

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

PEOPLE OF THE STATE OF ILLINOIS,)	
)	
)	
Complainant,)	
)	
v.)	PCB No. 14 -
)	
REMEDICATION AND MANAGEMENT)	(Enforcement - Air)
SERVICES CORPORATION, an Illinois)	
corporation,)	
)	
Respondent.)	

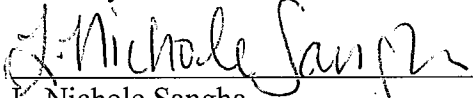
NOTICE OF ELECTRONIC FILING

TO: Lawrence N. Stein
Attorney at Law
200 North Clark St., Suite 1725
Chicago, IL 60602

PLEASE TAKE NOTICE that today, April 24, 2014, I have electronically filed with the Office of the Clerk of the Illinois Pollution Control Board a Complaint, Notice of Filing and Certificate of Service, a true and correct copy of which is attached and hereby served upon you.

As provided in Section 103.204(f) of the Illinois Pollution Control Board's Procedural Rules, 35 Ill. Adm. Code 103.204(f): **"Failure to file an answer to this complaint within 60 days may have severe consequences. Failure to answer will mean that all allegations in the complaint will be taken as if admitted for purposes of this proceeding. If you have any questions about this procedure, you should contact the hearing officer assigned to this proceeding, the Clerk's Office or an attorney."**

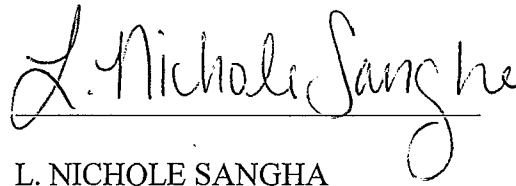
Respectfully submitted,
LISA MADIGAN
Attorney General of the State of Illinois

By: 
E. Nichole Sangha
Assistant Attorney General
Environmental Bureau North
Illinois Attorney General's Office
69 West Washington Street, Suite 1800
Chicago, Illinois 60601
Tel: 312.814.3532

CERTIFICATE OF SERVICE

I, ~~LORREN NICHOLE SANGHA~~, an Assistant Attorney General for the State of Illinois, certify that on the 24th day of April, 2014, I caused to be served the foregoing Complaint and Notice of Filing and a Certificate of Service by registered certified mail, return receipt requested, to the following:

Lawrence N. Stein
Attorney at Law
200 North Clark St., Suite 1725
Chicago, IL 60602


L. NICHOLE SANGHA

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

PEOPLE OF THE STATE OF ILLINOIS,)	
)	
)	
Complainant,)	
)	
v.)	PCB No. 14 -
)	
REMEDICATION AND MANAGEMENT)	(Enforcement - Air)
SERVICES CORPORATION, an Illinois)	
corporation,)	
)	
Respondent.)	

COMPLAINT

Complainant, PEOPLE OF THE STATE OF ILLINOIS, by LISA MADIGAN, Attorney General of the State of Illinois, complains of Respondent, REMEDIATION AND MANAGEMENT SERVICES CORPORATION, as follows:

COUNT I

AIR POLLUTION

1. This Count is brought on behalf of the People of the State of Illinois, *ex rel.* Lisa Madigan, Attorney General of the State of Illinois, on her own motion and at the request of the Illinois Environmental Protection Agency, pursuant to the terms and provisions of Section 31 of the Illinois Environmental Protection Act (“Act”), 415 ILCS 5/31 (2012).

2. The Illinois Environmental Protection Agency (“Illinois EPA”) is an administrative agency established by the Illinois General Assembly in Section 4 of the Act, 415 ILCS 5/4 (2012), and charged, *inter alia*, with the duty of enforcing the Act.

3. At all times relevant to this Complaint, Respondent REMEDIATION AND MANAGEMENT SERVICES CORPORATION (“RAMSCO” or “Respondent”) was and is an Illinois corporation in good standing and authorized to conduct business within the State of

Illinois. RAMSCO's business office is located at 902 South Randall Road, Suite C282, St. Charles, Kane County, Illinois 60174.

