

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, 20<sup>th</sup> Floor  
Chicago, IL 60601  
312-814-0660

**BEFORE THE ILLINOIS POLLUTION CONTROL BOARD**

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

PCB No. 05-51  
 (Enforcement - Air)

**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  
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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, 20<sup>th</sup> Floor  
Chicago, IL 60601  
312-814-0660