

**BEFORE THE ILLINOIS POLLUTION CONTROL BOARD**

PEOPLE OF THE STATE OF ILLINOIS )  
by LISA MADIGAN, Attorney General )  
of the State of Illinois, )

Complainant, )

v. )

PCB No.  
(Enforcement – Air)

MICK MORFEY, individually, and )  
WILLIAM KNAUER, individually, )

Respondents. )

**NOTICE OF ELECTRONIC FILING**

TO:

Mick Morfey  
9734 Route 84 South  
Savanna, IL 61074

William Knauer  
9885 Prairie St.  
Walker Edition  
Savanna, IL 61074

PLEASE TAKE NOTICE that today, June 15,2007, I have filed with the Office of the Clerk of the Illinois Pollution Control Board by electronic filing the following Complaint a true and correct copy of which is attached and hereby served upon you.


Pursuant to 35 Ill. Adm. Code 103.204(f), I am required to state that failure to file an answer to this Complaint within 60 days may have severe consequences. Failure to answer will mean that all allegations in the Complaint will be taken as if admitted for purposes of this proceeding. If you have any questions about this procedure, you should contact the hearing officer assigned to this proceeding, the Clerk's Office or an attorney.

**NOTIFICATION**

YOU ARE HEREBY NOTIFIED that financing may be available through the Illinois Environmental Facilities Financing Act (20 ILCS 351511 *et seq.*) to correct the alleged pollution.

**THIS FILING IS SUBMITTED ON RECYCLED PAPER**

PEOPLE OF THE STATE OF ILLINOIS,  
by LISA MADIGAN, Attorney General  
of the State of Illinois

BY:   
STEPHEN J. SYLVESTER  
Assistant Attorney General  
Environmental Bureau  
69 W. Washington St., Suite 1800  
Chicago, Illinois 60602  
(312) 814-2087

Date: June 15,2007

**BEFORE THE ILLINOIS POLLUTION CONTROL BOARD**

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by LISA MADIGAN, Attorney General	)	
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MICK MORFEY, individually, and	)	
WILLIAM KNAUER, individually,	)	
	)	
Respondents.	)	

**COMPLAINT**

Complainant, People of the State of Illinois, by LISA MADIGAN, Attorney General of the State of Illinois, on her own motion and at the request of the Illinois Environmental Protection Agency, complains of Respondents, MICK MORFEY, individually, and WILLIAM KNAUER, individually, as follows:

**COUNT I**  
**AIR POLLUTION**

1. This Count is brought on behalf of the PEOPLE OF THE STATE OF ILLINOIS, by LISA MADIGAN, Attorney General of the State of Illinois, on her own motion and at the request of the Illinois Environmental Protection Agency ("Illinois EPA"), pursuant to Section 31 of the Illinois Environmental Protection Act ("Act"), 415 ILCS 5/31 (2004).

2. The Illinois EPA is an administrative agency of the State of Illinois, created pursuant to Section 4 of the Act, 415 ILCS 5/4 (2004), and charged, inter alia, with the duty of enforcing the Act.

3. At all times relevant to this Complaint, Respondent Mick Morfey was and is an Illinois resident.

4. At all times relevant to this Complaint, Respondent William Knauer was and is an Illinois resident.

5. On or before January 13,2006, on a date better known to Respondents, Mick Morfey retained William Knauer to remove and dispose of asbestos-containing siding material, asbestos-containing pipe covering, scrap metal, and waste material located at barracks buildings 266 and 267, situated within the former Savanna Army Depot, Savanna, Carroll County, Illinois ("Site"), prior to the planned demolition of each barracks building.

6. On or before January 13,2006, on a date or dates better known to Respondents, William Knauer removed asbestos-containing transite siding shingles located on at least one exterior wall of barracks building 267, and deposited dry friable asbestos-containing waste and refuse within an open dumpster located at the Site.

7. On January 13,2006, the Illinois EPA observed the presence of dry broken and crushed asbestos-containing transite siding shingles and waste resulting from open burning activities near barracks buildings 266 and 267.

8. On January 17,2006, the Illinois EPA inspected the Site. At that time, there was broken, crushed, dry, asbestos-containing transite material next to barracks building 267 resulting from the removal of approximately 480 linear feet of asbestos-containing transite siding located on at least one exterior wall of building 267.

9. Also on January 17,2006, the Illinois EPA inspector observed broken, dry, suspect asbestos-containing magblock pipe insulation, floor tile, and mastic at various locations within building 267 and in an open dumpster adjacent to the building.