4. RAMSCO was retained by the U.S. Fish and Wildlife Service ("FWS") to remove asbestos-containing materials ("ACM") from buildings located in the Upper Mississippi River National Wildlife and Fish Refuge. The buildings were formerly part of the Savanna Army Depot, which was officially closed in March 2000, and included ten former army barracks, a cafeteria and a sportsman's club located in Savanna, Carroll County, Illinois ("Abatement Site").

5. On or about August 1, 2012, RAMSCO submitted to the Illinois EPA an "Asbestos Project Notification Form" ("Notification"), signed and dated on July 30, 2012. In the Notification, Respondent acknowledges that asbestos is present at the Abatement Site and provides a list of the locations, quantities and types of asbestos as an attachment thereto. The locations identified as containing asbestos included the transite siding and roof paper on the ten barracks buildings. Each roof was estimated to contain 2,103 square feet of Category II asbestos.

6. Asbestos is known to cause cancer in humans, and there is no known safe exposure level to asbestos.

7. On or about September 10, 2012, RAMSCO began the removal of the roofing on the army barracks buildings at the Abatement Site. Between September 10 and September 13, RAMSCO removed roof shingles and transite from the barracks buildings designated B-201 and B-202 and part of B-203.

8. On September 13, 2012, FWS informed Illinois EPA that it had concerns about the asbestos removal activities occurring at the Abatement Site. On Monday, September 17, 2012, an Illinois EPA asbestos field inspector ("IEPA Inspector") visited the Abatement Site.

9. On September 17, 2012, RAMSCO was using a pitchfork tool to pry dry shingles and transite from the roof ("roofing ACM"). The roofing ACM was breaking apart and sliding down the roof into a skid-steer bucket and then being dropped into a dumpster, causing noticeable dust on the roof and as the roofing ACM was dropped into the bucket and dumpster. The roofing ACM in the dumpster was broken and dry. No water was being used to wet the roofing ACM as it was removed.

10. Some of the roofing ACM landed on the ground and not in the dumpster. Pieces of dry, broken and crushed roofing ACM was laying on the ground around and between the buildings B-201, B-202 and B-203.

11. In some places, tire tracks covered the roofing ACM. Equipment had broken, crushed or crumbled the roofing ACM, causing it to become friable and mixing it with the soil.

12. A piece of dry broken roofing ACM was inside the shower area that is utilized by workers to decontaminate themselves after removing ACM.

13. Approximately 2,100 square feet of ACM was present on the ground and in the dumpster at building B-201, with a similar amount of ACM present around building B-202.

14. The IEPA Inspector took 2 samples of shingles from Building B-201 that were broken and on the ground. The samples were tested by TEM, Inc. laboratory and found to contain 10-20% chrysotile asbestos.

15. The IEPA Inspector instructed Respondent to wet all of the ACM that had been removed from the roof, to leave the material undisturbed and to retain a third party to create a soil sampling plan to test for the presence of asbestos in the soil adjacent to buildings B-201 and B-202.

16. The remediation of the Abatement Site was completed on or about November 19, 2012.

17. Section 3.315 of the Act, 415 ILCS 5/3.315 (2012), provides 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.

18. RAMSCO is a “person,” as that term is defined in Section 3.315 of the Act.

19. Section 9(a) of the Act, 415 ILCS 5/9(a) (2012), 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;

20. Section 201.141 of the Illinois Pollution Control Board (“Board”) Air Pollution Regulations, 35 Ill. Adm. Code 201.141, provides, in pertinent part, 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

21. Section 3.165 of the Act, 415 ILCS 5/3.165 (2012), provides the following definition:

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

22. Asbestos is a “contaminant,” as defined by Section 3.165 of the Act, 415 ILCS 5/3.315 (2012).

23. Section 3.115 of the Act, 415 ILCS 5/3.115 (2012), provides the following definition:

“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.

24. There is no known safe level of exposure to asbestos: The release of asbestos fibers into the atmosphere may cause injury to human and animal life and health and can cause injuries that unreasonably interfere with the enjoyment of life. The release of asbestos into the atmosphere is, therefore, “air pollution,” as that term is defined in Section 3.115 of the Act, 415 ILCS 5/3.115 (2012).

