contains the EnviroHealth logo, with which I am familiar, it bears the signature of Stuart Kinquist who was an analyst employed by EnviroHealth in January of 2003, and it bears my own signature.

10. The record described in paragraph 8 was made in the regular course of EnviroHealth's business of analyzing and identifying samples.

11. It is the regular course of EnviroHealth's business to make such a record at the time of the testing of the sample, or within a reasonable time thereafter.

12. Upon receipt by EnviroHealth, the sample group would be given a unique report number and each sample in the group is given a laboratory number by the receiving agent of EnviroHealth to provide an unbiased format for the analyst and to maintain recordkeeping and tracking of the sample(s) as established under NVLAP protocol.

13. The samples are then transferred to the laboratory and assigned to an analyst. The analyst performing and testing signed and dated the chain of custody form submitted by Illinois EPA.

14. Testing involved the following: NVLAP protocol concerning asbestos detection using but not limited to Polarized Light Microscopy with a dispersion-staining objective, Stereo Binocular Microscopy followed with Polarized Light Microscopy, Polarized Light Microscopy used to determine and detect asbestos through birefringence, sign of elongation, morphology, and other optical properties.

15. The result would indicate the type and percentage range of asbestos and particulates identified and found in the sample.

16. Once the testing was complete for the sample, the results would be recorded on an EnviroHealth lab sheet which would indicate the identification and ranges of percentages of the materials detected by the analyst.

17. The lab sheet would be attached to the data packet, including the chain of custody, and signed off by the analyst to the secretary.

18. The secretary would then prepare a report of the analyst's findings, matching the EnviroHealth number to the reference number provided by the client.

19. A report would then be submitted to the agency, company or organization indicating the results of the test. The report was written on EnviroHealth letterhead and signed by myself. The report stated for whom the test was prepared and the date the results were sent out. The report also contained the EnviroHealth sample numbers, the reference sample numbers, analyst signature, and the results of the analysis.

20. In looking for asbestos, one would look for minerals such as chrysotile and amosite, and other fibrous asbestos minerals. Any percentage of asbestos found in a given sample would be reported by the analyst using NVLAP protocol.

21. The Lab Analysis Report submitted by EnviroHealth on January 24, 2003 to the Illinois EPA indicated that three samples were tested, and these three samples contained the following:

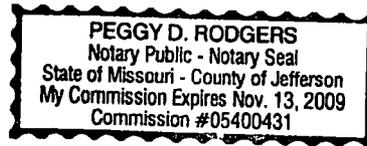
- a. EnviroHealth Sample No. 57793/LPS-001 20-30% Asbestos, Amosite
- b. EnviroHealth Sample No. 57794/LPS-002 20-30% Asbestos, Amosite
- c. EnviroHealth Sample No. 57795/LPS-003 10-20% Asbestos, Amosite
10-20% Asbestos, Chrysotile

22. According to the report, all three samples submitted by Illinois EPA on January 8, 2003, contained asbestos.

FURTHER, AFFIANT SAYETH NOT.


WILLAM J. LOWRY

*Subscribed and sworn to
before me this 6th day
of November, 2008.*





NOTARY PUBLIC

EnviroHealth  **Technologies**

Report No.: 03-01-00144

January 24, 2003

P.O. #: FA-3301

Illinois Environmental Protection Agency
12 Gunia Drive, Suite 2
LaSalle, IL 61301

Attn: Mr. Dennis Hancock

Included in this report are test results obtained on three (3) bulk samples submitted on January 9, 2003.

The following information was provided by the client:

Project Name: Lincoln Park School
Project Location: 4103 W. State St., Rockford, IL 61101

The results are presented as follows:

- Exhibit A: Summary of material concentrations reported as a percentage of the entire sample submitted.
- Exhibit B: Layer analysis reported separately with microscopist observations and comments

Exhibits A and B should be evaluated for each sample submitted to obtain a complete understanding of analysis performed.

