

ILLINOIS POLLUTION CONTROL BOARD
May 17, 2001

PEOPLE OF THE STATE OF ILLINOIS,)
)
Complainant,)
)
v.) PCB 99-189
) (Enforcement – Air)
AABOTT ASBESTOS, INC.,)
)
Respondent.)

ELIZABETH ANN PITROLO, ASSISTANT ATTORNEY GENERAL, ATTORNEY GENERAL'S OFFICE, APPEARED ON BEHALF OF COMPLAINANT.

ORDER OF THE BOARD (by E.Z. Kezelis):

This is an enforcement action brought by the People of the State of Illinois (People) against Aabott Asbestos, Inc. (Aabott), an asbestos removal contractor. After a hearing conducted on December 7, 2000, the Board entered an opinion and order on April 5, 2001, finding that Aabott had violated Sections 9(a) and 9.1(d) of the Environmental Protection Act (Act) (415 ILCS 5/9(a), 9.1(d) (1998)), Section 201.141 of the Board's air regulations, and the asbestos National Emissions Standards for Hazardous Air Pollutants at 40 C.F.R. §§ 61.145(c)(1), (c)(3), and (c)(6)(i), and 61.150(a)(1)(v). People v. Aabott Asbestos, Inc. (April 5, 2001), PCB 99-189.

In its April 5, 2001 opinion and order, the Board found that Aabott in fact committed the alleged violations by failing to properly remove, handle, contain, label, and dispose of regulated asbestos-containing material, and by failing to follow emission control procedures, so as to cause or allow air pollution in Illinois. The violations occurred during the course of Aabott's demolition of two facilities located in Randolph County and Sangamon County, Illinois.

The Board ordered Aabott to pay a penalty of \$30,000 within 30 days of the date of the order. The Board found that the violations were willful, knowing, and repeated and that the People were entitled to an award of fees and costs pursuant to Section 42(f) of the Act (415 ILCS 5/42(f) (1998)). The Board ordered the People to file an affidavit of its fees and costs by no later than May 7, 2001.

On April 23, 2001, the People filed an affidavit in which Assistant Attorney General Elizabeth Pitrolo (AAG Pitrolo) set forth the amount of time spent prosecuting this case and the hourly rate which the Board is asked to assess. On April 27, 2001, the hearing officer entered an order allowing Aabott until May 7, 2001, to file a response. Aabott did not do so.

The People's affidavit shows that AAG Pitrolo spent 41 hours on this case, which includes the preparation of pleadings and participation at hearing. Additionally, AAG Pitrolo suggests that \$120 is a reasonable hourly rate based on her qualifications, experience, and past Board action. Although AAG Pitrolo does not cite to any prior Board cases in which \$120 was allowed as a reasonable hourly rate for attorney fees, she is correct that the Board has previously held \$120 to be reasonable. See People v. ESG Watts, Inc. (May 4, 1995), PCB 94-127. The Board finds the time spent and the rate requested reasonable.

Accordingly, the total cost of the People's time is \$1,920. The Board assesses Aabott these costs in addition to the \$30,000 civil penalty previously assessed in the Board's April 5, 2001 opinion and order.

ORDER

The Board orders Aabott to pay the People's costs in this matter in the amount of \$1,920 within 30 days of the date of this order. Payment of the costs must be made by certified check or money order payable to the Treasurer of the State of Illinois, designated to the Hazardous Waste Fund, and sent by First Class mail to:

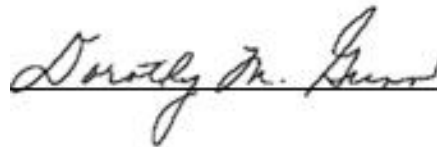
Illinois Environmental Protection Agency
Fiscal Services Division
1021 North Grand Avenue East
P.O. Box 19276
Springfield, Illinois 62794-9276

The certified check or money order shall clearly indicate the case number, Aabott's Federal Employer Identification Number, and that payment is directed to the Hazardous Waste Fund.

IT IS SO ORDERED.

Section 41 of the Environmental Protection Act (415 ILCS 5/41 (1998)) provides for the appeal of final Board orders to the Illinois Appellate Court within 35 days of the date 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 101.520, Motions for Reconsideration.

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, hereby certify that the above order was adopted on the 17th day of May 2001 by a vote of 7-0.



Dorothy M. Gunn, Clerk
Illinois Pollution Control Board