25. By causing, threatening or allowing the discharge or emission of asbestos, a contaminant, into the environment so as to cause or tend to cause air pollution, Respondent RAMSCO violated Section 9(a) of the Act, 415 ILCS 5/9(a) (2012), and Section 201.141 of the Board Air Pollution Regulations, 35 Ill. Adm. Code 201.141.

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an order in favor of Complainant and against Respondent, REMEDIATION AND MANAGEMENT SERVICES CORPORATION, as follows:

1. Authorizing a hearing in this matter, at which time Respondent will be required to answer the allegations herein;
2. Finding that Respondent violated Section 9(a) of the Act, 415 ILCS 5/9(a) (2012), and Section 201.141 of the Board Air Pollution Regulations, 35 Ill. Adm. Code 201.141;
3. Ordering the Respondent to cease and desist from any further violation of Section 9(a) of the Act, 415 ILCS 5/9(a) (2012), and Section 201.141 of the Board Air Pollution Regulations, 35 Ill. Adm. Code 201.141;

4. Assessing against the Respondent a civil penalty of Fifty Thousand Dollars (\$50,000.00) for each violation of the Act, and an additional civil penalty of Ten Thousand Dollars (\$10,000.00) for each day of violation;

5. Ordering the Respondent to pay all costs, including attorney, expert witness and consultant fees expended by the State in its pursuit of this action pursuant to 415 ILCS 5/42(f) (2012); and

6. Granting such other relief as the Board deems equitable and just.

COUNT II

FAILURE TO ADEQUATELY WET ASBESTOS DURING REMOVAL

1-18. Complainant realleges and incorporates by reference herein paragraphs 1 through 18 of Count I as paragraphs 1 through 18 of this Count II.

19. Section 9.1(d)(1) of the Act, 415 ILCS 5/9.1(d)(1) (2012), provides as follows:

(d) No person shall:

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

20. Section 112(d)(1) of the Clean Air Act ("CAA"), 42 U.S.C. § 7412(d)(1) (2013), provides, in pertinent part, as follows:

The Administrator shall promulgate regulations establishing emission standards for each category or subcategory of major sources and area sources of hazardous air pollutants listed for regulation

21. Section 112(b)(1) of the CAA, 42 U.S.C. § 7412(b)(1) (2013), provides a list of regulated hazardous air pollutants that includes asbestos.

22. Section 112(h)(1) of the CAA, 42 U.S.C. § 7412(h)(1) (2013), provides, in pertinent part, as follows:

For the purposes of this section, if it is not feasible in the judgment of the Administrator to prescribe or enforce an emission standard for control of a hazardous air pollutant or pollutants, the Administrator may, in lieu thereof, promulgate a design, equipment, work practice, operation standard, or combination thereof, which in the Administrator's judgment is consistent with the provisions of subsection (d) or (f) of this section

23. On June 19, 1978, the Administrator of the United States Environmental Protection Agency determined that work practice standards rather than emission standards are appropriate in the regulation of asbestos, 43 Fed. Reg. 26372 (1978), and adopted the National Emission Standards for Hazardous Air Pollutants for asbestos ("Asbestos NESHAP"), 40 C.F.R. Part 61, Subpart M.

24. Section 61.141 of the Asbestos NESHAP, 40 C.F.R. § 61.141 (2013), provides the following relevant definitions:

Adequately wet means 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.

Asbestos means the asbestiform varieties of serpentinite (chrysotile), riebeckite (crocidolite), cummingtonite-grunerite, anthophyllite, and actinolite-tremolite.

Category I nonfriable asbestos-containing material (ACM) means asbestos-containing packings, gaskets, resilient floor covering, and asphalt roofing products containing more than 1 percent asbestos as determined using the method specified in appendix E, subpart E, 40 CFR part 763, section 1, Polarized Light Microscopy.

Category II nonfriable ACM means any material, excluding Category I nonfriable ACM, containing more than 1 percent asbestos as determined using the methods specified in appendix E, subpart E, 40 CFR part 763, section 1, Polarized Light Microscopy that, when dry, cannot be crumbled, pulverized, or reduced to powder by hand pressure.