10. Also on January 17,2006, the Illinois EPA inspector observed suspect asbestos-containing pipe insulation that had been removed from within barracks building 266. Refuse

from building 266, which included but was not limited to wooden doors removed from the building, was open burned near the dumpster.

11. On or before January 17,2006, Respondents engaged in waste disposal activities within at least one barracks building by sweeping dry asbestos-containing pipe insulation and debris located on the floor and depositing the material in the open dumpster.

12. Regulated asbestos containing material ("RACM) includes friable asbestos material, which is any material containing more than 1 percent asbestos that, when dry, can be crumbled, pulverized, or reduced to powder by hand pressure as defined in Section 61.141 of Title 40 of the Code of Federal Regulations, 40 C.F.R. 61.141.

13. On January 17,2006, the Illinois EPA inspector conducted friability testing on the dry, suspect asbestos-containing pipe insulation, transite siding, canvas wrap, floor tile, and floor tile mastic, from within and adjacent to barracks buildings 266 and 267, and the open dumpster located at the Site and determined that the dry suspect asbestos-containing materials could be crumbled, pulverized, or reduced to powder by hand pressure.

14. On January 17,2006, the Illinois EPA collected eight samples of dry, suspect asbestos-containing pipe insulation, transite siding, canvas wrap, floor tile, and floor tile mastic, from within and adjacent to barracks buildings 266 and 267, and the open dumpster located at the Site.

15. Analytical testing of the eight samples revealed concentrations of chrysotile asbestos within each sample ranging from 1% to 25%.

16. The dry, suspect asbestos-containing pipe insulation, transite siding, canvas wrap, floor tile, and floor tile mastic, from within and adjacent to barracks buildings 266 and 267, and

the open dumpster located at the Site was friable asbestos material and RACM as those terms are defined in Section 61.141 of Title 40 of the Code of Federal Regulations, 40 C.F.R. 61.141.

17. RACM remained at the Site, until October 30, 2006. At that time, Respondents' contractor completed the remediation at the Site with final clearance.

18. Pursuant to Section 112(b)(1) of the Clean Air Act ("CAA"), 42 U.S.C. 7412(b)(1) (2007), the Administrator of the United States Environmental Protection Agency ("U.S. EPA") lists asbestos as a hazardous air pollutant.

19. Asbestos is a known human carcinogen for which there is no known safe level of exposure.

20. Section 9(a) of the Act, 415 ILCS 5/9(a) (2004), provides as follows:

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.

21. Section 201.141 of the Illinois Pollution Control Board's ("Board") Air Pollution Regulations, 35 Ill. Adm. Code 201.141, provides as follows:

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. . . .

22. Section 3.115 of the Act, 415 ILCS 513.115 (2004), provides the following definition:

"Air Pollution" is the presence in the atmosphere of one or more contaminants in sufficient quantities and of such characteristics and duration as to be injurious to human, plant, or animal life, to health, or to

property, or to unreasonably interfere with the enjoyment of life or property.

23. Section 3.165 of the Act, 415 ILCS 513.165 (2004), provides the following definition:

"Contaminant" is any solid, liquid, or gaseous matter, any odor, or any form of energy, from whatever source.

24. Asbestos is a "contaminant" as that term is defined by Section 3.165 of the Act, 415 ILCS 513.165 (2004).

25. Section 3.315 of the Act, 415 ILCS 513.315 (2004), provides the following definition:

"Person" is any individual, partnership, co-partnership, firm, company, limited liability company, corporation, association, joint stock company, trust, estate, political subdivision, state agency, or any other legal entity, or their legal representative, agent or assigns.

26. Mick Morfey is a "person" as that term is defined in Section 3.315 of the Act, 415 ILCS 513.315 (2004).

27. William Knauer is a "person" as that term is defined in Section 3.315 of the Act, 415 ILCS 513.315 (2004).

28. On or before January 13,2006 through at least October 30,2006, on dates better known to Respondents, by improperly disturbing, handling and disposing of dry, friable RACM, the Respondents caused, threatened or allowed the discharge or emission of asbestos, a contaminant that is a known human carcinogen for which there is no known safe level of exposure, into the environment.

29. By causing, threatening or allowing the discharge or emission of a contaminant into the environment, Respondents caused or tended to cause air pollution in Illinois.

30. By causing or tending to cause air pollution in Illinois, Respondents violated Section 9(a) of the Act and Section 201.141 of the Board's Air Pollution Regulations.

