ILLINOIS POLLUTION CONTROL BOARD
April 5, 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.

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

On June 28, 1999, the People of the State of Illinois (People) filed a five-count complaint against Aabott Asbestos, Inc. (Aabott), an asbestos removal contractor. The complaint alleges that Aabott caused air pollution and failed to follow emission control procedures at two facilities, located at 10901 Baldwin Road, Baldwin, Randolph County, Illinois and 3100 Stevenson Drive, Springfield, Sangamon County, Illinois. The complaint further alleges that Aabott failed to properly label regulated asbestos-containing waste material (ACM or RACM) from the Randolph County site. These activities were in alleged violation of Sections 9(a) and 9.1(d)(1) of the Environmental Protection Act (Act) (415 ILCS 5/9(a), 9.1(d)(1) (1998)) and the Board's air pollution regulations at 35 Ill. Adm. Code 201.141 and the asbestos National Emission Standards for Hazardous Air Pollutants (NESHAP) at 40 C.F.R. §§ 61.145(c)(1), (c)(3), and (c)(6)(i), and 61.150(a)(1)(v).

A hearing was held on December 7, 2000, at which Aabott failed to appear. The People filed a brief on January 5, 2001, and Aabott filed none.

BACKGROUND

Aabott, an asbestos removal contractor, is a Missouri corporation authorized to do business in Illinois. The allegations in the People's complaint deal specifically with asbestos removal activities at two different sites. The first site was the Illinois Power Baldwin Plant (IPBP), located in Randolph County. The second site was the City Water, Light, and Power Lakeside Power Station (CWLP), located in Sangamon County. Tr. at 7.[1]

[1] The transcript of the hearing held on December 7, 2000, in this matter will be referred to as "Tr. at ___."

Aabott was hired by IPBP to conduct asbestos renovation activities at the Randolph County site. Comp. at 3.[2] On February 17, 1998, the Illinois Environmental Protection Agency (Agency) received a notification of renovation from Aabott. *Id*. The notification indicated renovation at IPBP would begin on March 2, 1998. *Id*. On March 25, 1998, the Agency received a citizen complaint regarding improper asbestos renovation at the site. Tr. at 26. On March 26, 1998, Agency inspector Christopher Puccini conducted an inspection of IPBP pursuant to a citizen complaint. *Id*. Puccini observed dry, friable suspect material still on the pipe where a glove bag removal had been performed. *Id*.[3] Puccini also inspected the area where bags of suspect material were being stored before they were transported offsite. Comp. at 29. Several of the bags contained dry, friable suspect material. *Id*. Puccini noted several bags of suspect material, not all of which had generator labels. *Id*. Puccini collected samples of the suspect material, and on March 27, 1998, the Agency submitted the samples to Bodycote Industrial Testing Laboratory for testing. Comp. at 3. The data summary indicated all of the samples contained greater than one percent asbestos. *Id*.

Aabott was also hired by CWLP to conduct asbestos renovation activities at the Sangamon County site. Comp. at 5. On March 1, 1999, the Agency received a notice of renovation from Aabott. *Id*. The notification indicated the renovation at CWLP would begin on March 11, 1999. *Id*. Agency inspector Allen Grimmett conducted three inspections of CWLP. During an inspection on March 19, 1999, Grimmett observed a piece of mag block lying against the poly sheeting of the containment wall and noted that it was in a dry, friable condition. Tr. at 15. During a March 22, 1999 inspection, Grimmett observed workers stripping suspect material without first wetting it. Tr. at 20. Grimmett collected samples of the suspect material, and, on March 22, 1999, the Agency submitted the samples to Environmental Health Technologies for testing. Comp. at 5. The data summary indicated all of the samples contained greater than one percent asbestos. *Id*.

CONSIDERATION OF ALLEGED VIOLATIONS

Although the Board granted Attorney Ted F. Frapolli's motion to appear *pro hac vice* on behalf of Aabott, neither Aabott nor its counsel answered the complaint or attended the hearing.[4] As the People note in its brief, pursuant to 35 Ill. Adm. Code 103.220:

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[2] The complaint in this matter will be referred to as "Comp. at ___."

[3] A glove bag means a sealed compartment with attached inner gloves used for the handling of ACM. Properly installed and used, glove bags provide a small work area enclosure typically used for small-scale asbestos stripping operations.