Facility means any institutional, commercial, public, industrial, or residential structure, installation, or building (including any structure, installation or building containing condominiums or individual dwelling

units operated as a residential cooperative, but excluding residential buildings having four or fewer dwelling units); any ship; and any active or inactive waste disposal site. For purposes of this definition, any building, structure, or installation that contains a loft used as a dwelling is not considered a residential structure, installation, or building. Any structure, installation or building that was previously subject to this subpart is not excluded, regardless of its current use or function.

Facility component means any part of a facility including equipment.

Friable asbestos material means any material containing more than 1 percent asbestos as determined using the method specified in appendix A, subpart F, 40 CFR 763 section 1, Polarized Light Microscopy, that, when dry can be crumbled, pulverized, or reduced to powder by hand pressure. If the asbestos content is less than 10 percent as determined by a method other than point counting by polarized light microscopy (PLM), verify the asbestos content by point counting using PLM.

Owner or operator of a demolition or renovation activity means any person who owns, leases, operates, controls, or supervises the facility being demolished or renovated or any person who owns, leases, operates, controls, or supervises the demolition or renovation operation, or both.

Regulated asbestos-containing material (RACM) means (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.

Remove means to take out RACM or facility components that contain or are covered with RACM from any facility.

Renovation means altering a facility or one or more facility components in any way, including the stripping or removal of RACM from a facility component. Operations in which load-supporting structural members are wrecked or taken out are demolitions.

Visible emissions means any emissions, which are visually detectable without the aid of instruments, coming from RACM or asbestos-containing waste material, or from any asbestos milling, manufacturing, or fabricating operation. This does not include condensed, uncombined water vapor.

25. The buildings at the Abatement Site were a "facility," as that term is defined in Section 61.141 of the Asbestos NESHAP.

26. Respondent RAMSCO was an “owner or operator” of a renovation activity because it owned, operated, controlled and/or supervised the renovation operation at the Abatement Site.

27. Facility components on buildings located at the Abatement Site contained “Category II nonfriable ACM” that had a high probability of becoming, and did become, crumbled, pulverized and reduced to powder by the pitchfork and other equipment used to remove handle, and dispose of the roofing materials, rendering the material “regulated asbestos-containing materials (RACM).”

28. The asbestos removal activities that occurred at the Abatement Site in September 2012 constituted a “renovation,” as that term is defined in Section 61.141 of the Asbestos NESHAP, because RACM was removed from the roof, a “facility component.”

29. Sections 61.145(c)(2)(i) and (c)(6)(i) of the Asbestos NESHAP, 40 C.F.R. § 61.145(c)(2) and (c)(6) (2013), provide as follows:

(c) *Procedures for asbestos emission control.* 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:

* * *

(2) When a facility component that contains, is covered with, or is coated with RACM is being taken out of the facility as a unit or in sections:

(i) Adequately wet all RACM exposed during cutting or disjoining operations; and

* * *

(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; and

30. Section 61.145(a) of the Asbestos NESHAP, 40 C.F.R. § 61.145(a) (2013),

provides 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.

(2) In a facility being demolished, only the notification requirements of paragraphs (b)(1), (2), (3)(i) and (iv), and (4)(i) through (vii) and (4)(ix) and (xvi) of this section apply, if the combined amount of RACM is

(i) Less than 80 linear meters (260 linear feet) on pipes and less than 15 square meters (160 square feet) on other facility components, and

(ii) Less than one cubic meter (35 cubic feet) off facility components where the length or area could not be measured previously or there is no asbestos.

(3) If the facility is being demolished under an order of a State or local government agency, issued because the facility is structurally unsound and in danger of imminent collapse, only the requirements of paragraphs (b)(1), (b)(2), (b)(3)(iii), (b)(4) (except (b)(4)(viii)), (b)(5), and (c)(4) through (c)(9) of this section apply.