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an order against Respondents, MICK MORFEY, individually, and WILLIAM KNAUER, individually, on this Count I:

1. Authorizing a hearing in this matter at which time the Respondents will be required to answer the allegations herein;

2. Finding that Respondents have violated Section 9(a) of the Act, and Section 201.141 of the Board's Air Pollution Regulations;

3. Ordering the Respondents to cease and desist from any further violation of Section 9(a) of the Act and Section 201.141 of the Board's Air Pollution Regulations;

4. Assessing against Respondents, pursuant to Section 42(a) of the Act, a civil penalty of Fifty Thousand Dollars (\$50,000.00) for each and every violation of Section 9(a) of the Act and Section 201.141 of the Board's Air Pollution Regulations, with an additional penalty of Ten Thousand Dollars (\$10,000.00) for each day of violation;

5. Assessing all costs against Respondents pursuant to Section 42(f) of the Act, including attorney, expert witnesses, and consultant fees expended by the State in its pursuit of this action; and

6. Granting such other relief as the Board deems appropriate and just.

**COUNT II**  
**FAILURE TO INSPECT AND TO SUBMIT COMPLETE AND ACCURATE**  
**NOTIFICATION OF DEMOLITION AND RENOVATION**

1-22. Complainant realleges and incorporates by reference herein paragraphs 1 through 19 and 25 through 27 of Count I as paragraphs 1 through 22 of this Count II.



23. Section 9.1(d) of the Act, 415 ILCS 5/ 9.1(d) (2004), provides as follows:

d) No person shall:

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

24. Section 112(d)(1) of the Clean Air Act ("CAA"), 42 U.S.C. 7412(d)(1) (2007), titled, Emission Standards, provides, in pertinent part, as follows:

1. The Administrator shall promulgate regulations establishing emission standards for each category or subcategory of major sources and area sources of hazardous air pollutants listed for regulation. . . .

25. Section 112(h)(1) of the CAA, 42 U.S.C. 7412(h)(1) (2007), titled, Work Practice Standards and Other Requirements, provides in pertinent part as follows:

1. For the purposes of this section, if it is not feasible in the judgment of the Administrator to prescribe or enforce an emission standard for control of a hazardous air pollutant or pollutants, the Administrator may, in lieu thereof, promulgate a design, equipment, work practice, operation standard, or combination thereof, which in the Administrator's judgment is consistent with the provisions of subsection (d) or (f) of this section. . . .

26. On June 19, 1978, the Administrator determined that work practice standards rather than emission standards are appropriate in the regulation of asbestos, 43 Fed. Reg. 26372 (1978), and therefore, pursuant to Section 112 of the CAA, 42 U.S.C. 7412 (2007), the U.S. EPA adopted National Emissions Standards for Hazardous Air Pollutants ("NESHAP"), including asbestos, at 40 C.F.R. Part 61, Subpart M ("NESAHP for asbestos").

27. Section 61.141 of the NESHAP for asbestos, 40 C.F.R. 61.141, provides, in pertinent part, as follows:

All terms that are used in this subpart and are not defined below are given the same meaning as in the Act and in subpart A of this part.

**Adequately wet** means sufficiently mix or penetrate with liquid to prevent the release of particulates. If visible emissions are observed coming from asbestos-

containing material, then that material has not been adequately wetted. However, the absence of visible emissions is not sufficient evidence of being adequately wet.

*Asbestos* means the asbestiform varieties of serpentinite (chrysotile), riebeckite (crocidolite), cummingtonite-grunerite, anthophyllite, and actinolite-tremolite.

*Category I nonfriable asbestos containing material (ACM)* means asbestos-containing packings, gaskets, resilient floor covering, and asphalt roofing products containing more than 1 percent asbestos as determined using the method specified in appendix E, subpart E, 40 C.F.R. 763, section 1, Polarized Light Microscopy.

*Category II nonfriable ACM* means any material, excluding Category I nonfriable ACM, containing more than 1 percent asbestos as determined using the methods specified in appendix A, subpart F, 40 C.F.R. part 763, section 1, Polarized Light Microscopy that, when dry, cannot be crumbled, pulverized, or reduced to powder by hand pressure.

*Demolition* means the wrecking or taking out of any load-supporting structural member of a facility together with any related handling operations or the intentional burning of any facility.

*Facility* means any institutional, commercial, public, industrial, or residential structure, installation, or building (including any structure, installation or building containing condominiums or individual dwelling units operated as a residential cooperative, but excluding residential buildings having four or fewer dwelling units); any ship; and any active or inactive waste disposal site. For purposes of this definition, any building, structure, or installation that contains a loft used as a dwelling is not considered a residential structure, installation, or building. Any structure, installation or building that was previously subject to this subpart is not excluded, regardless of its current use or function.

