

ILLINOIS POLLUTION CONTROL BOARD
May 6, 1999

PEOPLE OF THE STATE OF ILLINOIS,)
)
Complainant,)
)
v.) PCB 97-203
) (Enforcement - Land)
SPIRICO ENVIRONMENTAL INC., a)
Missouri corporation,)
)
Respondent.)

THOMAS DAVIS, ASSISTANT ATTORNEY GENERAL, APPEARED ON BEHALF OF THE PEOPLE OF THE STATE OF ILLINOIS; and

J. ERIC BERRY OF THOMPSON COBURN APPEARED ON BEHALF OF RESPONDENT.

OPINION AND ORDER OF THE BOARD (by N.J. Melas):

This matter is before the Board on a complaint filed by the Illinois Attorney General's Office on behalf of the People of the State of Illinois (complainant) on May 14, 1997. The complaint alleged that respondent Spirco Environmental Inc. (Spirco) violated the Illinois Environmental Protection Act (Act) and the asbestos National Emission Standard for Hazardous Air Pollutants (NESHAP) during the course of an asbestos removal project at the now-abandoned Pabst Brewery in Peoria Heights, Illinois.

On April 15, 1999, the Board entered an interim opinion and order finding that Spirco violated several provisions of the Act and the asbestos NESHAP, but Spirco did not violate all of the provisions alleged in the complaint. The Board found that Spirco violated Sections 9(a) and 9.1(d) of the Act (415 ILCS 5/9(a), 5/9.1(d) (1996)) and failed to comply with Sections 61.145(a), 61.145(b), and 61.145(c) of the asbestos NESHAP. 40 C.F.R. § 61.145(a), 61.145(b), 61.145(c) (1997). The Board also found that complainant was entitled to attorney fees pursuant to Section 42(f) of the Act. 415 ILCS 5/42(f) (1996). The Board ordered complainant to file an affidavit of costs so that the Board could determine the amount of the reward.

On April 27, 1999, complainant filed an affidavit stating that attorney fees for the above captioned matter amounted to \$1,920. Complainant seeks an hourly rate of \$120 and provides the following breakdown for the 16 total hours spent on this matter: review and filing of complaint (1 hour), discovery (3 hours), preparing stipulation of facts (2 hours), witness preparation (1.5 hours), hearing (5 hours), and preparing briefs (3.5 hours). Spirco did not respond to complainant's affidavit.

Complainant states that the Board found the \$120 per hour rate to be reasonable in previous cases. See People v. Waste Hauling Landfill (May 21, 1998), PCB 95-91, slip op. at 35; People v. W.O.W Truck Lines, Inc. (February 1, 1996), PCB 95-47, slip op. at 1; People v. ESG Watts (May 4, 1995), PCB 94-127, slip op. at 18. The Board finds that the rate is also appropriate in this case. Thus, the Board orders Spirco to pay attorney fees of \$1,920.

This opinion constitutes the Board's findings of fact and conclusions of law in this matter.

ORDER

1. Spirco Environmental Inc. (Spirco) shall pay attorney fees of \$1,920, incurred at the rate of \$120 per hour, to the Office of the Attorney General in its representation of the People of the State of Illinois and the Illinois Environmental Protection Agency.
2. No later than June 7, 1999, at 4:30 p.m., Spirco must submit either a certified check or money order for \$1,920 made payable to the Treasurer of the State of Illinois. Spirco must designate the certified check or money order for deposit to the Hazardous Waste Fund. Spirco must write the case name and case number and its federal employer identification number or Social Security number on the certified check or money order.
3. Spirco must send the payment by first class mail to:

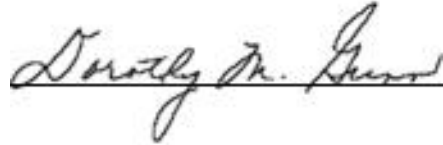
Illinois Environmental Protection Agency
Fiscal Services Division
1021 North Grand Avenue East
P.O. Box 19276
Springfield, IL 62794-9276

This docket is hereby closed.

IT IS SO ORDERED.

Section 41 of the Environmental Protection Act (415 ILCS 5/41 (1996)) provides for the appeal of final Board orders to the Illinois Appellate Court within 35 days of service of this order. Illinois Supreme Court Rule 335 establishes such filing requirements. See 172 Ill. 2d R. 335; see also 35 Ill. Adm. Code 101.246, Motions for Reconsideration.

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, hereby certify that the above opinion and order was adopted on the 6th day of May 1999 by a vote of 7-0.

A handwritten signature in cursive script, reading "Dorothy M. Gunn", written over a horizontal line.

Dorothy M. Gunn, Clerk
Illinois Pollution Control Board