## ILLINOIS POLLUTION CONTROL BOARD June 15, 2006

PEOPLE OF THE STATE OF ILLINOIS,	)	
	)	
Complainant,	)	
	)	
V.	)	PCB 05-180
	)	(Enforcement - Air)
ACI ENVIRONMENTAL CORPORATION,	)	
an Illinois corporation, and ASBESTOS	)	
CONTROL, INC., an Illinois corporation,	)	
	)	
Respondents.	)	

OPINION AND ORDER OF THE BOARD (by G.T. Girard):

On March 29, 2005, the Office of the Attorney General, on behalf of the People of the State of Illinois (People), filed a two-count complaint against ACI Environmental Corporation and Asbestos Control, Inc. (respondents). *See* 415 ILCS 5/31(c)(1) (2004); 35 Ill. Adm. Code 103.204. The complaint concerns respondents' removal of asbestos during the course of renovations at the boiler room of the Oak Meadows Golf Course, located at 900 Wood Dale Road, Addison, DuPage County.

Under the Environmental Protection Act (Act) (415 ILCS 5/1 *et seq.* (2004)), the Attorney General and the State's Attorneys may bring actions before the Board on behalf of the People to enforce Illinois' environmental requirements. *See* 415 ILCS 5/31 (2004); 35 Ill. Adm. Code 103. In this case, the People allege that respondents violated Sections 9(a) and 9.1(d) of the Act (415 ILCS 5/9(a) and 9.1(d) (2004)); 35 Ill. Adm. Code 201.141; and 40 C.F.R. §61.145(c)(3) and (c)(6). The People further allege that respondents violated these provisions by conducting asbestos removal in a way that (1) caused, threatened, or allowed air pollution; and (2) did not comply with applicable federal standards for control of emissions from removal of regulated asbestos-containing materials.

On April 26, 2006, the People and 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) (2004)). This filing is authorized by Section 31(c)(2) of the Act (415 ILCS 5/31(c)(2) (2004)), which requires that the public have an opportunity to request a hearing whenever the State and a respondent propose settling an enforcement action without a public hearing. *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 *Addison Press/Liberty Suburban Chicago Newspapers* on May 11, 2006. 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) (2004); 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) (2004)), which bears on the reasonableness of the circumstances surrounding the alleged violations.

Respondents neither admit nor deny the alleged violations. The stipulation also addresses the factors of Section 42(h) of the Act (415 ILCS 5/42(h) (2004)), which may mitigate or aggravate the civil penalty amount. Respondents agree to pay a civil penalty of \$2,500, which the parties stipulate negates any economic benefit derived from delayed compliance. The People further assert will serve to deter further violations and aid in future voluntary compliance with the Act and Board regulations.

The People and respondents have satisfied Section 103.302. The Board accepts the stipulation and proposed settlement. This docket is now closed.

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

## <u>ORDER</u>

- 1. The Board accepts and incorporates by reference the stipulation and proposed settlement.
- 2. Respondents, through their attorney of record, must pay a civil penalty of \$2,500 no later than July 17, 2006, which is the first business day after the 30th day after the date of this order. Respondents must pay the civil penalty by certified check, money order, or electronic funds transfer, payable to the Environmental Protection Trust Fund. The case number, case name, and respondents' social security number or federal employer identification number must be included on the certified check or money order.
- 3. Respondents, through their attorney of record, must send the certified check, money order, or electronic funds transfer to the following person at the indicated address:

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

4. Respondents, through their attorney of record, must send a copy of the certified check, money order, or record of electronic funds transfer and any transmittal letter to the following person at the indicated address:

Evan J. McGinley, Assistant Attorney General Environmental Bureau 188 West Randolph Street, 20th Floor Chicago, Illinois 60601

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

- 5. Penalties unpaid within the time prescribed will accrue interest under Section 42(g) of the Environmental Protection Act (415 ILCS 5/42(g) (2004)) at the rate set forth in Section 1003(a) of the Illinois Income Tax Act (35 ILCS 5/1003(a) (2004)).
- 6. 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) (2004); *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 June 15, 2006, by a vote of 4-0.

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Dorothy M. Gunn, Clerk Illinois Pollution Control Board