*Friable asbestos material* means any material containing more than 1 percent asbestos as determined using the method specified in appendix A, subpart F, 40 C.F.R. 763 section 1, Polarized Light Microscopy, that, when dry can be crumbled, pulverized, or reduced to powder by hand pressure. If the asbestos content is less than 10 percent as determined by a method other than point counting by polarized light microscopy (PLM), verify the asbestos content by point counting using PLM.

*Installation* means any building or structure or any group of buildings or structures at a single demolition or renovation site that are under the control of the same owner or operator (or owner or operator under common control).

*Owner or operator of a demolition or renovation activity* means any person who owns, leases, operates, controls, or supervises the facility being demolished or renovated or any person who owns, leases, operates, controls, or supervises the demolition or renovation operation, or both.

*Regulated asbestos-containing material (RACM)* means (a) Friable asbestos material, (b) Category I nonfriable ACM that has become friable, (c) Category I nonfriable ACM that will be or has been subjected to sanding, grinding, cutting or abrading, or (d) Category II nonfriable ACM that has a high probability of becoming or has become crumbled, pulverized, or reduced to powder by the forces expected to act on the material in the course of demolition or renovation operations regulated by this subpart.

*Remove* means to take out RACM or facility components that contain or are covered with RACM from any facility.

*Renovation* means altering a facility or one or more facility components in any way, including the stripping or removal of RACM from a facility component. Operations in which load-supporting structural members are wrecked or taken out are demolitions.

28. Barracks buildings 266 and 267 at the Site are part of an "installation" as that term is defined in Section 61.141 of the NESHAP for asbestos, 40 C.F.R. 61.141.

29. Respondents' removal of asbestos from barracks buildings 266 and 267 at the Site constitutes a "renovation" prior to commencing a "demolition" as those terms are defined in Section 61.141 of the NESHAP for asbestos, 40 C.F.R. 61.141.

30. Respondent Mick Morfey controlled, supervised, and participated in asbestos removal activities at the Site in preparation for the demolition of each structure and is therefore an "operator" of a planned demolition and renovation activity as defined in Section 61.141 of the NESHAP for asbestos, 40 C.F.R. 61.141.

31. Respondent William Knauer controlled and participated in asbestos removal activities at the Site in preparation for the demolition of each structure and is therefore an

“operator” of a planned demolition and renovation activity as that term is defined in Section 61.141 of the NESHAP for asbestos, 40 C.F.R. 61.141.

32. The material disturbed by Respondents during asbestos removal and disposal activities contained more than 1% chrysotile asbestos, was capable of being crumbled, pulverized, or reduced to powder by hand pressure, and is therefore "friable asbestos material" as that term is defined in Section 61.141 of the NESHAP for asbestos, 40 C.F.R. 61.141.

33. The transite siding, floor tile, and floor tile mastic that was removed with spud bars that broke-up and dislodged the material and thereby rendered it friable and the dry, friable material removed from barracks buildings 266 and 267 at the Site are." RACM as that term is defined in Section 61.141 of the NESHAP for asbestos, 40 C.F.R. 61.141.

34. Section 61.145(a) of the NESHAP for asbestos, 40 C.F.R. 61.145(a), is enforceable through Section 9.1(d) of the Act, 415 ILCS 5/9.1(d), titled Standard for demolition and renovation: and provides, in pertinent part, as follows:

- (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 I 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:
  - (i) At least 80 linear meters (260 linear feet) on pipes or a 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.

35. Respondents removed approximately 480 linear feet of regulated asbestos-containing transite siding located on one exterior wall of the building 267. Because the amount of RACM removed was more than either 260 linear feet, 160 square feet and/or 35 cubic feet, the project is subject to notification and asbestos emission control requirements specified by Sections 61.145(b) and (c) of the NESHAP for asbestos, 40 C.F.R. 61.145(b) and (c).

36. Section 61.145(b) of the NESHAP for asbestos, 40 C.F.R. 61.145(b), is enforceable through Section 9.1(d) of the Act, 415 ILCS 5/9.1(d), and provides, in pertinent part, as follows:

(b) *Notification requirements.* Each owner or operator of a demolition or renovation activity to which this section applies shall:

(1) Provide the Administrator with written notice of intention to demolish or renovate. Delivery of the notice by U.S. Postal Service, commercial delivery service, or hand delivery is acceptable.

\* \* \*

(3) Postmark or deliver the notice as follows:

(i) At least 10 working days before asbestos stripping or removal work or any other activity begins (such as site preparation that would break up, dislodge or similarly disturb asbestos material), if the operation is described in paragraphs (a) (1) and (4) (except (a)(4)(iii) and (a)(4)(iv)) of this section. If the operation is as described in paragraph (a)(2) of this section, notification is required 10 working days before demolition begins.