The United States Environmental Protection Agency defines any sample containing greater than one (1) percent asbestos as an asbestos-containing material (ACM) (40 CFR Part 763). Samples determined to have asbestos concentrations greater than one (1) percent are identified in the test results as asbestos-containing materials.

Material content is determined using polarized light microscopy with dispersion staining in accordance with 40 CFR 763, Appendix A to Subpart F, "Interim Method of the Determination of Asbestos in Bulk Insulation Samples," and all current revisions.

EnviroHealth  Technologies

Report No.: 03-01-00144

Results reported as trace indicate constituents found at concentrations of less than one (1) percent.

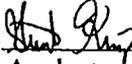
EnviroHealth Technologies, Inc. is accredited in the National Voluntary Laboratory Accreditation Program for Asbestos Fiber Analysis (Laboratory ID Number 200374-0).

This report may not be used to claim product endorsement by NVLAP or any agency of the U.S. Government.

This report shall not be reproduced except in full, without the written approval of EnviroHealth Technologies, Inc.

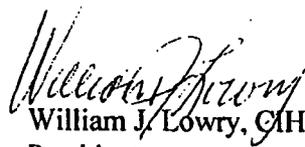
This test report relates only to the item tested.

Analysis By:

Stuart Kinquist: 
Analyst

Analysis Completed: January 10, 2003

Respectfully submitted,


William J. Lowry, CIH
President

Lab No.: 57793-57795

WL/SK/pr



Section I of Two Sections
Summary

Analyst's Approval : [SK]

Client: Ill Environmental Protection Agency
Report Number: 03-01-00144

TEST REPORT

<u>EHT Number</u>	<u>Sample Identification</u>
57793	LPS-001, 1/7/03, Outside Door Of Work Area/Off White Asbestos,Amosite 20-30% Unspecified Non-Fibrous Mat'l 70-80%
57794	LPS-002, 1/7/03, Inside Work Area/Off White Asbestos,Amosite 20-30% Unspecified Non-Fibrous Mat'l 70-80%
57795	LPS-003, 1/7/03, Inside Of Work Area/Off White Asbestos,Chrysotile 10-20% Asbestos,Amosite 10-20% Unspecified Non-Fibrous Mat'l 60-70%

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

PEOPLE OF THE STATE OF ILLINOIS,)	
by LISA MADIGAN, Attorney)	
General of the State of Illinois,)	
)	
Complainant,)	
)	
v.	)	PCB No. 05-51
)	
ENVIRONMENTAL HEALTH &	)	(Enforcement - Air)
SAFETY SERVICES, INC., an Illinois)	
Corporation,)	
)	
Respondent.)	

AFFIDAVIT

I, Jan McDow, being duly sworn on oath, depose and state that I am over 21 years of age, have personal knowledge of the facts stated herein, and, if called as a witness, could competently testify to the following:

1. I am currently employed by the Illinois Environmental Protection Agency ("Illinois EPA"), as an Office Associate within the Bureau of Air ("BOA") Asbestos Unit. I have held this position since September 1, 1996.

2. As an Office Associate for the BOA Asbestos Unit, my duties and responsibilities include, in part, receiving, processing, and reviewing notifications of demolition and renovation required by the National Emission Standards for Hazardous

11 | EXHIBIT

Air Pollutants ("NESHAP") for asbestos, and asbestos fee payments required by the Illinois Environmental Protection Act ("Act"), received from owners and operators of demolition and/or renovation activities subject to the NESHAP for asbestos.

3. From at least 2002 through the present date, when the BOA Asbestos Unit receives a Notification of Demolition and Renovation, an employee designated as an Office Associate writes at the bottom of the notification the date on which the Illinois EPA received the document and the postmark date located on the envelope in which the notification was received.

4. The Office Associate also conducts a preliminary review of each notification to determine whether each item of information required by the NESHAP for asbestos is contained within the notice and whether the notification is timely.

5. The Office Associate then enters, in part, information contained within the notification into the Asbestos Unit's computer database.

