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STATE OF ILLINOIS
Pollution Control Board

OFFICE OF THE ATTORNEY GENERAL
STATE OF ILLINOIS

Lisa Madigan
ATTORNEY GENERAL

October 29, 2004

PCB05-78

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

Re: ***People v. Ralph Stone, Mayor of the Village of Gorham***

Dear Clerk Gunn:

Enclosed for filing please find the original and ten copies of a NOTICE OF FILING, COMPLAINT and APPEARANCE in regard to the above-captioned matter. Please file the originals and return file-stamped copies of the documents to our office in the enclosed self-addressed, stamped envelope.

Thank you for your cooperation and consideration.

Very truly yours,

A handwritten signature in cursive script, reading "Kristen Laughridge".

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

KL/pp
Enclosures

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STATE OF ILLINOIS
Pollution Control Board

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

PEOPLE OF THE STATE OF)
 ILLINOIS,)
)
 Complainant,)
)
 vs.)
)
 RALPH STONE, Mayor of the Village)
 of Gorham,)
)
 Respondent.)

PCB No. 05-78
(Enforcement)

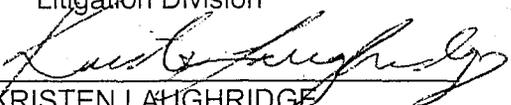
ENTRY OF APPEARANCE

On behalf of the Complainant, PEOPLE OF THE STATE OF ILLINOIS, KRISTEN LAUGHRIDGE, Assistant Attorney General of the State of Illinois, hereby enters her appearance as attorney of record.

Respectfully submitted,

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

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

BY: 
KRISTEN LAUGHRIDGE
Environmental Bureau
Assistant Attorney General

500 South Second Street
Springfield, Illinois 62706
217/782-9031
Dated: October 29, 2004

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STATE OF ILLINOIS
Pollution Control Board

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

PEOPLE OF THE STATE OF)
ILLINOIS,)
)
Complainant,)
)
vs.)
)
RALPH STONE, Mayor of the Village)
of Gorham,)
)
Respondent.)

PCB No. 05-78
(Enforcement)

NOTICE OF FILING

To: Ralph Stone, Mayor
Village of Gorham
404 North Adams St.
Gorham, IL 62940

PLEASE TAKE NOTICE that on this date I mailed for filing with the Clerk of the Pollution Control Board of the State of Illinois, a COMPLAINT, a copy of which is attached hereto and herewith served upon you. Failure to file an answer to this Complaint within 60 days may have severe consequences. Failure to answer will mean that all allegations in this 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.

FURTHER, please take notice that financing may be available, through the Illinois Environmental Facilities Financing Act, 20 ILCS 3515/1 (2002), to correct the pollution alleged in the Complaint filed in this case.

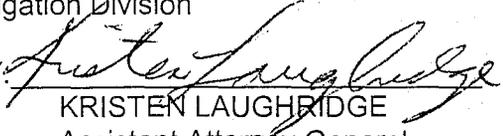
Respectfully submitted,

PEOPLE OF THE STATE OF ILLINOIS

LISA MADIGAN,
Attorney General of the
State of Illinois

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

BY:


KRISTEN LAUGHRIDGE
Assistant Attorney General
Environmental Bureau

500 South Second Street
Springfield, Illinois 62706
217/782-9031
Dated: October 29, 2004

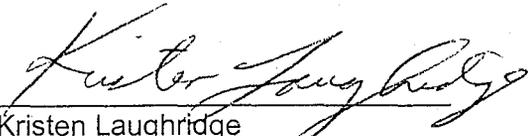
CERTIFICATE OF SERVICE

I hereby certify that I did on October 29, 2004, send by certified mail, with postage thereon fully prepaid, by depositing in a United States Post Office Box a true and correct copy of the following instruments entitled NOTICE OF FILING, ENTRY OF APPEARANCE and COMPLAINT:

To: Ralph Stone, Mayor
Village of Gorham
404 North Adams St.
Gorham, IL 62940

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

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


Kristen Laughridge
Assistant Attorney General

This filing is submitted on recycled paper.

RECEIVED
CLERK'S OFFICE

NOV 03 2004

STATE OF ILLINOIS
Pollution Control Board

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

PEOPLE OF THE STATE OF ILLINOIS,)
 ex rel. LISA MADIGAN, Attorney)
 General of the State of Illinois,)
)
 Complainant,)
)
 vs.)
)
 RALPH STONE, Mayor of the Village)
 of Gorham)
)
 Respondent.)