37. Respondents failed to thoroughly inspect the facility for the presence and location of asbestos-containing material ("ACM") prior to commencing asbestos removal and disposal activities at the Site, as required by Section 61.145(a) of the NESHAP for asbestos, 40 C.F.R. 61.145(a).

38. By failing to thoroughly inspect the facility for the presence and location of ACM prior to commencing asbestos removal and disposal activities at the Site, Respondents violated Section 61.145(a) of the NESHAP for asbestos, 40 C.F.R. 61.145(a), thereby violating Section 9.1(d) of the Act, 415 ILCS 519.1(d).

39. Respondents failed to notify the Illinois EPA of scheduled asbestos removal activities at the Site, at least 10 working days prior to commencing such activities, as required by Section 61.145(b) of the NESHAP for asbestos, 40 C.F.R. 61.145(b).

40. By failing to notify the Illinois EPA of scheduled asbestos removal activities at the Site, at least 10 working days prior to commencing such activities, Respondents violated Section 61.145(b) of the NESHAP for asbestos, 40 C.F.R. 61.145(b), thereby violating Section 9.1(d) of the Act, 415 ILCS 519.1(d).

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an order against Respondents, MICK MORFEY, individually, and WILLIAM KNAUER, individually, on this Count II:

1. Authorizing a hearing in this matter at which time the Respondents will be required to answer the allegations herein;

2. Finding that Respondents violated Section 9.1(d) of the Act and Section 61.145 (a) and (b) of the NESHAP for asbestos;

3. Ordering the Respondents to cease and desist from any further violation of Section 9.1(d) of the Act and Section 61.145 (a) and (b) of the NESHAP for asbestos;

4. Assessing against Respondents, pursuant to Section 42(a) of the Act, a civil penalty of Fifty Thousand Dollars (\$50,000.00) for each and every violation of Section 9.1(d) of

the Act and Section 61.145 (a) and (b) of the NESHAP for asbestos with an additional penalty of Ten Thousand Dollars (\$10,000.00) for each day of violation;

5. Assessing all costs against Respondents pursuant to Section 42(f) of the Act, including attorney, expert witnesses, and consultant fees expended by the State in its pursuit of this action; and

6. Granting such other relief as the Board deems appropriate and just.

**COUNT III**  
**FAILURE TO REMOVE AND CONTAIN RACM**  
**IN COMPLIANCE WITH NESHAP REQUIREMENTS**

1-35. Complainant realleges and incorporates by reference herein paragraphs 1 through 19 and 25 through 27 of Count I, and paragraphs 23 through 35 of Count II, as paragraphs 1 through 35 of this Count III.

36. Section 61.145(c)(1), (c)(2), (c)(6) and (c)(8) of the NESHAP for asbestos, 40 C.F.R. 61.145(c)(1), (c)(2), (c)(6) and (c)(8) (2004), provides, in pertinent part, as follows:

- (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 . . .  

\* \* \*
  - (2) When a facility component that contains, is covered with, or is coated with RACM is being taken out of the facility as a unit or in sections:
    - (i) Adequately wet all RACM exposed during cutting and disjoining operations; and

- (ii) Carefully lower each unit or section to the floor and to ground level, not dropping, throwing, sliding, or otherwise damaging or disturbing the RACM.

\* \* \*

- (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; and
- (ii) Carefully lower the material to the ground and floor, not dropping, throwing, sliding, or otherwise damaging or disturbing the material.

\* \* \*

- (8) Effective 1 year after promulgation of this regulation, no RACM shall be stripped, removed, or otherwise handled or disturbed at a facility regulated by this section unless at least one on-site representative, such as a foreman or management-level person or other authorized representative, trained in the provisions of this regulation and the means of complying with them, is present. . . .

37. Section 61.150(a)(1) of the NESHAP for asbestos, 40 C.F.R. 61.150(a)(1), provides in pertinent part as follows:

Each owner or operator of any source covered under the provisions of §§ 61.144, 61.145, 61.146, 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 source, 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:

\* \* \*



- (iii) After wetting, seal all asbestos-containing waste material in leak-tight containers while wet; or, for materials that will not fit into containers without additional breaking, put materials into leak-tight wrapping; and
- (iv) Label the containers or wrapped materials specified in paragraph (a)(1)(iii) of this section using warning labels specified by Occupational Safety and Health Standards of the Department of Labor, Occupational Safety and Health Administration (OSHA) under 29 C.F.R. 1910.1001(j)(4) or 1926.1101(k)(8). The labels shall be printed in letters of sufficient size and contrast so as to be readily visible and legible.
- (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.