6. The BOA Asbestos Unit also maintains a file containing notification forms and associated documents. Each notification form that is deemed complete, timely and complies with the notice requirements prescribed by the NESHAP for asbestos is placed by me or an Office Associate into a file which is organized according to the name of the renovation or demolition contractor or other responsible party who submitted the notification.

7. The procedure for processing Notifications of Demolition and Renovation received by the Illinois EPA described, in part, herein is the regular business practice of the BOA Asbestos Unit.

8. Attached to this affidavit is a copy of the Notification of Demolition and Renovation (attached hereto as Attachment 1) received by the Illinois EPA, from Environmental Health and Safety Services, Inc. ("EH&SS"), on December 9, 2002, informing the Illinois EPA of scheduled asbestos removal activities to be performed, by EH&SS, at 4130 W. State Street, Rockford, Illinois ("former Lincoln Park School").

9. I am familiar with the BOA Asbestos Unit's recordkeeping and filing system.

10. On March 10, 2009, I verified that the document identified within paragraph 8 is a true and correct copy of the original document contained with the Illinois EPA's EH&SS file maintained by the BOA Asbestos Unit.

11. I recognize the document described in paragraph 8 of this affidavit because I verified that the document exists in the appropriate file.

12. Based upon information maintained within the BOA Asbestos Unit records database and records contained within files maintained by the BOA Asbestos Unit relative to EH&SS, the document identified within paragraph 8 is the only notification the BOA Asbestos Unit received from EH&SS, prior to January 7, 2003, informing the Illinois EPA of scheduled asbestos removal activities to be performed at the former Lincoln Park School, located in Rockford, Illinois. Based upon information maintained within the BOA Asbestos Unit records database and records contained within files maintained by the BOA Asbestos Unit relative to EH&SS, the BOA Asbestos Unit did not receive from EH&SS a revised Notification of Demolition and Renovation informing the Illinois EPA of a new scheduled starting date for asbestos removal activities at the former Lincoln Park School, prior to the originally scheduled starting date

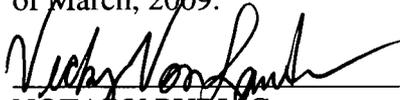
of January 2, 2003 set forth within Attachment 1.

FURTHER, AFFIANT SAYETH NOT.



Jan McDow

SUBSCRIBED and SWORN
to before me this 10th day
of March, 2009.



