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BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

PEOPLE OF THE STATE OF ILLINOIS,

Petitioner,

vs.

No. PCB 99-189

AABOTT ASBESTOS, INC.,

Respondent.

Proceedings held on December 7th, 2000, at 9:30 a.m., at  
the William G. Stratton Building, State Use Office, Room 801, 401  
South Spring Street, Springfield, Illinois, before John C.  
Knittle, Chief Hearing Officer.

Reported by: Beverly S. Hopkins, CSR  
CSR License No.: 084-004316

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11 North 44th Street  
Belleville, IL 62226  
(618) 277-0190

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A P P E A R A N C E S

ILLINOIS POLLUTION CONTROL BOARD  
By: John C. Knittle, Chief Hearing Officer  
100 W. Randolph Street  
James R. Thompson Center Suite 11-500  
Chicago, Illinois 60601

STATE OF ILLINOIS, OFFICE OF THE ATTORNEY GENERAL  
BY: Elizabeth Ann Pitrolo  
Assistant Attorney General  
Environmental Bureau  
500 South Second Street  
Springfield, Illinois 62706

ILLINOIS ENVIRONMENTAL PROTECTION AGENCY  
BY: Christopher R. Pressnall  
Assistant Counsel  
Division of Legal Counsel  
1021 North Grand Avenue East  
Springfield, Illinois 62794

ILLINOIS ENVIRONMENTAL PROTECTION AGENCY  
BY: Alan Grimmett  
Asbestos D/R Inspector  
Bureau of Air  
1021 North Grand Avenue East  
Springfield, Illinois 62794

ILLINOIS ENVIRONMENTAL PROTECTION AGENCY  
BY: Christopher Puccini  
Environmental Protection Specialist  
Office of Pollution Prevention  
1021 North Grand Avenue East  
Springfield, Illinois 62794

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1 P R O C E E D I N G S

2 (December 7th, 2000, 9:30 a.m.)

3 HEARING OFFICER KNITTLE: My name is John Knittle. I'm  
4 Chief Hearing Officer with the Illinois Pollution Control Board.  
5 I'm also the assigned hearing officer for this case entitled  
6 People of the State of Illinois versus Aabott Asbestos  
7 Incorporated, Pollution Control Board Docket Number 1999-189.  
8 It's approximately 9:35 a.m. Today's date is December 7th, the  
9 year 2000. This matter has been noticed pursuant to Board  
10 regulations and has been publically noticed in the local  
11 newspaper here in the county that is affected, assortively  
12 conducted in accordance with Sections 103.202 and 103.203 of the  
13 Board's regulations, specifically 202 is the Order of Enforcement  
14 Hearings and 203 is the Conduct of Enforcement Hearings.

15 On a note for the record, there are no members of the  
16 public present here today. I also want to note for the record  
17 that I will not be making this decision -- the ultimate decision  
18 in this case. In fact, the ultimate decision in this case will  
19 be made by the Illinois Pollution Control Board which is  
20 comprised of seven members located throughout the State of  
21 Illinois chosen for their environmental expertise. My job is to  
22 ensure an orderly transcript, a clear record and rule on  
23 evidentiary matters here at the hearing.

24 At this point in time I'd like to have the parties

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1 introduce themselves and who they brought with them but before we  
2 do that I want to note that we had a prehearing conference in  
3 this matter, a final prehearing conference, on December 4th and  
4 at that point in time the Respondent's -- the attorney for the  
5 Respondent indicated that he would not be appearing here today to  
6 participate in the hearing nor would he be filing any  
7 post-hearing briefs. Ms. Pitrolo, is that your recollection as  
8 well, you were there?

9 MS. PITROLO: Yes, Mr. Hearing Officer, that is my  
10 recollection.

11 HEARING OFFICER KNITTLE: So before us here we have the  
12 People of the State of Illinois represented by the Assistant  
13 Attorney Beth Pitrolo but we do not have anybody for the  
14 Respondent. It's a bit of an unusual case but we will allow the  
15 Complainants to put on their case in chief and we will not of  
16 course then have the opportunity for any case by the Respondents.  
17 So that being said, Ms. Pitrolo, can you introduce yourself and  
18 who you brought with you here today?

19 MS. PITROLO: Yes, Mr. Hearing Officer. My name is  
20 Elizabeth Pitrolo, I'm Assistant Attorney General for the  
21 Attorney General's Office for the State of Illinois. With me is  
22 Mr. Alan Grimmett, an inspector for the Illinois EPA;  
23 Mr. Christopher Puccini, an inspector for the Illinois EPA; and  
24 Mr. Christopher Pressnall, P-R-E-S-S-N-A-L-L, he's the legal

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1 counsel for Illinois EPA.