38. Respondents failed to properly remove all RACM from barracks buildings 266 and 267 at the Site before commencing planned renovation activities, which broke up, dislodged and similarly disturbed the material, as required by Section 61.145(c)(1) of the NESHAP for asbestos, 40 C.F.R. 61.145(c)(1).

39. By failing to properly remove all RACM from barracks buildings 266 and 267 at the Site before commencing planned renovation activities, which broke up, dislodged and similarly disturbed the material, Respondents violated Section 61.145(c)(1) of the NESHAP for asbestos, 40 C.F.R. 61.145(c)(1), thereby violating Section 9.1(d) of the Act, 4'15 ILCS 519.1(d) (2004).

40. Respondents failed to adequately wet all RACM and prevent damage or disturbance to the RACM during cutting or disjoining operations at barracks buildings

266 and 267 at the Site, as required by Section 61.145(c)(2) of the NESHAP for asbestos, 40 C.F.R. 61.145(c)(2).

41. By failing to adequately wet all RACM and prevent damage or disturbance to the RACM during cutting or disjoining operations at barracks buildings 266 and 267, Respondents violated Section 61.145(c)(2) of the NESHAP for asbestos, 40 C.F.R. 61.145(c)(2), thereby violating Section 9.1(d) of the Act, 415 ILCS 519.1(d) (2004).

42. Respondents failed to adequately wet and maintain wet all RACM and regulated asbestos-containing waste material at the Site until collected and contained in preparation for disposal to a site permitted to accept such waste, as required by Section 61.145(c)(6) of the NESHAP for asbestos, 40 C.F.R. 61.145(c)(6).

43. By failing to adequately wet and maintain wet all RACM and regulated asbestos-containing waste material at the Site until collected and contained in preparation for disposal to a site permitted to accept such waste, Respondents violated Section 61.145(c)(6) of the NESHAP for asbestos, 40 C.F.R. 61.145(c)(6), thereby violating Section 9.1(d) of the Act, 415 ILCS 519.1(d) (2004).

44. Respondents failed to have at least one representative on site trained in the provisions of the NESHAP for asbestos and the means of complying with them, as required by Section 61.145(c)(8) of the NESHAP for asbestos, 40 C.F.R. 61.145(c)(8).

45. By failing to have at least one representative on site trained in the provisions of the NESHAP for asbestos and the means of complying with them, Respondents violated Section 61.145(c)(6) of the NESHAP for asbestos, 40 C.F.R. 61.145(c)(6), thereby violating Section 9.1(d) of the Act, 415 ILCS 519.1(d) (2004).

46. Respondents failed to adequately wet and keep wet, containerize, and label all asbestos-containing waste material at the Site, thereby causing or allowing the discharge of visible emissions to the outside air.

47. By failing to adequately wet and keep wet, containerize, and label all asbestos-containing waste material at the Site, thereby causing or allowing the discharge of visible emissions to the outside air, Respondents caused or allowed the discharge of visible emissions to the outside air in violation of 40 C.F.R. 61.150(a)(1)(iii), (iv) and (v), thereby violating Section 9.1(d) of the Act, 415 ILCS 5/9.1(d) (2004).

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an order against Respondents, MICK MORFEY, individually, and WILLIAM KNAUER, individually, on this Count III:

1. Authorizing a hearing in this matter at which time the Respondents will be required to answer the allegations herein;

2. Finding that Respondents violated Section 9.1(d) of the Act and Sections 61.145(c)(1), (c)(2), (c)(6) and (c)(8) and 61.150(a)(1)(iii), (iv) and (v) of the NESHAP for asbestos;

3. Ordering the Respondents to cease and desist from any further violation of Section 9.1(d) of the Act and Sections 61.145(c)(1), (c)(2), (c)(6) and (c)(8) and 61.150(a)(1)(iii), (iv) and (v) of the NESHAP for asbestos;

4. Assessing against Respondents, pursuant to Section 42(a) of the Act, a civil penalty of Fifty Thousand Dollars (\$50,000.00) for each and every violation of Section 9.1(d) of the Act and Sections 61.145(c)(1), (c)(2), (c)(6) and (c)(8) and

61.150(a)(1)(iii), (iv) and (v) of the NESHAP for asbestos, with an additional penalty of Ten Thousand Dollars (\$10,000.00) for each day of violation;

5. Assessing all costs against Respondents pursuant to Section 42(f) of the Act, including attorney, expert witnesses, and consultant fees expended by the State in its pursuit of this action; and

6. Granting such other relief as the Board deems appropriate and just.

**COUNT IV**

**IMPROPER DISPOSAL OF REGULATED ASBESTOS-CONTAINING MATERIALS**

1-35. Complainant realleges and incorporates by reference herein paragraphs 1 through 19 and 25 through 27 of Count I, and paragraphs 23 through 35 of Count II, as paragraphs 1 through 35 of this Count IV.