NOTARY PUBLIC



39165



Illinois Environmental Protection Agency

P.O. Box 19278, Springfield, IL 62784-9278

ALL SECTIONS MUST BE COMPLETED TO AVOID NOTICE VIOLATION

1. TYPE OF NOTIFICATION (O-Original/R-Revised/C-Canceled): <u>0</u>				
2. TYPE OF OPERATION (R-Renovation/D-Demo/A-Annual/O-Ordered Demo/E-Emergency Renovation): <u>D</u>				
3. FACILITY DESCRIPTION (Building Name): <u>LINCOLN PARK SCHOOL</u>				
Address: <u>4103 WEST STATE ST</u>				
City: <u>ROCKFORD</u>	County: <u>WINNEBAGO</u>	State: <u>IL</u>	ZIP:	
Location of Asbestos Containing Material (ACM) in structure:				
Bldg. Size: <u>45,000</u>	# of Flrs: <u>2</u>	Age: <u>80</u>	Present Use: <u>ABANDONED</u>	
Prior Use: <u>SCHOOL</u>	Future Use (Demo): <u>REMOVAL LAND</u>			
4. IS ASBESTOS PRESENT? <input checked="" type="radio"/> N	5. WORK HOURS: <u>7</u> a.m. <u>5³⁰</u> p.m.			
6. SCHEDULED DATE DEMOLITION: Start: <u>1-24-03</u> Complete: <u>2-14-03</u>				
7. SCHEDULED DATE ASBESTOS REMOVAL: Start: <u>1-02-03</u> Complete: <u>1-24-03</u>				
8. REGULATED ASBESTOS CONTAINING MATERIAL TO BE REMOVED (RACM):		NONFRIABLE ASBESTOS NOT TO BE REMOVED (Demolition):		NONFRIABLE ASBESTOS TO BE REMOVED:
		CATEGORY I	CATEGORY II	CATEGORY I CATEGORY II
Pipes (Ln. Ft.)	<u>1000 LF</u>			<u>12,500 SF</u>
Surface Area (Sq. Ft.)	<u>630 BOILERS</u>			<u>LOOSE FLOOR TILE</u>
Volume (Cu. Ft.)				
9. ASBESTOS REMOVAL CONTRACTOR: <u>ENVIRONMENTAL HEALTH & SAFETY</u>				
Address: <u>1304 DERBY LANE</u>		City: <u>ROCKFORD</u>		
State, Zip: <u>ILLINOIS 61107</u>	Contact: <u>RANDY OUBENBURG</u>	Phone: <u>815 399 5740</u>		
10. DEMOLITION CONTRACTOR: <u>ROCKVIEW STONE</u>				
Address: <u>3663 BAXTER RD</u>		City: <u>ROCKFORD</u>		
State, Zip: <u>IL 61109</u>	Contact: <u>WILL HOFF</u>	Phone: <u>815 509 5247</u>		
11. OWNER NAME: <u>WILLIAM B. THACKER</u>				
Address: <u>2605 WOODLAWN</u>		City: <u>STERLIM</u>		
State, Zip: <u>IL 61081</u>	Contact: <u>BRAD THACKER</u>	Phone: <u>815 622 4060</u>		
12. WASTE TRANSPORTER: <u>ENVIRONMENTAL HEALTH & SAFETY</u>				
Address: <u>1304 DERBY LANE</u>		City: <u>ROCKFORD</u>		
State, Zip: <u>IL 61107</u>	Contact: <u>RANDY OUBENBURG</u>	Phone: <u>815 399 5740</u>		
13. WASTE DISPOSAL SITE: <u>WINNEBAGO RECLAMATION LANDFILL</u>				
Address:		City: <u>ROCKFORD</u>		
State, Zip: <u>ILL 61107</u>	Landfill Permit #:	Phone:		
Date Received: <u>12-9-02</u> Input to ACTS To Region 1 2 3				
Post Mark Date: <u>12-9-02</u> To Cook/City. Champaign: <u>LaSalle</u>				
Springfield	Rockford:	Maize:	Marion:	

SC
12-12

14. PROCEDURE, INCLUDING ANALYTICAL METHOD, USED TO DETECT THE PRESENCE OF ASBESTOS.

PLM

ILLINOIS LICENSE NUMBER OF INSPECTOR: 100-03637

NAME OF ANALYTICAL TESTING LABORATORY: ANALYTICS

16. DESCRIPTION OF PLANNED DEMOLITION OR RENOVATION WORK:

DEMOLISH OLD ABANDONED SENIOR BUILDING, WETTING BUILDING AS DEMOLISHED & LOADED TO TRUCKS, AFTER ASBESTOS IS REMOVED. METHODS TO BE EMPLOYED INCLUDING DEMOLITION OR RENOVATION TECHNIQUES: LOOSE CONCRETE ASBESTOS FLOOR TILE WILL BE MANUALLY PICKED UP & BAGGED FOR CONSTRUCTION WASTE AFTER WETTING. BOILER & PIPE WRAP WILL BE ADEQUATELY WET PLACED IN DOUBLE 6 MIL BAGS AND MANIFESTED AS ASBESTOS WASTE.

16. DESCRIPTION OF WORK PRACTICES AND ENGINEERING CONTROLS TO BE USED TO PREVENT EMISSIONS AT THE DEMOLITION OR RENOVATION SITE:

ALL ASBESTOS WILL BE ADEQUATELY WET PLACED IN DOUBLE 6 MIL BAGS. LABELED & MANIFESTED AS ASBESTOS. BOILER ROOM WILL BE HEPPA FILTERED NEG PRESSURE ENCLOSURE. REMOTE AIDE WARD WILL BE 2 MAN CLOVE BAGGED WITH TEMP ENCLOSURE.