2 HEARING OFFICER KNITTLE: Thank you, Ms. Pitrolo. I do  
3 want to note we're kind of hidden back here in the Stratton  
4 Building on the 8th floor in a conference room and this has been  
5 noticed up to this particular room and this particular location  
6 but it is rather hard to find. I do want it on the record I  
7 contacted and talked to the people at the front desk and if any  
8 member of the public does show up and ask for this hearing, they  
9 will be directed to this conference room. That being said,  
10 Ms. Pitrolo, do we have any motions before we get started?

11 MS. PITROLO: No, Mr. Hearing Officer.

12 HEARING OFFICER KNITTLE: Then we can have your opening  
13 statement whenever you're ready.

14 MS. PITROLO: Mr. Hearing Officer, this action was  
15 commenced on behalf of the People of the State of Illinois  
16 against the Respondent, Aabott Asbestos Incorporated, for  
17 numerous violations of the Illinois Environmental Protection Act,  
18 this Board's regulation promulgated under the act and the  
19 National Emission Standards for Hazardous Air Pollutants for  
20 Asbestos or the Asbestos NESHP, the enforcement of which has  
21 been duly delegated to Illinois Environmental Protection Agency.  
22 The People's complaint in this case was filed on June 28th, 1999.  
23 Respondent has not filed an answer, a motion or any pleadings

24 subsequent to the filing of the People's complaint.

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1 As you noted, Mr. Hearing Officer, Respondent does not  
2 appear here today. This is default under Section 103.220 of the  
3 Pollution Control Board's rules. Allegations in the People's  
4 complaint deal specifically with the Respondent's illegal  
5 discharge of asbestos and improper asbestos removal procedures  
6 during renovation activities conducted by the Respondent at two  
7 different sites. The first site was the Baldwin Power Plant,  
8 that's Baldwin Power Plant, located in Randolph County, Illinois.  
9 This power plant is owned by Illinois Power. The second site was  
10 the Lakeside Power Station located right here in Springfield.  
11 This power plant is owned by City Water, Light & Power.

12 The People today will present testimony from two inspectors  
13 representing the Illinois EPA, Mr. Chris Puccini and Mr. Alan  
14 Grimmatt. Mr. Puccini will relate that in response to a  
15 citizens's complaint he traveled to the Baldwin Power Plant and  
16 performed a thorough inspection of that site. He will testify  
17 that during his inspection he observed the improper removal of  
18 regulated asbestos containing materials in progress. Improper  
19 removal procedures included failure to adequately wet asbestos  
20 and in fact he saw that in certain instances removal was made  
21 without any wetting whatsoever. He also observed improper  
22 sealing of the containment area and improper labeling of  
23 generated asbestos containing waste. Mr. Grimmatt's testimony

24 will relate that he visited the Lakeside Power Station three

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1 times, the first time to perform a routine inspection triggered  
2 by the NESHAP notification filed with the Illinois EPA, the  
3 second and third times he traveled there due to his confirmed  
4 suspicions regarding improper procedures employed by the  
5 Respondent. These improper procedures included failure to  
6 adequately wet asbestos during removal. In fact, Mr. Grimmett  
7 will testify that he examined bags containing regulated asbestos  
8 containing materials and the material in the bags was bone dry  
9 indicating it has never been wetted at all. He also observed a  
10 high concentration of visible emissions from an area where  
11 regulated asbestos containing material was being stripped without  
12 any wetting and being thrown down several stories.

13 Consistent with this testimony, the People are respectfully  
14 requesting that the Board find the Respondent has violated  
15 Section 9A of the Illinois Environmental Protection Act, Section  
16 201.141 of the Board's air pollution regulations and the NESHAP  
17 for asbestos 40CFR61.145C and 40CFR61.150.

18 In summary, Mr. Hearing Officer, People have alleged  
19 numerous violations of the act, the Board's regulations and the  
20 NESHAP by the Respondent at two different work sites. Once the  
21 evidence is presented here today and is considered by the Board,  
22 the People are confident the Respondent will be found liable for



23 all the violations alleged in the People's complaint.  
24 Accordingly the People are seeking a penalty in the amount of

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1 \$65,000 for these violations and in support of that amount we  
2 will be filing a brief with the Board subsequent to today's  
3 hearing. Thank you, Mr. Hearing Officer.

4 HEARING OFFICER KNITTLE: Thank you, Ms. Pitrolo. Please  
5 call your first witness.

6 MS. PITROLO: The State calls Mr. Alan Grimmett.

7 HEARING OFFICER KNITTLE: Could you swear him in, please.

8 (Whereupon the witness was sworn by the Notary Public.)

9 HEARING OFFICER KNITTLE: Ms. Pitrolo.

10 A L A N G R I M M E T T

11 having been first duly sworn by the Notary Public, saith as  
12 follows:

13 DIRECT EXAMINATION

14 BY MS. PITROLO:

15 Q. Mr. Grimmett, would you please state your name for the  
16 record?

17 A. Alan Grimmett.

18 Q. And how are you employed?

19 A. I'm an inspector with the Illinois EPA.

20 Q. And what is your job title?

21 A. I'm an environmental protection associate, option one.

22 Q. And how long have you been in that position,

23 Mr. Grimmett?

24 A. Since December of '98.

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1 Q. Prior to your employment with the Illinois EPA, how were  
2 you employed?