36. Section 61.150(b) of the NESHAP for asbestos, 40 C.F.R. 61.150(b), provides as follows:

(b) All asbestos-containing waste material shall be deposited as soon as is practical by the waste generator at:

(1) A waste disposal site operated in accordance with the provisions of § 61.154, or

(2) An EPA-approved site that converts RACM and asbestos-containing waste material into nonasbestos (asbestos-free) material according to the provisions of § 61.155.

37. Section 61.141 of the NESHAP for asbestos, 40 C.F.R. 61.141, provides the following definitions:

*Asbestos-containing waste materials* means mill tailings or any waste that contains commercial asbestos and is generated by a source subject to the provisions of this subpart. This term includes filters from control devices, friable asbestos waste material, and bags or other similar packaging contaminated with commercial asbestos. As applied to demolition and renovation operations, this term also includes regulated asbestos-containing material waste and materials contaminated with asbestos including disposable equipment and clothing.

38. The RACM removed from barracks buildings 266 and 267 at the Site during the asbestos removal activities, as well as materials contaminated with asbestos through contact with RACM, constituted "asbestos-containing waste material" as that term is defined in Section 61.141 of the NESHAP for asbestos, 40 C.F.R. 61.141.

39. Respondents failed to transport to a waste disposal site or Illinois EPA-approved site that converts RACM and asbestos-containing waste material into nonasbestos material and deposit as soon as practical all asbestos-containing waste material generated during asbestos removal activities at the Site.

40. By failing to transport to a waste disposal site or Illinois EPA-approved site that converts RACM and asbestos-containing waste material into nonasbestos material and deposit as soon as practical all asbestos-containing waste material generated during asbestos removal activities at the Site, Respondents violated Section 9.1(d) of the Act, 415 ILCS 5/9.1(d) (2004), and Section 61.150(b) of the NESHAP for asbestos, 40 C.F.R. 61.150(b).

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an order against Respondents, MICK MORFEY, individually, and WILLIAM KNAUER, individually, on this Count IV:

1. Authorizing a hearing in this matter at which time the Respondents will be required to answer the allegations herein

2. Finding that Respondents have caused or allowed violations of Section 9.1(d) of the Act and Section 61.150(b) of the NESHAP for asbestos;

3. Ordering the Respondents to cease and desist from any further violation of Section 9.1(d) of the Act and Section 61.150(b) of the NESHAP for asbestos;

4. Assessing a civil penalty of Fifty Thousand Dollars (\$50,000.00) against Respondents for each and every violation of Section 9.1(d) of the Act and Section 61.150(b) of the NESHAP for asbestos, with an additional penalty of Ten Thousand Dollars (\$10,000.00) for each day of violation;

5. Assessing all costs against Respondents pursuant to Section 42(f) of the Act, including attorney, expert witnesses, and consultant fees expended by the State in its pursuit of this action; and

6. Granting such other relief as the Board deems appropriate and just.

**COUNT V**  
**FAILURE TO PAY ASBESTOS FEE**

1-35. Complainant realleges and incorporates by reference herein paragraphs 1 through 19 and 25 through 27 of Count I, and paragraphs 23 through 35 of Count II, as paragraphs 1 through 35 of this Count V.

36. Section 9.13 of the Act, 415 ILCS 5/9.13(a) and (b)(2004), provides, in pertinent part, as follows:

- (a) For any site for which the owner or operator must file an original 10-day notice of intent to renovate or demolish pursuant to 40 C.F.R. §61.145(b) (part of the federal asbestos National Emission Standard for Hazardous Air pollutants or NESHAP), the owner or operator shall pay to the Agency with the filing of each 10-day Notice a fee of \$150.
- (b) If demolition or renovation of a site has commenced without proper filing of the 10-day Notice, the fee is double the amount otherwise due. This doubling of the fee is in addition to any other penalties under this Act, the federal NESHAP, or otherwise, and does not preclude the Agency, the Attorney General, or other authorized persons from pursuing an enforcement action against the owner or operator for failure to file a 10-day Notice prior to commencing demolition or renovation activities.