PLB No. 05-78

COMPLAINT

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, complains of the Respondent, RALPH STONE, as follows:

COUNT I

NOTICE VIOLATIONS

1. This count is brought on behalf of the People of the State of Illinois, *ex rel.* Lisa Madigan, the Attorney General of the State of Illinois, on her own motion and at the request of the Illinois Environmental Protection Agency ("Illinois EPA"), pursuant to Sections 31 of the Illinois Environmental Protection Act ("the Act"), 415 ILCS 5/31 (2002).
2. The Illinois EPA is an agency of the State of Illinois created by the Illinois General Assembly in Section 4 of the Act, 415 ILCS 5/4 (2002), and charged, *inter alia*, with the duty of enforcing the Act in proceedings before the Illinois Pollution Control Board ("Board").
3. The Respondent, RALPH STONE, was and is the mayor of the Village of Gorham, Jackson County, Illinois. RALPH STONE is a "person" as defined in Section 3.315 of

the Act, 415 ILCS 5/3.315 (2002). As alleged herein, RALPH STONE has actively participated in and has had direct personal involvement in the acts and omissions relevant to this Complaint.

4. Section 9.1(d) of the Act, 415 ILCS 5/9.1(d) (2002), provides:

(d) No person shall:

1. 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;

* * *

5. The regulations on National Emission Standards for Hazardous Air Pollutants ("NESHAP") for asbestos, 40 CFR Part 61, Subpart M, were adopted pursuant to Section 112 of the Clean Air Act, 42 USC §7412. Asbestos is regulated as a hazardous air pollutant because it is a carcinogen. Regulated asbestos-containing materials ("RACM") contain more than 1% asbestos and are generally "friable," which means such materials, when dry, can be crumbled, pulverized, or reduced to powder by hand pressure.

6. 40 CFR §61.145, provides, in pertinent part:

(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:

- (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.

* * *

(b) *Notification requirements.* 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.
- (2) Update notice, as necessary, including when the amount of asbestos affected changes by at least 20 percent.
- (3) Postmark or deliver the notice as follows:

* * *

- (iii) As early as possible before, but not later than, the following working day if the operation is a demolition ordered according to paragraph (a)(3) of this section. . . .

* * *

7. On May 5, 2003, a Jackson County Court Order was filed and an Entry for a Default Judgment was entered against James A. Riggs, the owner of the property, Gary Riggs, Elise Geraldine Palmer, Donna McCann, and the Jackson County Trustee. The Order stated that the Plaintiff, the Village of Gorham, was entitled to an Order authorizing it to demolish the dangerous and unsafe building at the Corner of Washington and Walnut St. in Gorham, Jackson County, Illinois, also called the Gorham High School.

8. On or about May 5, 2003, Illinois Department of Public Health (IDPH) notified the Jackson County Health Department that the IDPH records showed a management plan had been filed for the Gorham High School in 1992 when it closed. The management plan stated that the school contained asbestos. IDPH indicated that the school would have to be tested for asbestos by a licensed contractor and the asbestos would have to be removed prior to demolition of the school.

9. On or about May 5, 2003, an inspector with the Jackson County Health Department spoke with the Respondent regarding the asbestos in the school. The inspector informed the Respondent that prior to demolition of the school a Notice of Demolition must be filed with the IEPA and a licensed asbestos abatement contractor must identify and remove all asbestos.

10. On or about August 29, 2003, in response to a complaint, inspectors from the Jackson County Health Department and Illinois EPA visited the school and observed that the walls and roof on the south side of the school had been torn down and that demolition waste was in a pile near the building.

11. On or about August 29, 2003, the Jackson County Health Inspectors spoke with the Respondent and requested documentation showing the removal of asbestos prior to demolition. The inspectors also informed the Respondent of the asbestos inspection and notification requirements.

12. On or about August 29, 2003, the Illinois EPA collected samples of suspect thermal insulation from the school. The analytical testing subsequently indicated that the thermal insulation had asbestos present in concentrations ranging from 65% to 75%.

13. Upon the direction of Illinois EPA, RALPH STONE ceased demolition and removal activities until a proper inspection and abatement may be accomplished in strict compliance with regulatory requirements.

14. Although an operator of a demolition is required by 40 CFR § 61.145(a) to conduct a thorough inspection of the Gorham High School for the presence of asbestos prior to commencing demolition, the Respondent, RALPH STONE, did not conduct a thorough inspection of the Gorham High School prior to demolition.

15. By failing to conduct a thorough inspection for asbestos, the Respondent violated 40 C.F.R. § 60.145(a) and Section 9.1(d)(1) of the Act, 415 ILCS 5/9.1(d) (2002)

16. Although an operator of a demolition is required by 40 CFR § 61.145(b)(1) to provide written advance notification to the Illinois EPA, the Respondent, RALPH STONE, did not submit, and the Illinois EPA did not receive, the required written notification for the demolition.