(4) In a facility being renovated, including any individual nonscheduled renovation operation, all the requirements of paragraphs (b) and (c) of this section apply if the combined amount of RACM to be stripped, removed, dislodged, cut, drilled, or similarly disturbed 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.

(iii) To determine whether paragraph (a)(4) of this section applies to planned renovation operations involving individual nonscheduled operations, predict the combined additive amount of RACM to be removed or stripped during a calendar year of January 1 through December 31.

(iv) To determine whether paragraph (a)(4) of this section applies to emergency renovation operations, estimate the combined amount of RACM to be removed or stripped as a result of the sudden, unexpected event that necessitated the renovation.

(5) Owners or operators of demolition and renovation operations are exempt from the requirements of §§ 61.05(a), 61.07, and 61.09.

31. The renovation at the Abatement Site involved the removal of approximately 2,100 square feet of RACM from each roof. Therefore, pursuant to Section 61.145(a)(4)(ii) of the Asbestos NESHAP, the renovation activity was subject to all of the requirements of Sections 61.145(b) and (c) of the asbestos NESHAP.

32. The requirements of Sections 61.145(c)(2) and (c)(6) of the Asbestos NESHAP specifically required RAMSCO to adequately wet all of the RACM that was removed and to ensure that the materials stayed adequately wet until ready for disposal. RAMSCO did not adequately wet RACM during removal and used a forklike utensil to pry dry asbestos-containing transite and shingles from the roof. Once in the dumpster, the RACM was not kept adequately wet until ready for disposal.

33. By failing to adequately wet RACM at all times during removal and disposal, Respondent RAMSCO violated Sections 61.145(c)(2)(i) and (c)(6)(i) of the Asbestos NESHAP,

40 C.F.R. § 61.145(c)(2)(i) and (c)(6)(i) (2013), and therefore Section 9.1(d)(1) of the Act, 415 ILCS 5/9.1(d)(1) (2012).

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an order in favor of Complainant and against Respondent, REMEDIATION AND MANAGEMENT SERVICES CORPORATION, as follows:

1. Authorizing a hearing in this matter, at which time Respondent will be required to answer the allegations herein;
2. Finding that Respondent violated Sections 61.145(c)(2)(i) and (c)(6)(i) of the Asbestos NESHAP, 40 C.F.R. § 61.145(c)(2)(i) and (c)(6)(i) (2013), and therefore Section 9.1(d)(1) of the Act, 415 ILCS 5/9.1(d)(1) (2012);
3. Ordering the Respondent to cease and desist from any further violations of Sections 61.145(c)(2)(i) and (c)(6)(i) of the Asbestos NESHAP, 40 C.F.R. § 61.145(c)(2)(i) and (c)(6)(i) (2013), and Section 9.1(d)(1) of the Act, 415 ILCS 5/9.1(d)(1) (2012);
4. Assessing against the Respondent a civil penalty of Fifty Thousand Dollars (\$50,000.00) for each violation of the Act, and an additional civil penalty of Ten Thousand Dollars (\$10,000.00) for each day of violation;
5. Ordering the Respondent to pay all costs, including attorney, expert witness and consultant fees expended by the State in its pursuit of this action pursuant to 415 ILCS 5/42(f) (2012); and
6. Granting such other relief as the Board deems equitable and just.

COUNT III

FAILURE TO PREVENT DAMAGE TO ASBESTOS DURING REMOVAL

1-30. Complainant realleges and incorporates by reference herein paragraphs 1 through 28, 30 and 31 of Count II as paragraphs 1 through 30 of this Count III.

31. Sections 61.145(c)(2)(ii) and (c)(6)(ii) of the Asbestos NESHAP, 40 C.F.R. § 61.145(c)(2) and (c)(6) (2013), provide, in pertinent part, as follows:

(c) *Procedures for asbestos emission control.* 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:

* * *

(2) When a facility component that contains, is covered with, or is coated with RACM is being taken out of the facility as a unit or in sections:

* * *

(ii) Carefully lower each unit or section to the floor and to ground level, not dropping, throwing, sliding, or otherwise damaging or disturbing the RACM.

