

ILLINOIS POLLUTION CONTROL BOARD  
April 15, 2004

PEOPLE OF THE STATE OF ILLINOIS,            )  
  )  
          Complainant,                                    )  
  )  
          v.    )     PCB 04-4  
  )     (Enforcement - Air)  
BEST-WAY CONSTRUCTION &                         )  
REMEDICATION, INC., an Illinois                 )  
corporation; and CLINTON 6 L.L.C., an            )  
Illinois limited liability company,                )  
  )  
          Respondents.                                 )

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

On July 7, 2003, the Office of the Attorney General, on behalf of the People of the State of Illinois (People), filed a complaint against Best-Way Construction & Remediation, Inc. (Best-Way), and Clinton 6 L.L.C. (Clinton 6) (collectively, respondents). See 415 ILCS 5/31(c)(1) (2002); 35 Ill. Adm. Code 103.204. The People allege that respondents violated Sections 9(a), 9.1(d)(1) of the Environmental Protection Act (Act), Section 201.141 of the Board's air pollution regulations, and 40 C.F.R. 61.145(b), (c)(3), (c)(6), and 61.150(b) of the national emissions standards for hazardous air pollutants (NESHAP) for asbestos. 415 ILCS 5/9(a), 9.1(d)(1) (2002); 35 Ill. Adm. Code 201.141; 40 C.F.R. 60.145(b), (c)(3), (c)(6) and 61.150(b). The People further allege that respondents violated these provisions as a result of asbestos abatement activities at a building located at 612 South Clinton Street, Chicago, Cook County. Clinton 6 owned the facility and Best-Way performed the asbestos abatement activities.

On February 17, 2004, the People and both respondents filed a stipulation and proposed settlement, accompanied by a request for relief from the hearing requirement of Section 31(c)(1) of the Act (415 ILCS 5/31(c)(1) (2002)). This filing is authorized by Section 31(c)(2) of the Act (415 ILCS 5/31(c)(2) (2002)). See 35 Ill. Adm. Code 103.300(a). The Board provided notice of the stipulation, proposed settlement, and request for relief from hearing. The Board published newspaper notice in the *Chicago Sun Times* on March 11, 2004. The Board did not receive any requests for hearing. The Board grants the parties' request for relief from the hearing requirement. See 415 ILCS 5/31(c)(2) (2002); 35 Ill. Adm. Code 103.300(b).

Section 103.302 of the Board's procedural rules sets forth the required contents of stipulations and proposed settlements. 35 Ill. Adm. Code 103.302. These requirements include stipulating to facts on the nature, extent, and causes of the alleged violations and the nature of respondents' operations. Section 103.302 also requires that the parties stipulate to facts called for by Section 33(c) of the Act (415 ILCS 5/33(c) (2002)). The People and respondents have satisfied Section 103.302. Under the proposed stipulation, the respondents neither admit nor

deny the alleged violations and agree to pay a civil penalty of \$11,000. The Board accepts the stipulation and proposed settlement.

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

**ORDER**

1. The Board accepts and incorporates by reference the stipulation and proposed settlement.
2. Best-Way Construction & Remediation, Inc., and Clinton 6 L.L.C. (respondents) must jointly and severally pay a civil penalty of \$11,000 no later than May 15, 2004 which is the 30th day after the date of this order. Respondents must pay the civil penalty by certified check or money order, payable to the Environmental Protection Trust Fund. The case number, case name, and respondents' social security numbers or federal employer identification numbers must be included on the certified check or money order.
3. Respondents must send the certified check or money order by first class mail to:

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

A copy of the check shall be sent to:

Joel Sternstein  
Assistant Attorney General  
Environmental Bureau  
188 West Randolph Street, 20th Floor  
Chicago, Illinois 60601

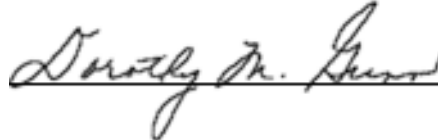
4. Penalties unpaid within the time prescribed will accrue interest under Section 42(g) of the Environmental Protection Act (415 ILCS 5/42(g) (2002)) at the rate set forth in Section 1003(a) of the Illinois Income Tax Act (35 ILCS 5/1003(a) (2002)).
5. Respondents must cease and desist from the alleged violations.

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) (2002); *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 April 15, 2004, by a vote of 4-0.

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

Dorothy M. Gunn, Clerk  
Illinois Pollution Control Board