17. IS DEMOLITION ORDERED BY A GOVERNMENTAL AGENCY? Y N (If Yes, a signed copy of Order must be attached.)

Governmental representative ordering the activity:

Title:

Date of Order:

Ordered Demolition Date:

18. FOR EMERGENCY RENOVATIONS: NA

Date and Hour of Emergency:

Description of the Sudden, Unexpected Event (e.g. structure in danger of eminent collapse):

19. DESCRIPTION OF PROCEDURES TO BE FOLLOWED IN THE EVENT THAT UNEXPECTED ASBESTOS IS FOUND OR PREVIOUSLY NONFRIABLE ASBESTOS MATERIAL BECOMES CRUMBLD, PULVERIZED, OR REDUCED TO POWDER. TREATED AS FRIABLE ASBESTOS - WET THOROUGHLY - BAGGED IN DOUBLE 6 MIL ASBESTOS BAGS - MANIFESTED & LANDFILLED AS ASBESTOS WASTE.

20. I CERTIFY THAT AT LEAST ONE REPRESENTATIVE, TRAINED IN THE PROVISIONS OF 40 CFR PART 61, SUBPART M, SHALL BE ON-SITE DURING DEMOLITION OR RENOVATION, HAVING IN HIS OR HER POSSESSION, FOR INSPECTION, EVIDENCE THAT THE REQUISITE TRAINING HAS BEEN ACCOMPLISHED.

I CERTIFY THE ABOVE INFORMATION IS CORRECT.

Randall H. O'Leary

12-6-02

Signature of Owner/Operator Date
(Original Signature Only, Photocopy Not Valid)

*Not required under NESHAPS.

Mail this form to: IL Environmental Protection Agency, Attn: Asbestos Unit, P.O. Box 19276, Springfield, IL 62794-9276

FedEx USA Airbill
Express

Electronic Filing - Received, O
FedEx Tracking Number 832677181354

Form ID No. 0200 Recipient's Copy

1 From
Date 1-06-02

Sender's Name RANDY OLDBURGER Phone 815 399 5740

Company ENVIRONMENTAL HEALTH & SAFETY

Address 1304 DERRY LANE

City ROCKFORD State IL ZIP 61107

2 Your Internal Billing Reference

3 To Recipient's Name DAVE HAZFORD Phone 782-7324

Company ILLINOIS EPA

Address 1021 N. GRAND AVE E

To "HOLD" at FedEx location, print FedEx address. We cannot deliver to P.O. boxes or P.O. ZIP codes.

City SPRINGFIELD State IL ZIP 62794



4a Express Package Service
 FedEx Priority Overnight Next business morning
 FedEx Standard Overnight Next business afternoon
 FedEx First Overnight Earliest next business morning delivery to select locations

FedEx 2Day Second business day
 FedEx Express Saver Third business day
 NEW FedEx Extra Hours Later drop-off with next business afternoon delivery for select locations

4b Express Freight Service
 FedEx 1Day Freight* Next business day
 FedEx 2Day Freight Second business day
 FedEx 3Day Freight Third business day

5 Packaging
 FedEx Envelope*
 FedEx Pak* Includes FedEx Small Pak, FedEx Large Pak, and FedEx Sturdy Pak
 Other Pkg. Includes FedEx Box, FedEx Tube, and customer pkg.