[4] Aabott's counsel did participate in several telephone status conferences and two meetings with representatives of the Office of the Attorney General and the Agency. In addition, he conducted depositions of Agency inspectors on November 17, 1999. Aabott's counsel notified the hearing officer and opposing counsel at the final prehearing conference that Aabott and he would not be appearing at hearing, and would not be filing a posthearing brief. As noted above, sufficient time elapsed to provide Aabott and its counsel an opportunity to file a posthearing brief; nonetheless, none was filed. At the hearing, Hearing Officer John Knittle

> Failure of a party to appear on the date set for hearing or failure to proceed as ordered by the Board shall constitute a default. The Board shall thereafter enter such order as appropriate, as limited by the pleadings and based upon the evidence introduced at the hearing.

The People introduced evidence in support of the allegations in the complaint at the December 7, 2000 hearing. Based upon the evidence introduced and as outlined in detail below, the Board finds the People have established violations with respect to each count of the complaint, and accordingly finds that Aabott has violated the NESHAP and the Act as alleged in the complaint. The individual counts of the complaint and the evidence supporting them are discussed below.

Counts I and II: Air Pollution

Counts I and II allege that Aabott's failure to properly remove, handle, contain, and dispose of RACM, caused, threatened, or allowed the discharge or emissions of contaminants into the environment so as to cause or tend to cause air pollution in violation of Section 9(a) of the Act (415 ILCS 5/9(a)(5) (1998)) and 35 Ill. Adm. Code 201.141. Count I addresses violations at IPBP in Randolph County. Count II addresses violations at CWLP in Sangamon County.

Section 9(a) of the Act provides in relevant part that no person shall:

> a. Cause or threaten or allow the discharge or emission of any contaminant into the environment in any State so as to cause or tend to cause air pollution in Illinois, either alone or in combination with contaminants from other sources, or so as to violate regulations or standards adopted by the Board under this Act.

35 Ill. Adm. Code 201.141 provides in relevant part:

> No person shall cause or threaten or allow the discharge or emission of any contaminant into the environment in any State so as, either alone or in combination with contaminants from other sources, to cause or tend to cause air pollution in Illinois, or so as to violate the provisions of this Chapter, or so as to violate the provisions of this Chapter, or so as to prevent the attainment or maintenance of any applicable ambient air quality standard.

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stated for the record that he had been advised that neither Aabott nor its counsel would appear at the hearing or file posthearing briefs. Tr. at 5.

With respect to the IPBP site, which is the basis for the allegations in count I, Puccini testified that he observed dry, friable suspect material still on the pipe where a glove bag removal had been performed outside the containment area. Tr. at 27. Also outside the containment area, Puccini testified that he observed an area where bags of materials to be disposed of were stored. Tr. at 29. Aabott's employee indicated to Puccini that storage was temporary pending arrival of a dumpster. *Id*. Although some bags were affixed with the required generator labels, many were not. *Id*. Puccini testified that the material in these bags was easily reduced to powder by hand pressure, evidencing friability. Tr. at 30. This also indicated that the material was dry and had not been adequately wetted when it was placed in the bag. Puccini testified that all samples contained asbestos. Tr. at 31.

With respect to count II of the complaint, which concerned the CWLP site. Grimmett testified that when he entered the containment area, he observed insulation being stripped manually from a boiler jacket. Tr. at 17. The material was physically torn off then thrown to the floor two stories below. *Id*. "Enormous" amounts of visible emissions were released at three points: (1) the point of stripping, (2) during the two-story fall, and (3) upon impact with the floor below. Tr. at 18. At no stage in this process was wetting observed, with the exception that a worker on the ground floor was spraying fallen debris. Tr. at 17. Water spray was not employed at the stripping or during the two-story fall. *Id*.

Grimmett also observed bags of material ready for disposal. Tr. at 19. Samples taken from these bags demonstrated, on later analysis, that the material contained therein was RACM. Tr. at 20. The material in the bags was easily reduced to powder by hand pressure, indicating its friability, and was, in Grimmett's assessment, "bone dry." Tr. at 20-21. This indicated that the material had never been adequately wetted during the removal process. Tr. at 20.

The Board accordingly finds Aabott has violated Section 9(a) of the Act and 35 Ill. Adm. Code 201.l41 as alleged in counts I and II.

