

ILLINOIS POLLUTION CONTROL BOARD
June 17, 1998

PEOPLE OF THE STATE OF ILLINOIS,)
)
Complainant,)
)
v.) PCB 97-223
) (Enforcement - Air)
ALLEN ROSE CEMENT AND)
CONSTRUCTION COMPANY, an Illinois)
corporation, and LINDAHL BROTHERS,)
INC., an Illinois corporation,)
)
Respondents.)

OPINION AND ORDER OF THE BOARD (by M. McFawn):

This matter comes before the Board upon a one-count complaint filed on June 6, 1997, and amended on May 12, 1998, by the Attorney General of the State of Illinois, on behalf of the People of the State of Illinois, against Allen Rose Cement and Construction Company, an Illinois corporation, located at 533 Ashland Avenue, Chicago Heights, Cook County, Illinois and Lindahl Brothers, Inc., an Illinois corporation located at 622 East Green Street, Bensenville, DuPage County, Illinois (respondents) concerning asbestos demolition and renovation activity performed at 9950 West Roosevelt Road, Westchester, Cook County, Illinois. The complaint alleges that respondents violated Section 9.1(d)(1) of the Environmental Protection Act (Act) (415 ILCS 5/9.1(d)(1) (1996)) and 40 CFR 61.145(b) by failing to provide timely and sufficient notification of asbestos demolition or renovation activity.¹

On May 12, 1998, the parties filed a stipulation, proposal for settlement, and a joint motion requesting relief from the requirement of Section 31(c)(2) of the Act that proposed stipulation and settlement agreements be presented at hearing. 415 ILCS 5/31(c)(2) (1996). The Board published a notice of the waiver on May 21, 1998. No objection to the granting of the waiver was received. Accordingly, the Board grants a waiver of the hearing requirement.

The stipulation sets forth facts relating to the nature, operations, and circumstances surrounding the claimed violations. Respondents admit the alleged violations and agrees to pay a total civil penalty of \$5,000.

¹ While the Board does not generally enforce the provisions of the Code of Federal Regulations, Section 9.1(d)(1) of the Act authorizes enforcement of Sections 111, 112, 165, and 173 of the Clean Air Act and the regulations adopted pursuant thereto.

The Board finds the settlement agreement acceptable under 35 Ill. Adm. Code 103.180. This settlement agreement in no way affects respondents' responsibility to comply with any federal, State, or local regulations, including but not limited to, the Act and the Board's regulations.

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

ORDER

1. The Board hereby accepts the stipulation and settlement agreement executed by the People of the State of Illinois and Allen Rose Cement and Construction Company, an Illinois corporation, located at 533 Ashland Avenue, Chicago Heights, Cook County, Illinois and Lindahl Brothers, Inc., an Illinois corporation located at 622 East Green Street, Bensenville, DuPage County, Illinois concerning asbestos demolition and renovation activity performed at 9950 West Roosevelt Road, Westchester, Cook County, Illinois. The stipulation and settlement agreement are incorporated by reference as though fully set forth herein.
2. Respondents shall pay jointly and severally the total sum of \$5,000 within 30 days of the date of this order, on or before July 18, 1998. Such payment shall be made by certified check payable to the Treasurer of the State of Illinois, for deposit into the Illinois Environmental Protection Trust Fund, and shall be sent by First Class mail to:

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

The certified check or money order shall clearly indicate on its face respondents' federal employer identification number (Rose #36-2353221), (Lindahal #36-2406130), and that payment is directed to the Environmental Protection Trust Fund. A copy of the payment transmittal and the certified check or money order shall be simultaneously sent by First Class mail to:

Thomas S. Gozdziaik
Assistant Attorney General
Environmental Bureau
Attorney General's Office
100 West Randolph Street, 11th Floor
Chicago, Illinois 60601

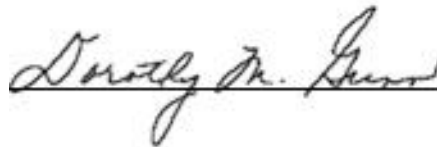
Any such penalty not paid within the time prescribed shall incur interest at the rate set forth in subsection (a) of Section 1003 of the Illinois Income Tax Act, (35 ILCS 5/1003 (1996)), as now or hereafter amended, from the date payment is due until the date payment is received. Interest shall not accrue during the pendency of an appeal during which payment of the penalty has been stayed.

3. Respondents shall cease and desist from the alleged violations.

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 17th day of June 1998 by a vote of 6-0.

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

Dorothy M. Gunn, Clerk
Illinois Pollution Control Board