3 A. I worked for an asbestos removal contractor removing  
4 asbestos in various settings, commercial schools, industrial  
5 settings, power plants.

6 Q. So you've been in the business of asbestos abatement for  
7 how long?

8 A. Since 1989.

9 Q. So over 10 years?

10 A. Yes.

11 Q. Have you had any specialized training regarding asbestos  
12 abatement?

13 A. Yes, I've had training on -- I'm a worker, a licensed  
14 worker, accredited worker, accredited supervisor, project  
15 manager, accredited inspector.

16 Q. And approximately how many asbestos removal sites have  
17 you inspected in the course of your employment with the Illinois  
18 EPA?

19 A. Well over 100.

20 Q. Have you had any opportunity to observe removal of  
21 regulated asbestos containing materials in conjunction with power

22 plant renovation activity?

23 A. Yes, I have.

24 Q. Are you specifically familiar, Mr. Grimmett, with the

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1 provisions of the Illinois Environmental Protection Act as they  
2 pertain to air pollution caused by emissions in general and  
3 asbestos emissions specifically?

4 A. Yes, I have.

5 Q. And are you familiar with 40CFR Part 61, the NESHAP for  
6 asbestos?

7 A. National Emissions Standard for Hazardous Air Pollutants  
8 for Asbestos, yes.

9 Q. Thank you, Mr. Grimmett. Now are you specifically  
10 familiar with the renovation activities that were performed by  
11 Respondent at the Lakeside Power Station in Springfield?

12 A. Yes, I am.

13 Q. And how did the Illinois EPA first become aware of these  
14 activities?

15 A. A notification was submitted to the Illinois EPA prior  
16 to the start of the abatement activity.

17 Q. And what did you do as a result of receiving that  
18 notice?

19 A. I scheduled a routine compliance inspection.

20 Q. And when did the notification state that work would take  
21 place?

22 A. I can't recall. Can I refresh my --

23 Q. Yes. Would you like to look at one of your inspection  
24 reports to refresh your recollection?

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1 A. Excuse me. I don't understand the question. Are you  
2 wanting to know my first day of inspection or the day the job was  
3 to start?

4 Q. What day the job was to start.

5 MS. PITROLO: Let the record show that I'm handing the  
6 witness his inspection report dated March 16th, 1998.

7 A. The first day -- the first day of removal was to start  
8 on March 16th, 1999.

9 Q. (By Ms. Pitrolo) And when did you perform your first  
10 inspection?

11 A. March 16th, 1999.

12 Q. And what did you encounter when you got to the work  
13 site?

14 A. Well, I arrived at Lakeside Power Station, City Water,  
15 Light & Power at approximately 1:30 in the afternoon. I arrived  
16 at the gate. I asked the guard for a site safety officer or a  
17 project manager or engineer to escort me to the asbestos removal  
18 site. At that time the guard instructed me to pull in the  
19 parking lot and behind -- behind the guard shack and wait for  
20 someone to come and meet me.

21 Q. And did someone come to meet you?  
22 A. Yes.  
23 Q. And was it an Aabbot Asbestos employee?  
24 A. No, it was project manager for City Water, Light &

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1 Power.  
2 Q. And what occurred then?  
3 A. The project manager -- I -- First I displayed my  
4 credentials and I asked permission to inspect the site. The  
5 project manager authorized permission to inspect, then the  
6 engineer escorted me to the area where the asbestos removal was  
7 to occur. He also indicated at that time that -- informed me at  
8 that time that asbestos removal had not started, that they were  
9 in the prepping stage.  
10 Q. So no work had commenced and no Aabbot Asbestos  
11 personnel were actually observed on the site on your first  
12 inspection?  
13 A. There was people putting up containments but I'm not  
14 sure they were working for Aabott or not.  
15 Q. And what -- what did you observe when you went to the  
16 area where work was to be performed specifically around the  
17 number eight boiler?  
18 A. I walked around and I got a general idea of where the  
19 containment was going to be. They had their framing up and they  
20 were hanging a polyethylene shower negative to pressure,

21 decontamination unit, that type of thing. I looked at the  
22 boiler. The boiler was in very poor condition. I compared the  
23 notification amount with what was being removed from the boiler  
24 and saw no discrepancies there.

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1 Q. Okay. So but for -- Even though you didn't see any  
2 Aabott personnel on site, for clarification, you did observe  
3 large quantities of -- what you suspected to be asbestos  
4 containing materials surrounding the number eight boiler?