Counts III and IV: Failure to Follow Emission Control Procedures

Counts III and IV allege that Aabott's failure to properly remove, handle, contain, and dispose of asbestos-containing waste material at the IBPB and CWLP sites threatened to cause air pollution in violation of Section 9.1(d)(1) of the Act (415 ILCS 5/9.1(d)(1) (1998)) and 40 C.F.R. §§ 61.145(c)(1), (c)(3), and (c)(6)(i). Section 9.1(d)(1) of the Act provides in relevant part:

No person shall:

> 1. Violate any provisions of Sections 111, 112, 165 or 173 of the Clean Air Act, as now or hereafter amended, or federal regulations adopted pursuant thereto.

Section 61.145, provides in relevant part:

(a) Applicability. To determine which requirements of paragraphs (a), (b), and (c) of this section apply to the owner or operator of a demolition or renovation activity and prior to the commencement of the demolition or renovation, thoroughly inspect the affected facility or part of the facility where the demolition or renovation operation will occur for the presence of asbestos, including Category 1 and Category II nonfriable ACM. The requirements of paragraphs (b) and (c) of this section apply to each owner or operator of a demolition or renovation activity, including the removal of RACM as follows:

(4) In a facility being renovated, including any individual nonscheduled renovation operation, all the requirements of paragraphs (b) and (c) of this section apply if the combined amount of RACM to be stripped, removed, dislodged, cut, drilled, or similarly disturbed is

(i) At least 80 linear meters (260 linear feet) on pipes or at least 15 square meters (160 square feet) on other facility components, or

(ii) At least 1 cubic meter (35 cubic feet) off facility components where the length or area could not be measured previously.

* * *

(c) Procedures for asbestos emission control. Each owner or operator of a demolition or renovation activity to whom this paragraph applies, according to paragraph (a) of this section, shall comply with the following procedures:

(1) Remove all RACM from a facility being demolished or renovated before any activity begins that would break up, dislodge, or similarly disturb the material or preclude access to the material for subsequent removal. RACM need not be removed before demolition if:

(i) It is a Category I nonfriable ACM that is not in poor condition and not friable.

(ii) It is on a facility component that is encased in concrete or other similarly hard material and is adequately wet whenever exposed during demolition; or

(iii) It was not accessible for testing and was, therefore, not discovered until after demolition began and, as a result of the demolition, the material cannot be safely removed. If not removed for safety reasons, the exposed RACM and any asbestos-containing waste debris must be treated as asbestos-containing waste material and adequately wet at all times until disposed of.

(iv) They are Category II nonfriable ACM and the probability is low that the materials will be crumbled, pulverized, or reduced to powder during demolition.

* * *

(3) When RACM is stripped from a facility component while it remains in place in the facility, adequately wet the RACM during the stripping.

* * *

(6) For all RACM, including material that has been removed or stripped:

(i) Adequately wet the material and ensure that it remains wet until collected and contained or treated in preparation for disposal in accordance with 61.150.

Puccini testified Aabott failed to remove all regulated ACM that was disturbed during the abatement of IPBP. Tr. at 28. Puccini and Grimmett testified that Aabott failed to adequately wet all regulated ACM during the stripping operation while it remained in place. Tr. at 17, 32. In addition, Puccini and Grimmett testified that Aabott failed to adequately wet the regulated ACM that had been removed or stripped and failed to ensure that it remained wet until collected and contained. Tr. at 20, 30. The Board accordingly finds Aabott has violated Section 9.1(d)(1) of the Act (415 ILCS 5/9.1(d)(1) (1998)) and 40 C.F.R. §§ 61.145(c)(1), (c)(3), and (c)(6)(i).

Count V: Improper Disposal

Count V alleges that Aabott, by failing to properly label ACM that was intended to be transported off site, violated Section 9.1(d)(1) of the Act (415 ILCS 5/9.1(d)(1) (1998)) and 40 C.F.R. § 61.150(a)(1)(v). Section 61.150(a)(1)(v) provides in relevant part:

> Each owner or operator of any source covered under the provisions of 61.144, 61.145, and 61.147 shall comply with the following provisions:
>
> (a) Discharge no visible emissions to the outside air during the collection, processing (including incineration), packaging, or transporting of any asbestos-containing waste material generated by the course, or use one of the emission control and waste treatment methods specified in paragraphs (a)(1) through (4) of this section.
>
> (1) Adequately wet asbestos-containing waste material as follows:
>
> * * *
>
> (v) For asbestos-containing waste material to be transported off the facility site, label containers or wrapped materials with the name of the waste generator and the location at which the waste was generated.