6 Special Handling
 SATURDAY Delivery Available only for FedEx Priority Overnight and FedEx 2Day to select ZIP codes
 HOLD Weekday at FedEx Location Not available with FedEx First Overnight
 HOLD Saturday at FedEx Location Available only for FedEx Priority Overnight and FedEx 2Day to select locations

Does this shipment contain dangerous goods?
One box must be checked.
 No Yes As per attached Shipper's Declaration
 Yes Shipper's Declaration not required
 Dry Ice Dry Ice, 9, UN 1845 x _____ kg
Dangerous Goods (incl. Dry Ice) cannot be shipped in FedEx packaging or with FedEx Extra Hours service. Cargo Aircraft Only

7 Payment Bill to:
 Obtain Recip. Acct. No.
 Sender Acct. No. in Section 1 will be billed.
 Recipient Third Party Credit Card Cash/Check

Total Packages 236
Total Weight
Total Declared Value* \$.00
Total Charges
Credit Card Auth.

8 Release Signature Sign to authorize delivery without obtaining signature.

By signing you authorize us to deliver this shipment without obtaining a signature and agree to indemnify and hold us harmless from any resulting claims.
Questions? Visit our Web site at fedex.com
or call 1.800.Go.FedEx® 800.463.3339.
Rev. Date 7/01 • Part #15725 • ©1994-2001 FedEx • PRINTED IN U.S.A. GBPE 10/01

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BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

PEOPLE OF THE STATE OF ILLINOIS,)	
by LISA MADIGAN, Attorney)	
General of the State of Illinois,)	
)	
Complainant,)	
)	
v.	)	PCB No. 05-51
)	
ENVIRONMENTAL HEALTH &	)	(Enforcement - Air)
SAFETY SERVICES, INC., an Illinois)	
Corporation,)	
)	
Respondent.)	

AFFIDAVIT

I, Shannon Coe, being duly sworn on oath, depose and state that I am over 21 years of age, have personal knowledge of the facts stated herein, and, if called as a witness, could competently testify to the following:

1. I am currently employed by the Illinois Environmental Protection Agency ("Illinois EPA"), as an Office Assistant within the Bureau of Air ("BOA") Division of Mobile Source Programs. I have held this position since 2006. Prior to my present position, I was employed as an Office Assistant within the BOA Asbestos Unit from 2001 through 2006.

2. As an Office Assistant for the BOA Asbestos Unit, my duties and responsibilities included, in part, reviewing notifications of demolition and renovation required by the National Emission Standard for Hazardous Air Pollutants ("NESHAP") for asbestos received from owners and operators of demolition and/or renovation

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EXHIBIT

activities subject to the NESHAP for asbestos.

3. During my employment within the BOA Asbestos Unit, when the BOA Asbestos Unit received a Notification of Demolition and Renovation, an employee designated as an Office Assistant wrote at the bottom of the notification the date on which the Illinois EPA received the document and the postmark date located on the envelope in which the notification was received.

4. The Office Assistant also conducted a preliminary review of each notification to determine whether each item of information required by the NESHAP for asbestos is contained within the notice and whether the notification was timely.

5. The Office Assistant then entered, in part, information contained within the notification into the Asbestos Unit's computer database.

6. The BOA Asbestos Unit also maintained a file containing notification forms and associated documents. Each notification form that is complete, timely and complies with the notice requirements prescribed by the NESHAP for asbestos was placed by me or an Office Assistant employed within the BOA Asbestos Unit into a file which is organized according to the name of the renovation or demolition contractor or other responsible party who submitted the notification.

7. The procedure for processing Notifications of Demolition and Renovation received by the Illinois EPA described, in part, herein was the regular business practice of the BOA Asbestos Unit.

8. On December 9, 2002, the Illinois EPA received from Environmental Health and Safety Services, Inc. ("EH&SS") a Notification of Demolition and Renovation informing the Illinois EPA of scheduled asbestos removal activities to be

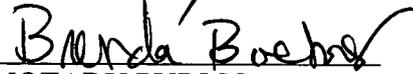
performed, by EH&SS, at 4130 W. State Street, Rockford, Illinois ("former Lincoln Park School").

9. The above-described document was received and processed by me in accordance with the procedures described in paragraphs 3 through 6 of this affidavit.

FURTHER, AFFIANT SAYETH NOT.


Shannon Coe

SUBSCRIBED and SWORN
to before me this 26 day
of February, 2009.


NOTARY PUBLIC