5 A. That's correct.

6 Q. When did you perform your second inspection of the  
7 Lakeside Power Station?

8 A. My second inspection was March 19th, 1999.

9 Q. And why did you go back on the 19th?

10 A. I actually wanted to observe the removal process,  
11 routine compliance.

12 Q. Okay. What did you encounter on your second inspection  
13 of the site?

14 A. Well, when I arrived at the gate, or the guard shack,  
15 was approximately 9:40 a.m. Again I asked the guard to contact  
16 the plant engineer or project manager or safety officer and  
17 escort me to the area where the asbestos project was being  
18 performed.

19 Q. And did he take you there?

20           A.    Yes.  I had a -- an engineer arrived and then indicated  
21 that workers were not working that day.  They were on 10-hour  
22 shifts.  I believe that was a Friday and they had worked -- they  
23 had worked Thursday and they had not showed up Friday.

24           Q.    So you were escorted by City Water, Light & Power

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1    personnel but you did not see any Aabott Asbestos personnel on  
2    the site?

3           A.    That's correct.

4           Q.    But work had begun?

5           A.    Yes.

6           Q.    So what did you see when you went to the area where the  
7    work was in progress?

8           A.    When we arrived at the area I walked around the boiler  
9    checking containment for credibility, checking negative pressure  
10   making sure it was operational and making sure the containment  
11   was secure.  On the west side of the boiler I noticed that there  
12   was a large -- large chunk of material that was pressing against  
13   the polyethylene sheeting bulging the poly out and at that time I  
14   walked up and put my hand on the polyethylene sheeting and  
15   touched the material.  The material was hard so I tapped on the  
16   material and actually saw crumbly powder form fall down on top of  
17   the polyethylene sheeting.  I couldn't get in the containment  
18   because it was secure but it raised suspicions that possibly that  
19   asbestos did not contain any moisture.

20 Q. Thank you again, Mr. Grimmatt. Just again for  
21 clarification, did you observe any of the Respondent personnel on  
22 the site at that day?

23 A. No, none was there.

24 Q. Did you go back again for a third time?

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1 A. Yes, I did.

2 Q. And when was your next inspection?

3 A. March 22nd, 1999.

4 Q. And describe what you observed on that inspection?

5 A. Again I pulled up to the guard shack or gate and asked  
6 for one of the engineers from City Water, Light & Power or safety  
7 officer to escort me to the -- to the renovation site, which an  
8 engineer did show up, and I was escorted to the -- to the site.  
9 When I arrived on site I was greeted by Mr. Larry Barnett. He  
10 identified himself as a supervisor for Aabott Asbestos  
11 Incorporate. I displayed my credentials and asked permission to  
12 inspect the contained area. Mr. Barnett gave authorization to  
13 inspect the area. At that time I walked around the containment  
14 checking credibility, again making sure negative pressure was  
15 adequate, then I dressed in appropriate protective equipment and  
16 entered the containment.

17 Q. What did you see when you entered into containment? Did  
18 you watch them remove the asbestos?



19           A.    Yes.  When I walked in containment I immediately looked  
20 to my right, which would have been the south, where I had  
21 observed the bulging material against the polyethylene sheeting  
22 on my prior inspection.  The material was gone.  It had been  
23 removed.  It was no longer there.  There was residue and chunks  
24 of asbestos on a ledge.  I noted the boiler was a two-story

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1 boiler and there was a ledge separating the first story from the  
2 second story.  There was a worker on the ledge working on the  
3 insulation at that time.  I climbed down to the first level or  
4 the first story down a ladder and walked to the southwest end of  
5 containment.  At that time I started moving bags around.  The  
6 floor was covered with bags.  The bags were sealed.  I started  
7 moving bags around and I got to the actual floor of the  
8 containment and I saw visible debris on the containment floor and  
9 I noted that that material was dry.

10           Q.    Could you describe to us, Mr. Grimmett, the process that  
11 the workers -- the Aabott Asbestos workers were using when they  
12 removed the regulated asbestos containing materials from the  
13 jacket of the boiler?

14           A.    Upon -- upon moving from the south end I walked back to  
15 the north side of the boiler and I observed the employee that was  
16 sitting on the ledge.  He was on the second story and he was  
17 ripping the jacket off and along with the jacket a large amount  
18 of square block insulation was falling off at that time.  There

19 was a man down on the ground with a garden hose spraying the  
20 material when it hit the ground and there was bags under -- on  
21 the floor so the insulation was actually hitting the bags. There  
22 was no water being used as he was stripping that insulation.

23 Q. Upon the second story where the stripping was actually  
24 taking place, was there any wetting on that level?

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1 A. No, there was not. I did not see any garden hoses.  
2 There was none -- The operator upon the second floor did not have  
3 any access to any water. I'd say he was just ripping it off and  
4 it was dropping down one story down to the floor below.