Puccini testified that Aabott failed to label asbestos-containing waste material intended to be transported from IPBP with the name of the waste generator and the location at which the waste was generated. Tr. at 29. Specifically, he testified that, outside of the containment area, he observed dry, friable suspect material still on a pipe where a glove bag removal had been performed. Tr. at 27. Also outside the containment area, he observed an area where

bags of material to be disposed were being stored. Tr. at 29. Aabott's employee indicated to Puccini that storage was temporary pending the arrival of a dumpster. *Id*. Although some bags were affixed with the required generator labels, many were not. *Id*.

The Board accordingly finds Aabott has violated Section 9.1(d)(1) of the Act (415 ILCS 5/9.1(d)(1) (1998)) and 40 C.F.R. § 61.150(a)(1)(v).

PENALTY

Having found violations, the Board must next determine whether a penalty should be assessed, and if so, the magnitude of the penalty. In determining the appropriate remedy for a violation, the Board is required to consider the factors set forth in Section 33(c) of the Act upon which the parties have introduced evidence, but may consider any matters of record in mitigation or aggravation of any penalty. 415 ILCS 5/33(c), 42(h); see also People v. Kershaw (April 20, 1994), PCB 92-164, slip op. at 14; IEPA v. Barry (May 10, 1990), PCB 88-71, slip op. at 62-63.

The People ask the Board to order Aabott to cease and desist from further violations and impose a civil penalty in the amount of no less than $65,000. Comp. Br. at 8.[5]

Section 33(c) Factors

In making its orders and determinations, the Board is required under Section 33(c) of the Act to take into consideration all of the facts and circumstances bearing upon the reasonableness of the emissions, discharges, or deposits, including but not limited to:

i. the character and degree of injury to, or interference with the protection of the health, general welfare and physical property of the people;

ii. the social and economic value of the pollution source;

iii. the suitability or unsuitability of the pollution source to the area in which it is located, including the question of priority of location in the area involved;

iv. the technical practicability and economic reasonableness of reducing or eliminating the emissions, discharges or deposits resulting from such pollution source; and

v. any subsequent compliance. 415 ILCS 5/33(c) (1998).

[5] The People's January 5, 2001 posthearing brief in this matter will be cited as "Comp. Br. at ___."

Character of Injury or Interference with Protection of Health, Welfare and Property

The improper removal of RACM and the resulting air pollution it caused, interfered with protection of the health, general welfare, and physical property of the people. Compliance with established wetting procedures is necessary to prevent health hazards, lung cancer, and other asbestos related ailments. Tr. at 21. The Board finds that there has been a substantial interference with the protection of public health, safety and welfare. The Board finds that this is an aggravating factor and that it supports imposition of a penalty.

Social and Economic Value

Although proper asbestos removal can be of great benefit, there is no positive social or economic value to improper removal of RACM. The Board finds that this is an aggravating factor and that it supports imposition of a penalty.

Suitability or Unsuitability of Pollution Source

The improper removal of RACM occurred at two separate power plant facilities. The presence of workers at each site illustrates the unsuitability of improper asbestos removal at any location. See additional discussion below in "Duration and Gravity of Violations." The Board finds this is an aggravating factor that supports imposition of a penalty.

Technical Practicability and Economic Reasonableness of Reducing Pollution

Aabott submitted no evidence to establish that it was technically impracticable or economically unreasonable for it to comply with the Act and Board regulations regarding asbestos removal. Based on its own expertise, the Board finds that compliance with the applicable statutes and regulations was both practicable and reasonable. See, *e.g.*, Asbestos Regulations (January 6, 1971), R72-16. The Board finds that this factor supports imposition of a penalty.

Subsequent Compliance

The violations in Randolph County at IPBP were not one-time occurrences. Aabott engaged in similar improper activities less than a year later at CWLP in Sangamon County. Aabott's disregard for the Act and Board regulations is further evidenced by its non-participation in this proceeding. The Board finds this factor supports imposition of a penalty to be imposed.

Other Relevant Factors

Complainant requests that the Board impose a total penalty of $ 65,000. Comp. Br. at 8. In determining a penalty, Section 33(c) of the Act lists general factors for the Board to consider when issuing final orders and determinations, while Section 42(h) governs

penalty amounts. 415 ILCS 5/42(h) (1998); People v. Kershaw (April 20, 1995), PCB 92-164, slip op. at 3 quoting IEPA v. Barry (May 10, 1990), PCB 88-71, slip op. at 42.

