

ILLINOIS POLLUTION CONTROL BOARD
March 20, 2003

PEOPLE OF THE STATE OF ILLINOIS,)	
)	
Complainant,)	
)	
v.)	PCB 00-110
)	(Enforcement – Air)
JOE DECICCO DEMOLITION, INC., an)	
Illinois corporation,)	
)	
Respondent.)	

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

On January 9, 2003, the Board issued an interim opinion and order in this proceeding finding that Joe Decicco Demolition, Inc. (Decicco) violated the Environmental Protection Act (Act) (415 ILCS 5/9.1(d)(1)(2002)) and several provisions of the National Emissions Standards for Hazardous Air Pollutants (NESHAP) for asbestos.¹ The interim opinion granted the complainant's motion for summary judgment and ordered the parties to proceed to hearing on the issue of remedy, including any civil penalties and attorney fees. The Board incorporates the January 9, 2003 interim opinion and order here by reference.

On March 11, 2003, the Office of the Attorney General on behalf of the People of the State of Illinois (People) filed a motion to waive any hearing on the remedy and close the docket (Mot.). The People ask for no civil penalty, attorney fees, or other costs incurred by the state in this action. For the reasons set forth below the Board grants the People's motion and closes the docket.

The People allege that Decicco, a small Illinois corporation, ceased operations during 2000, and was involuntarily dissolved by the Illinois Secretary of State on February 1, 2001. Mot. at 2. The People state that on June 6, 2001, Mr. Joseph Decicco filed a petition under Chapter 7 of the Bankruptcy Code in the United States Bankruptcy Court for the Northern District of Illinois, Eastern Division. *Id.* The petition named Mr. Decicco individually, and doing business as respondent, as debtors. The petition listed the People and the Board as creditors. On October 9, 2001, the Bankruptcy Court granted Decicco a discharge of indebtedness pursuant to 11 U.S.C. Section 727. *Id.*

The People argue that at this point any penalty assessed following a hearing would be uncollectable. The People therefore request, in the interest of administrative economy, that the Board make its January 9, 2003 interim order a final order and waive further proceedings in this case. Mot. at 3.

¹ The Board found that Decicco violated Sections 61.145(b)(3), 61.145(b)(4)(i), 61.145(b)(4)(iii), 61.145(b)(4)(v), and 61.145(b)(4)(ix) of the asbestos NESHAP regulations.

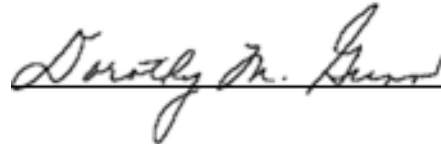
The facts in this proceeding show that Decicco is unable to pay any penalty associated with the violations the Board found against it in the January 9, 2003, interim opinion and order. In this circumstance, the Board waives any hearing on the issue of remedy as requested by the People and closes the docket.

This opinion and order constitutes the Board's findings of fact and conclusions of law.

IT IS SO ORDERED.

Section 41(a) of the Environmental Protection Act provides that final Board orders may be appealed directly to the Illinois Appellate Court within 35 days after the Board serves the order. 415 ILCS 5/41(a) (2000); *see also* 35 Ill. Adm. Code 101.300(d)(2), 101.906, 102.706. Illinois Supreme Court Rule 335 establishes filing requirements that apply when the Illinois Appellate Court, by statute, directly reviews administrative orders. 172 Ill. 2d R. 335. The Board's procedural rules provide that motions for the Board to reconsider or modify its final orders may be filed with the Board within 35 days after the order is received. 35 Ill. Adm. Code 101.520; *see also* 35 Ill. Adm. Code 101.902, 102.700, 102.702.

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above opinion and order on March 20, 2003, 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