5 Q. So when this worker ripped the asbestos off, were there  
6 visible emissions at that point?

7 A. An enormous amount of visible --

8 Q. I'm sorry. I didn't hear you.

9 A. An enormous amount of visible emissions.

10 Q. And that material was permitted to drop approximately  
11 one story down to the floor where it smacked on the floor before  
12 it was wetted?

13 A. Yes, it dropped clear to the first floor.

14 Q. I'm going to show you a picture, Mr. Grimmett, that I've  
15 marked as People's Exhibit A. Can you identify that picture?

16 A. Yes, I can. That was the worker sitting upon the ledge  
17 ripping off the insulation. The photograph shows no water hose

18 and I took this photograph to show the actual visible emissions  
19 that I observed.

20 Q. I do see in this picture, Mr. Grimmatt, where there are  
21 what appears to be snow flakes in the photograph. Are those the  
22 visible emissions that you're discussing?

23 A. That's correct.

24 MS. PITROLO: I would move to have this admitted as

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1 People's Exhibit A.

2 HEARING OFFICER KNITTLE: This will be admitted.

3 Q. (By Ms. Pitrolo) Mr. Grimmatt, when you saw this large  
4 amount of visible emissions in the air and the worker with no  
5 wetting, what did you do after that? What did you then do?

6 A. It raised concern because the potential health threat of  
7 the emissions possibly escaping the contained area thus causing  
8 severe repercussions for lung ailments for workers from City  
9 Water, Light & Power Plant employees.

10 Q. Mr. Grimmatt, I'm going to turn your attention now to  
11 the rest of your inspection. Did you examine anything else while  
12 you were there?

13 A. Yes. Going back to the south end of the containment I  
14 was moving bags and I did discover there was dry material on the  
15 floor. The last bag, as I recall, I picked up it appeared light.  
16 I opened the bag, it was double sealed ready for load-out. That  
17 material contained no moisture. I acquired a sample of that

18 material, performed a friability examination; in other words, I  
19 put it in the palm of my hand and I could reduce that material to  
20 powder by hand pressure so I considered that material dry and  
21 friable.

22 Q. And you said you took a sample of that material?

23 A. Yes, I did.

24 Q. And this is the material that you observed being

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1 stripped from boiler number eight that was being thrown down by  
2 the employee?

3 A. Yes, it was.

4 Q. And what were the results of your sampling analysis?

5 A. I believe that material was positive for asbestos  
6 containing material.

7 Q. It was positive?

8 A. Yes.

9 Q. Thank you. Did you observe anything else during your  
10 visit?

11 A. Yes. I, on my exit out of the containment, there was  
12 bags in the load-out area where they were going to be taking them  
13 outside. I examined several of those bags, picking up checking  
14 for weight. I did open one bag up and again that material was  
15 friable as well and dry, contained no moisture.

16 Q. It was dry?

17 A. Dry.  
18 Q. And contained no moisture?  
19 A. That's correct.  
20 Q. What does that indicate to you if material in a bag is  
21 dry and contains no moisture?  
22 A. Well, the bag was -- they had removed that material  
23 without using water.  
24 Q. So the bag was sealed?

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1 A. The bag was sealed, doubled bag sealed ready for  
2 disposal.  
3 Q. And the material inside was bone dry?  
4 A. Bone dry. There was no water at all.  
5 Q. Thank you, Mr. Grimmett. I'm going to turn your  
6 attention now to your familiarity with the requirements of  
7 Section 33, the act which require the Board to consider the  
8 character and degree of injury or the interference with the  
9 protection and the health and the environment when assessing  
10 penalties for a violation. Are you familiar with that section,  
11 Mr. Grimmett?  
12 A. Yes, I am.  
13 Q. And why is it important that these adequate wetting  
14 procedures be followed?  
15 A. To prevent visible emissions, to prevent the potential  
16 escape of asbestos contamination outside of the regulated area,

17 to prevent health hazards, lung cancer and other asbestos  
18 ailments.

19 Q. And in your experience as an asbestos inspector, how  
20 would you characterize the violations you observed on that day?

21 A. Extremely severe.

22 Q. Extremely severe?

23 A. Yes.

24 MS. PITROLO: Thank you, Mr. Grimmett, that's all I have.

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1 HEARING OFFICER KNITTLE: As there's no cross-examination,  
2 sir, you can step down so to speak. Ms. Pitrolo, do you want to  
3 call your next witness now or do you want to take a minute?

4 MS. PITROLO: No, I want to call my next witness now.

5 HEARING OFFICER KNITTLE: Let's call your next witness.

6 MS. PITROLO: The State calls Mr. Christopher Puccini to  
7 the stand.

8 HEARING OFFICER KNITTLE: Thank you, sir. Could you swear  
9 him in, please.

10 (Whereupon the witness was sworn by the Notary Public.)