Duration and Gravity of the Violations

The violations alleged in counts I through V occurred over a period from March 1998 through March 1999 at two different locations. Aabott received all notices of violation and notices of intent to pursue legal action required under the Act.

Both Agency witnesses also addressed the gravity of these violations at hearing. Grimmett testified that the work practice violations and emissions he observed at CWLP were "extremely severe." Tr. at 21. He testified that using adequate wetting procedures is necessary to prevent health hazards, lung cancer and other asbestos related ailments. *Id*. Puccini also testified that he would characterize the violations he observed at IPBP as "very serious." Tr. at 34.

The gravity of these violations is further magnified by the fact that asbestos is a known carcinogen. It is a recognized hazardous material that must be monitored to insure that public health and safety are not impaired. Absent compliance with the requirements proscribed by the NESHAP, workers may be exposed to airborne asbestos particles and the State's environment is detrimentally affected.

Due Diligence of the Violator

The People argue that at the time of the violations, Aabott had several large contracts for asbestos renovation throughout Illinois, including the contracts with IPBP and CWLP that resulted in the violations complained of by the People. Aabott's president had knowledge of NESHAP, and recognized the need to "hold the highest standards in . . . work practices and attention to safety." Exh. A at 4.[6] Aabott therefore realized or should have realized the importance of the regulations that it continued to violate. Aabott failed to demonstrate the level of diligence an operator of an asbestos removal activity must exhibit to assure compliance with NESHAP and the Act.

Economic Benefit Accrued by the Violator

The economic benefit accrued by Aabott derived from its failure to adhere to proper work procedures. Although these costs are not quantified in this record, the Board finds that they would not have been negligible. Aabott performed its renovation activities without incurring the time and expense associated with acquiring adequate wetting equipment and the experienced personnel needed to operate such equipment. Sub-standard work practices, such as the improper glove bag removal observed by Puccini, are indicative of the lack of

[6] At the December 7, 2000 hearing, the People submitted an October 2, 1998 letter from David L. Carter to Bill Humphreys. The letter was admitted into evidence and will be cited as "Exh. A at ___."

commitment of resources to employee instruction, training, and supervision. These are costs that other removal contractors incur to maintain compliance with the law, giving Aabott an economic benefit over those abatement contractors who operate in conformity with NESHAP and the Act.

Amount of Penalty to Insure Deterrence

After committing various violations at IPBP, Aabott engaged in similar activity less than a year later at CWLP. As earlier stated, Aabott has also ignored the gravity of this case, as evidenced by its non-participation in this proceeding. This suggests that a significant penalty is needed to deter Aabott (as well as other asbestos contractors) from engaging in similar violations in the future.

Previously Adjudicated Violations

There is no evidence in this record of previously adjudicated violations for the Board to consider as an aggravating factor.

PENALTY AMOUNT

Although complainant requests that a penalty of $65,000 be assessed against Aabott, it does not explain how it arrived at this figure. It does, however, cite several cases that it believes bolster its request.

As the People notes in its brief, in 1994, the Seventh Circuit Court of Appeals upheld imposition of a $1,500,000 penalty for violations of the asbestos NESHAP and Section 9(a) of the Act. United States v. B & W Investment Properties, 38 F.3d 362 (7th Cir. 1994). In B & W Investment, the Agency inspectors went to a renovation activity site in response to an anonymous tip, just as Puccini received prior to traveling to IPBP. B & W Investment, 38 F.3d at 365. The inspectors found large quantities of unwetted friable asbestos at the site, similar to conditions observed by Grimmett and Puccini. *Id*. Because the court found ample evidence in the record to support the imposition of a penalty, and because courts generally "presume that the maximum penalty should be imposed," the court upheld the penalty. B & W Investment, 38 F.3d at 368.

This Board as well as the courts recognizes the importance of the deterrent effect which penalties play, both as a deterrent for the instant violator, as well as others in the industry. For example, in the second case relied on by the People, where a $75,000 penalty imposed by the Board was upheld, the Third District reasoned:

> [T]he penalty serves the legislative purpose of aiding enforcement of the Act, for through penalties upon those who blatantly disregard applicable rules and regulations, others, who might consider cutting corners at the expense of the environment, are deterred. Wasteland, Inc. v. Pollution Control Board, 118 Ill. App. 3d 1041, 1055, 456 N.E.2d 964, 976 (3rd Dist. 1983).