37. Respondents failed to pay the required fee provided by Section 9.13(a) of the Act, 415 ILCS 5/9.13(a) (2004).

38. Respondents began asbestos removal activities, on or about January 13, 2006, on a date or dates better known to Respondents, without filing the requisite notice of scheduled demolition and renovation activities required by the NESHAP for asbestos. Therefore, an asbestos fee payment of \$300.00 is required, pursuant to Section 9.13(b) of the Act, 415 ILCS 5/9.13(b).

39. On February 9, 2006, Respondent Mick MorfeY submitted to the Illinois EPA an original notice informing the Illinois EPA of asbestos removal activities at the Site with an asbestos fee payment of \$300.00.

40. Respondents, by failing to timely pay the 10-day Notice fee violated Section 9.13(a) of the Act 415 ILCS 5/9.13(a) (2004).

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an order against Respondents, MICK MORFEY, individually, and WILLIAM KNAUER, individually, on this Count V:

1. Authorizing a hearing in this matter at which time the Respondents will be required to answer the allegations herein;
2. Finding that Respondents have violated Section 9.13(a) of the Act;
3. Ordering the Respondents to cease and desist from any further violation of Section 9.13(a) of the Act;
4. Assessing a civil penalty of Fifty Thousand Dollars (\$50,000.00) against the Respondents for the violation of Section 9.13(a) of the Act and an additional civil penalty of Ten Thousand Dollars (\$10,000.00) for each day of violation;

5. Assessing all costs against Respondents pursuant to Section 42(f) of the Act, including attorney, expert witnesses, and consultant fees expended by the State in its pursuit of this action; and

6. Granting such other relief as the Board deems appropriate and just.

**COUNT VI**  
**OPEN BURNING OF REFUSE**

1-22. Complainant realleges and incorporates by reference herein paragraphs 1 through 19 and 25 through 27 of Count I as paragraphs 1 through 22 of this Count VI.

23. Section 9(c) of the Act, 415 ILCS 5/9(c) (2004) provides, in pertinent part, as follows:

No person shall . . .

(c) Cause or allow the open burning of refuse . . .

24. Section 3.385 of the Act, 415 ILCS 513.385 (2004), provides, in pertinent part, as follows:

"Refuse" means waste.

25. Section 3.535 of the Act, 415 ILCS 513.535 (2004), provides, in pertinent part as follows:

"Waste" means any garbage . . . or other discarded material, including any solid, liquid, semi-solid, or contained gaseous material resulting from industrial, commercial, mining and agricultural operations, and from community activities. . . .

26. Wooden doors from barracks building 266, which were removed from the building, constitute "waste" and "refuse" as those terms are defined by the Act in 415 ILCS 513.385 and 3.535.

27. On or about January 13, 2006, on a date better known to Respondents, Respondents caused or allowed the open burning of refuse, including wooden doors, during



asbestos removal activities at the Site to facilitate waste disposal activity, in violation of Section 9(c) of the Act, 415 ILCS 5/9(c) (2004).

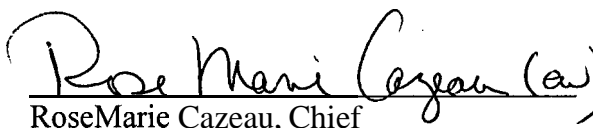
WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an order against Respondents, MICK MORFEY, individually, and WILLIAM KNAUER, individually, on this Count VI:

1. Authorizing a hearing in this matter at which time the Respondents will be required to answer the allegations herein;
2. Finding Respondents have violated Section 9(c) of the Act, 415 ILCS 5/9(c);
3. Ordering the Respondents to cease and desist from any further violation of Section 9(c) of the Act, 415 ILCS 5/9(c);
4. Assessing a civil penalty for Fifty Thousand Dollars (\$50,000.00) against the Respondents for each violation of Section 9(c) of the Act and an additional civil penalty of Ten Thousand Dollars (\$10,000.00) for each day of violation;
5. Assessing all costs against Respondents pursuant to Section 42(f) of the Act, including attorney, expert witnesses, and consultant fees expended by the State in its pursuit of this action; and

6. Granting such other relief as this Court deems appropriate and just.

PEOPLE OF THE STATE OF ILLINOIS,  
by LISA MADIGAN,  
Attorney General of the State of Illinois,

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**CERTIFICATE OF SERVICE**

I, Stephen J. Sylvester, an Assistant Attorney General, do certify that a true and correct copy of the Complaint and Notice of Filing were sent by certified mail with return receipt requested to the persons listed on the Notice of Filing on June 15,2007.

BY:

  
STEPHEN J. SYLVESTER