11 C H R I S T O P H E R P U C C I N I

12 having been first duly sworn by the Notary Public, saith as  
13 follows:

14 DIRECT EXAMINATION

15 BY MS. PITROLO:

16 Q. Could you please state your name for the record?

17 A. Christopher Puccini.

18 Q. And how are you employed, Mr. Puccini?

19 A. I'm employed by the State of Illinois Environmental  
20 Protection Agency.

21 Q. And what is your job title?

22 A. Currently I'm employed as an environmental protection  
23 specialist.

24 Q. And which office is that with?

22

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1 A. I'm with the Office of Pollution Prevention.

2 Q. And how long have you been in that position?

3 A. I've been with the Office of Pollution Prevention since  
4 February of 1999.

5 Q. And prior to that were you employed by the Illinois EPA?

6 A. Yes.

7 Q. And what was your previous job title?

8 A. My previous job title was an environmental protection  
9 associate with the Bureau of Air and Field Operation Section,  
10 Asbestos Unit.

11 Q. And how long were you in that position?

12 A. From June of 1997 through the time of my transfer to the  
13 Office of Pollution Prevention in February of '99.

14 Q. So it was during that period when you actually inspected  
15 the Respondent's work?

16 A. That's correct.

17 Q. Prior to your employment with the Illinois EPA, how were  
18 you employed?

19 A. Previous to my employment with the Illinois EPA I worked  
20 for two different environmental consulting groups.

21 Q. And did that work involve anything to do with asbestos?

22 A. Yes. At both businesses I worked as an Illinois  
23 Department of Public Health licensed asbestos abatement project  
24 manager.

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1 Q. And what's your educational background, Mr. Puccini?

2 A. I have a bachelor of science degree from Illinois State  
3 University in environmental health.

4 Q. And you may have already stated this but could you state  
5 it again for the record. Your specialized training during the  
6 time of the inspections you made, what did that involve?

7 A. At the time of the inspection I was an Illinois  
8 Department of Public Health licensed worker, supervisor and  
9 project manager.

10 Q. Thank you. Approximately how many asbestos removal  
11 sites have you inspected or did you inspect when you were with  
12 the Bureau of Air?

13 A. I can't be specific.

14 Q. That's fine.



15 A. Neighborhood of 100.

16 Q. Thank you. Are you specifically familiar, Mr. Puccini,  
17 with the provisions of the Illinois Environmental Protection Act  
18 as they pertain to air pollution caused by emissions in general  
19 in asbestos specifically?

20 A. Yes.

21 Q. And are you familiar with the provisions of 40CFR Part  
22 61, the asbestos NESHAP?

23 A. Yes.

24 Q. And as an inspector for the IEPA your duties

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1 specifically included inspection of renovation projects for  
2 violation of the act in the NESHAP when you --

3 A. Can you repeat that?

4 Q. Yes. When you were an inspector -- When you served as  
5 an inspector for Bureau of Air, did your duties specifically  
6 include inspecting projects for violation of the acts and the  
7 NESHAP?

8 A. Yes.

9 Q. Are you specifically familiar with the renovation  
10 activities that were performed by the Respondent at the Baldwin  
11 Power Plant in Randolph County?

12 A. Yes.

13 Q. And how did you first become aware of these activities?

14 A. The agency first became aware of the activities through

15 a 10-day notification form submitted to the agency; however, I --  
16 it was also brought to my attention through a citizen complaint I  
17 received.

18 Q. So you received a citizen complaint, you personally  
19 received a citizen complaint?

20 A. Yes.

21 Q. And what did that complaint entail?

22 A. The citizen complaint alleged various improper asbestos  
23 removal procedures including decontamination, the containments  
24 being sealed, that there was allegedly migration of asbestos

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1 fibers and various other improper procedures.

2 Q. And what did you do as a result of the complaint that  
3 you received?

4 A. I visited the facility the following day.

5 Q. So you received the complaint on one day and you  
6 inspected the very next day?

7 A. That's correct.

8 Q. When did you perform that inspection of the Baldwin  
9 Power Plant?

10 A. I visited the facility on March 26th of 1998.

11 Q. And what did you encounter when you first arrived at the  
12 site?

13 A. When I first arrived at the site I identified myself and

14 asked to speak with representatives of the Baldwin Power Plant  
15 facility. I was met by several gentlemen and at that time I  
16 asked them to show me areas of the facility where active asbestos  
17 abatement was taking place as well as where work had already  
18 occurred.

19 Q. Did you specifically ask to see the work of any  
20 particular contractor?

21 A. I don't recall.

22 Q. Specifically the Respondent, did you ask to see the  
23 Respondent's work area?

24 A. Yes.

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1 Q. Where were you first taken?

2 A. I was first taken to an area that I was told was an  
3 emergency glove bag removal which had been done earlier that day.

4 Q. Could you tell us a little bit what is an emergency  
5 glove bag removal?

6 A. A glove bag procedure involves placing a plastic bag  
7 over a section of pipe sealing the bag at both ends to make it  
8 air tight and the bag also contains plastic sleeves which will  
9 allow a worker to put his arms into the bag and perform necessary  
10 operations to remove the insulation from the pipe.