* * *

(6) For all RACM, including material that has been removed or stripped:

* * *

(ii) Carefully lower the material to the ground and floor, not dropping, throwing, sliding, or otherwise damaging or disturbing the material.

32. RAMSCO was required to carefully lower the RACM to ground level, not dropping, sliding or damaging it. RASMCO did not carefully lower the RACM, but rather dropped, threw, slid or otherwise damaged it. The RACM was allowed to slide down the roof into a skid-steer bucket and then dropped into a dumpster. Additionally, RASMCO caused or allowed some of the RACM to fall to the ground around the buildings, where it was damaged by equipment and machinery moving around the Abatement Site.

33. By failing to properly handle and lower RACM, Respondent RAMSCO violated Sections 61.145(c)(2)(ii) and (c)(6)(ii) of the Asbestos NESHAP, 40 C.F.R. § 61.145(c)(2)(ii) and (c)(6)(ii) (2013), and therefore Section 9.1(d)(1) of the Act, 415 ILCS 5/9.1(d)(1) (2012).

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an order in favor of Complainant and against Respondent,

REMEDICATION AND MANAGEMENT SERVICES CORPORATION, as follows:

1. Authorizing a hearing in this matter, at which time Respondent will be required to answer the allegations herein;

2. Finding that Respondent violated Sections 61.145(c)(2)(ii) and (c)(6)(ii) of the Asbestos NESHAP, 40 C.F.R. § 61.145(c)(2)(ii) and (c)(6)(ii) (2013), and therefore Section 9.1(d)(1) of the Act, 415 ILCS 5/9.1(d)(1) (2012);

3. Ordering the Respondent to cease and desist from any further violation of Sections 61.145(c)(2)(ii) and (c)(6)(ii) of the Asbestos NESHAP, 40 C.F.R. § 61.145(c)(2)(ii) and (c)(6)(ii) (2013), and therefore Section 9.1(d)(1) of the Act, 415 ILCS 5/9.1(d)(1) (2012);

4. Assessing against the Respondent a civil penalty of Fifty Thousand Dollars (\$50,000.00) for each violation of the Act, and an additional civil penalty of Ten Thousand Dollars (\$10,000.00) for each day of violation;

5. Ordering the Respondent to pay all costs, including attorney, expert witness and consultant fees expended by the State in its pursuit of this action pursuant to 415 ILCS 5/42(f) (2012); and

6. Granting such other relief as the Board deems equitable and just.

COUNT IV

FAILURE TO PROPERLY CONTAIN ASBESTOS

1-30. Complainant realleges and incorporates by reference herein paragraphs 1 through 28, 30 and 31 of Count II as paragraphs 1 through 30 of this Count IV.

31. Section 61.150(a)(1) of the Asbestos NESHAP, 40 C.F.R. § 61.150(a)(1) (2013), provides the following requirements for the disposal of RACM during renovation operations:

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.

(1) Adequately wet asbestos-containing waste material as follows:

(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; or, for materials that will not fit into containers without additional breaking, put materials into leak-tight wrapping; 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)(4) or 1926.1101(k)(8). 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.

32. As an owner or operator of a renovation activity subject to the NESHAP for asbestos, RAMSCO was required to comply with the requirements of Section 61.150.

33. RASMC failed to comply with the requirements of Section 61.150. RAMSCO did not adequately wet the roofing RACM at the Abatement Site. The manner of removing and

handling the asbestos containing roofing material caused visible emissions. The RACM removed from the roof was not sealed in a leak-tight container, but dropped in an open dumpster and allowed to be scattered on the ground around the Abatement Site. Some of the broken transite was even in the worker decontamination shower.

34. By failing to prevent visible emissions and to properly wet and seal RACM during disposal, Respondent RAMSCO violated Section 61.150(a)(1) of the Asbestos NESHAP, 40 C.F.R. § 61.150(a)(1) (2013), and therefore Section 9.1(d)(1) of the Act, 415 ILCS 5/9.1(d)(1) (2012).