17. By failing to provide the IEPA with written notice of demolition the Respondent violated 40 C.F.R. § 60.145(b)(1) and Section 9.1(d)(1) of the Act, 415 ILCS 5/9.1(d) (2002).

PRAYER FOR RELIEF

WHEREFORE, the Complainant, People of the State of Illinois, respectfully requests that this Board enter an Order against the Respondent, RALPH STONE:

- A. Authorizing a hearing in this matter at which time the Respondent will be required to answer the allegations herein;
- B. Finding that the Respondent has violated the Act and regulations as alleged herein;
- C. Ordering Respondent to cease and desist from any further violations of the Act and associated regulations;
- D. Pursuant to Section 42(a) of the Act, 415 ILCS 5/42(a) (2002), impose a civil penalty of not more than the statutory maximum;
- E. Pursuant to Section 42(f) of the Act, 415 ILCS 5/42(f) (2002), award the Complainant its costs in this matter, including reasonable attorney's fees and costs; and
- F. Grant such other and further relief as the Board deems appropriate.

COUNT II

AIR POLLUTION VIOLATIONS

1-13. Complainant realleges and incorporates herein by reference paragraphs 1 through 13 of Count I as paragraphs 1 through 13 of this Count II.

14. Section 9(a) of the Act, 415 ILCS 5/9(a) (2002), provides:

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;

* * *

15. Section 201.141 of the Board's Air Pollution Regulations, 35 Ill. Adm. Code

201.141 (2002), provides:

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, or so as to prevent the attainment or maintenance of any applicable ambient air quality standard.

16. 40 CFR §61.145(c) provides, in pertinent part:

(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:

* * *

(8) Effective 1 year after promulgation of this regulation, no RACM shall be stripped, removed, or otherwise handled or disturbed at a facility regulated by this section unless at least one on-site representative, such as a foreman or management-level person or other authorized representative, trained in the provisions of this regulation and the means of complying with them, is present.

(9) For facilities described in paragraph (a)(3) of this section, adequately wet the portion of the facility that contains RACM during the wrecking operation

* * *

17. 40 CFR §61.150 provides, in pertinent part:

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

* * *

(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 [section] 61.145, or

(2) An EPA-approved site that converts RACM asbestos-containing waste material into nonasbestos (asbestos-free) material according to the provisions of [section] 61.155.

* * *

18. On or about August 9, 2003, the Illinois EPA and the Jackson County Health Department inspected the Gorham High School and observed dry friable insulation mixed in debris piles beside the school and hanging from a roof rafter. The asbestos-containing waste materials had not been collected and placed into leak-tight containers for proper disposal nor had been wetted down.

19. The Respondent, RALPH STONE, did not employ the proper work practices and procedures for asbestos emissions control, including having an on-site representative trained in the asbestos regulations or adequate wetting of the regulated ACM during the partial demolition of the Mississippi Valley School. It is likely that emissions of asbestos were discharged to the outside air.

20. The Respondent, RALPH STONE, has caused, threatened, or allowed the discharge or emission of contaminants so as to tend to cause air pollution, thereby violating Section 9(a) of the Act, 415 ILCS 5/9(a) (2002), and 35 Ill. Adm. Code 201.141.

21. The Respondent failed to have an on-site representative trained in the asbestos regulations present at the demolition, thereby violating 40 CFR §61.145(c)(8) and Section 9.1(d)(1) of the Act, 415 ILCS 5/9.1(d) (2002).

22. The Respondent, RALPH STONE, has failed to wet all regulated asbestos-containing material during and after the demolition of the facility, allowing the airborne migration of asbestos fibers, thereby violating 40 CFR §61.145(c)(9) and Section 9.1(d)(1) of the Act, 415 ILCS 5/9.1(d) (2002).

23. The Respondent, RALPH STONE has failed to collect, contain and deposit regulated asbestos containing waste materials in an appropriate waste disposal site as soon as possible, thereby violating 40 CFR §61.150(b) and Section 9.1(d)(1) of the Act, 415 ILCS 5/9.1(d) (2002).

PRAYER FOR RELIEF

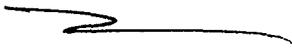
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- C. Ordering Respondent to cease and desist from any further violations of the Act and associated regulations;
- D. Pursuant to Section 42(a) of the Act, 415 ILCS 5/42(a) (2002), impose a civil penalty of not more than the statutory maximum;
- E. Pursuant to Section 42(f) of the Act, 415 ILCS 5/42(f) (2002), award the Complainant its costs in this matter, including reasonable attorney's fees and costs; and
- F. Grant such other and further relief as the Board deems appropriate.

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

BY: 
THOMAS DAVIS, Chief
Environmental Bureau
Assistant Attorney General

KRISTEN LAUGHRIDGE
500 South Second Street
Springfield, Illinois 62706
217/782-9031
Dated: October 29, 2004