11 Q. So you observed an area where this emergency glove bag  
12 removal was being performed by the Respondent?

13 A. The glove bag had already taken place.

14 Q. And what did you see at the glove bag site?

15 A. At the glove bag site I observed a piece of what  
16 appeared to be suspect asbestos containing material at the base  
17 of the pipe.

18 Q. And lying where, on the floor?

19 A. On a wooden part of the scaffolding.

20 Q. And did you take a sample of that material?

21 A. Yes, I did. I collected the sample inside of a --  
22 what's called a whirl pack bag. It's a plastic bag that can be  
23 sealed using tie strings. And once I had obtained the sample in  
24 the bag, then I -- using hand pressure I was able to crush or

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1 pulverize that piece down to a powder indicating its friability.

2 Q. And did you have that sample analyzed?

3 A. Yes, I did.

4 Q. And what were the results of testing that sample?

5 A. That sample was found to contain greater than 1 percent  
6 asbestos content.

7 Q. So in your opinion was this emergency glove bag removal  
8 being performed properly?

9 A. No.

10 Q. And why not?

11 A. Because asbestos containing material was allowed to  
12 remain in the work area after work had been completed and thereby

13 possibly contaminating the area.

14 Q. And did you continue your inspection after you left the  
15 glove bag removal site?

16 A. Yes, I did.

17 Q. And who accompanied you on the remainder of your  
18 inspection?

19 A. At the conclusion of my collection --

20 Q. I'm sorry. I withdraw that question. I'd like to  
21 rephrase. Did a representative of the Respondent accompany you  
22 on the remainder of that inspection?

23 A. Yes.

24 Q. Who was that?

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1 A. Larry Barnett of Aabott Asbestos.

2 Q. Thank you. And what did you see when you -- on your  
3 continuation of your inspection?

4 A. Larry Barnett led our group to an area where bags of  
5 asbestos containing material had been collected and piled for  
6 storage until a waste disposal dumpster could be brought on site  
7 to have it removed.

8 Q. And what did you see when got to that area where those  
9 bags were being stored?

10 A. At that site I inspected the bags and I was looking for  
11 two things. I was looking for generator labels on each of the  
12 bags, a requirement of the NESHAP, and I also was checking the

13 bags to see if the material contained within the bags was  
14 adequately wet.

15 Q. And what did you find?

16 A. I found that in both cases that there was violations  
17 found. There was some generator labels missing, not all bags  
18 were labeled and some of the bags contained what appeared to be  
19 dry waste so what I asked was to confirm that it was asbestos  
20 that was dry in there, that I could bring one of the bags that  
21 appeared to be dry into containment so I could open it safely and  
22 obtain a sample for analysis.

23 Q. All right. So you took a bag that contained dry waste  
24 into containment?

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1 A. That's correct.

2 Q. And you took a sample?

3 A. And I opened the -- cut open the bag, obtained a sample  
4 again placing it in one of these whirl pack bags, sealed the bag  
5 and again was able to use only hand pressure I was able to crush,  
6 pulverize and reduce that material down to a fine powder or dust  
7 again indicating it's friability.

8 Q. And did you send that sample off for analysis?

9 A. Yes, I did.

10 Q. And how did it -- What was the result of that analysis?

11 A. That material came back to be greater than 1 percent

12 asbestos by content.

13 Q. And the dryness of it, what does that indicate to you?

14 A. That it was not adequately wetted at the time that it  
15 was placed in the bag.

16 Q. Returning your attention to the generator labels on the  
17 bags, what was the purpose of the area where these bags were  
18 stored?

19 A. My understanding was that the bags were placed there  
20 until a dumpster arrived at the site at which time the bags would  
21 be taken to the dumpster for disposal.

22 Q. So in your opinion were those bags sitting there ready  
23 to go into a dumpster?

24 A. Yes.

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1 Q. And not all of them had generator labels?

2 A. Not all of them had generator labels.

3 Q. Did you perform further inspection when you were inside  
4 containment?

5 A. I did. Inside containment, after I had collected the  
6 sample from within the bag, I noticed a piece of what appeared to  
7 be part of the boiler insulation that was being removed directly  
8 in front of me. It appeared to be dry. I reached out, touched  
9 it and it was dry to the touch. So using another whirl pack bag  
10 I obtained a piece of the insulation, since it was too large for  
11 my bag, and as I broke off a smaller piece to fit inside the bag

12 a visible cloud of emissions was generated indicating that it was  
13 not wet and that it was friable. I placed that material into the  
14 whirl pack bag where again I was able to crush it using only hand  
15 pressure down to a powder or dust and I labeled that material for  
16 analysis.