Although Wasteland involved a badly operated solid waste landfill where nearly $70,000 in accrued savings attributable to the violations were proven, and thus, its monetary precedent is of little usefulness in the instant case, its focus on deterrence is noteworthy, and has been adopted elsewhere. See, *e.g.*, Standard Scrap Metal Co. v. Pollution Control Board, 142 Ill. App. 3d 655, 491 N.E.2d 1251 (1st Dist. 1986) (court found that a $30,000 penalty for the bad faith violation of air pollution laws would aid in enforcement of the Act by deterring others). Just as in Wasteland and Standard Scrap, assessment of a civil penalty against Aabott in the instant action will serve to further deter both Aabott and others similarly situated.

Despite the cases relied on by the People such as B & W Investment, with a $1,500,000 penalty, and Wasteland, with a $75,000 penalty, penalties in similar cases before the Board involving asbestos violations have been lower. The Board notes that somewhat higher penalties have been imposed typically for violations of the procedures for asbestos emission control found at 40 C.F.R. § 61.145(c), while violations of the notification requirements in 40 C.F.R. § 61.145(b) have been lower. See, *e.g.*, People v. Allen Rose Cement & Construction (June 17, 1998), PCB 97-223; People v. Tull (December 18, 1997), PCB 96-229; People v. Robinette Demolition Inc. (January 8, 1998), PCB 96-170.

Each of the three cases mentioned immediately above involved negotiated penalty amounts. In the most recent asbestos case before the Board where a full hearing was conducted, the respondent was found to have violated Sections 9(a) and 9.1(d)(1) of the Act by failing to comply with Sections 61.145(a), 61.145(b), and 61.145(c) of the asbestos NESHAP. People v. Spirco (April 15, 1999), PCB 97-203. In that case, the Board held that a civil penalty of $9,000 for three instances of violations was warranted. *Id*. slip op. at 21.

Given that Spirco's three violations only warranted a $9,000 penalty, the Board finds that the specific record of this case does not support a civil penalty of $65,000. Rather, the Board finds that a civil penalty of $30,000, or $6,000 per count, is warranted here. While $65,000 would be excessive because the People failed to substantiate its request on the record or in its brief, this case did involve several proven instances of willful and knowing asbestos violations at two different sites. Aabott's conscious decision not to defend itself at hearing further supports this outcome.

Although the People's complaint requested costs and fees, the People did not address this issue at hearing or in the brief. Section 42(f) of the Act provides that the Board may award attorney fees and reasonable costs where the respondent "has committed a willful, knowing or repeated violation of the Act." 415 ILCS 5/42(f) (1998). The Board finds that Aabott's violations, which were willful, knowing, and repeated, satisfy the requisite elements of the Act. Therefore, the Board shall award attorney fees and costs to the Attorney General's Office. As directed below, the People must submit an affidavit of its fees and costs.

CONCLUSION

The Board finds that Aabott has violated Sections 9(a) and 9.1(d)(1) of the Act (415 ILCS 5/9(a), 9.1(d)(1) (1998)), the Board's air pollution regulations at 35 Ill. Adm. Code 201.141, and the asbestos NESHAP, found at 40 C.F.R. §§ 61.145(c)(1), (c)(3), and (c)(6)(i), and 61.150(a)(1)(v).

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

ORDER

It is hereby ordered that:

1. Aabott must pay a civil penalty in the amount of $30,000 within 30 days of the date of this order, that is, on or before May 5, 2001.

2. Payment must be made in the form of a certified check or money order, payable to the Illinois Environmental Protection Trust Fund. The case number, case name, and Aabott's social security number or federal employer identification number shall also be included on the check or money order.

3. The check or money order and the remittance form must be sent to:

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

4. Penalties unpaid after 30 days of the date of this order accrue interest pursuant to Section 42(g) of the Act. 415 ILCS 5/42(g) (1998).

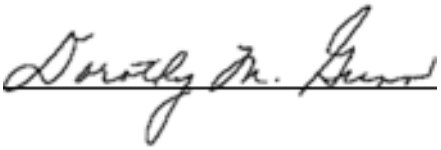
5. Payment of this penalty does not prevent future prosecution if the violation continues.

6. The Board orders the People to file with the Clerk of the Board an affidavit of its fees and costs in this action and documentation thereof no later than May 7, 2001, at 4:30 p.m.

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 opinion and order was adopted on the 5th day of April 2001 by a vote of 7-0.



Dorothy M. Gunn, Clerk
Illinois Pollution Control Board