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an order in favor of Complainant and against Respondent, REMEDIATION AND MANAGEMENT SERVICES CORPORATION, as follows:

1. Authorizing a hearing in this matter, at which time Respondent will be required to answer the allegations herein;
2. Finding that Respondent violated Section 61.150(a)(1) of the Asbestos NESHAP, 40 C.F.R. § 61.150(a)(1) (2013), and therefore Section 9.1(d)(1) of the Act, 415 ILCS 5/9.1(d)(1) (2012);
3. Ordering the Respondent to cease and desist from any further violation of Section 61.150(a)(1) of the Asbestos NESHAP, 40 C.F.R. § 61.150(a)(1) (2013), and therefore Section 9.1(d)(1) of the Act, 415 ILCS 5/9.1(d)(1) (2012);
4. Assessing against the Respondent a civil penalty of Fifty Thousand Dollars (\$50,000.00) for each violation of the Act, and an additional civil penalty of Ten Thousand Dollars (\$10,000.00) for each day of violation;

5. Ordering the Respondent to pay all costs, including attorney, expert witness and consultant fees expended by the State in its pursuit of this action pursuant to 415 ILCS 5/42(f) (2012); and

6. Granting such other relief as the Board deems equitable and just.

COUNT V

FAILURE TO TIMELY DISPOSE OF ASBESTOS

1-30. Complainant realleges and incorporates by reference herein paragraphs 1 through 28, 30 and 31 of Count II as paragraphs 1 through 30 of this Count V.

31. Section 61.150(b) of the Asbestos NESHAP, 40 C.F.R. § 61.150(b) (2013), provides the following requirements for the disposal of RACM during renovation operations:

(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) The requirements of paragraph (b) of this section do not apply to Category I nonfriable ACM that is not RACM.

32. RAMSCO was required to dispose of RACM as soon as practical. The project began on or about September 10, 2012. When the Illinois EPA Inspector arrived on September 17, 2012, RACM removed from the roof was still present and scattered about the Abatement Site. The final remediation of RACM and regulated asbestos-containing waste material located at the Abatement Site resulting from improper renovation activities performed by RAMSCO was not completed until November 19, 2012.

33. By failing to promptly dispose of RACM at an approved disposal site, Respondent RAMSCO violated Section 61.150(b) of the Asbestos NESHAP, 40 C.F.R. § 61.150(b) (2013), and therefore Section 9.1(d)(1) of the Act, 415 ILCS 5/9.1(d)(1) (2012).

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an order in favor of Complainant and against Respondent, REMEDIATION AND MANAGEMENT SERVICES CORPORATION, as follows:

1. Authorizing a hearing in this matter, at which time Respondent will be required to answer the allegations herein;

2. Finding that Respondent violated Section 61.150(b) of the Asbestos NESHAP, 40 C.F.R. § 61.150(b) (2013), and therefore Section 9.1(d)(1) of the Act, 415 ILCS 5/9.1(d)(1) (2012);

3. Ordering the Respondent to cease and desist from any further violation of Section 61.150(b) of the Asbestos NESHAP, 40 C.F.R. § 61.150(b) (2013), and therefore Section 9.1(d)(1) of the Act, 415 ILCS 5/9.1(d)(1) (2012);

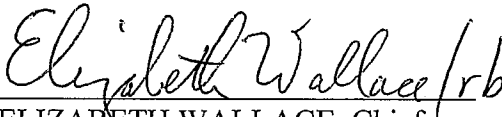
4. Assessing against the Respondent a civil penalty of Fifty Thousand Dollars (\$50,000.00) for each violation of the Act, and an additional civil penalty of Ten Thousand Dollars (\$10,000.00) for each day of violation;

5. Ordering the Respondent to pay all costs, including attorney, expert witness and consultant fees expended by the State in its pursuit of this action pursuant to 415 ILCS 5/42(f) (2012); and

6. Granting such other relief as the Board deems equitable and just.

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

By: 
ELIZABETH WALLACE, Chief
Environmental Bureau
Assistant Attorney General

Of Counsel:

L. NICHOLE SANGHA
Assistant Attorney General
Environmental Bureau
69 West Washington Street, Suite 1800
Chicago, IL 60602
(312) 814-3532
ARDC#: 6285988