17 Q. And did you have it analyzed?

18 A. Yes, I did.

19 Q. And what was the results of that analysis?

20 A. That material as well was found to contain greater than  
21 1 percent asbestos.

22 Q. And were there Aabott workers around this area working?

23 A. Yes, there was.

24 Q. And what did they -- And did you request them to do

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1 anything as a result of this inspection?

2 A. Absolutely. After I had obtained my sample of the  
3 material I instructed one of the workers in the containment to  
4 take that material that I had sampled to adequately wet that  
5 material and place it into a disposal bag for removal from the  
6 site.

7 Q. And did Aabott workers indicate to you that this was  
8 their active work site for the day and they were removing  
9 material there?

10 A. Yes.



11 Q. And did you observe any adequate wetting procedures?

12 Did you observe wetting procedures?

13 A. There was a hose in the containment that a worker was  
14 using to spray the insulation; however, I feel that that was  
15 inadequate to sufficiently wet the material as to prevent any  
16 emissions.

17 Q. And your taking of the samples and applying hand  
18 pressure and noticing the dryness of it, that would have  
19 indicated to you that it was never adequately wet?

20 A. That's correct.

21 Q. Mr. Puccini, I'm going to show you a letter that's  
22 marked as People's Exhibit B, ask you to take a minute to look at  
23 that letter. Are you familiar with this document, Mr. Puccini?

24 A. Yes, I am.

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1 Q. And what is it?

2 A. This letter is a response to a violation notice that was  
3 sent to Aabott Asbestos.

4 Q. And the violation notice was issued as a result of your  
5 inspection?

6 A. Yes.

7 Q. And I'm going to call your attention specifically to  
8 page three of that correspondence. On page three of Aabott  
9 Asbestos's response to all the violations you noted in your  
10 inspection, do they dispute any of the violations you noted?

11 A. No, they don't.

12 Q. In fact what do they say?

13 A. They say that Aabott Asbestos has initiated new  
14 management controls to ensure that the situation will not  
15 reoccur.

16 Q. So in every instance they have said that they have  
17 initiated management controls to ensure that the situation will  
18 not -- and this is their word -- reoccur?

19 A. That's correct.

20 MS. PITROLO: I move to admit the letter that was marked as  
21 People's Exhibit B.

22 HEARING OFFICER KNITTLE: That will be admitted.

23 Q. (By Ms. Pitrolo) Finally, Mr. Puccini, are you familiar  
24 with the requirements of Section 33 of the act which require the

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1 Board to consider the character and degree of injury or the  
2 interference with the protection of the environment when  
3 assessing penalty for a violation?

4 A. Yes, I am.

5 Q. And how would you characterize the violations that you  
6 observed that day at the Baldwin Power Plant?

7 A. Very serious.

8 MS. PITROLO: Thank you, Mr. Puccini. That concludes the  
9 State's case.

10 HEARING OFFICER KNITTLE: Well, as there are no witnesses  
11 for the Respondent here, we don't have to worry about the  
12 Respondent's case in chief or any rebuttal. So, Ms. Pitrolo, do  
13 you want to do a closing statement at this point in time?

14 MS. PITROLO: Your Honor -- Mr. Hearing Officer --

15 HEARING OFFICER: Oh, I don't want you to call me Your  
16 Honor. Unfortunately that is not the case.

17 MR. PITROLO: I'm sorry, Mr. Hearing Officer. Mr. Hearing  
18 Officer, I'd like to waive a closing statement and present the  
19 State's argument in brief.

20 HEARING OFFICER KNITTLE: Okay. I also want to note that  
21 were there members of the public present there are still are not  
22 and now would be the time for them to present statements.  
23 Statements from citizens are allowed at this time and encouraged  
24 by the Board; however, at this particular point in time there are

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1 no members of the public to provide such statements so we will  
2 move on. We have had an off-the-record discussion about briefing  
3 schedules; is that correct, Ms. Pitrolo?

4 MS. PITROLO: Yes.

5 HEARING OFFICER KNITTLE: Pursuant to that discussion we  
6 determined that the transcript in this matter will be ready by  
7 December 19th of the year 2000. The People's brief will be due  
8 on or before January 26th, 2001, and, Ms. Pitrolo, you had  
9 requested that additional time in light of the holiday season as

10 I recall?

11 MS. PITROLO: Yes. Thank you, Mr. Hearing Officer.

12 HEARING OFFICER KNITTLE: And I have granted you that  
13 additional time. As we've already stated there are no  
14 representatives from the Respondent here and the attorney for the  
15 Respondent did indicate that he would not be filing any briefs in  
16 this matter; however, I'm going to give the Respondent until  
17 February 9th of the year 2001 to reconsider this position. And  
18 if in fact I'm contacted by the Respondent by February 9th, I  
19 will set a briefing schedule and give the Respondent until March  
20 2nd, 2001, to file a post-hearing brief with the People of the  
21 State of Illinois given until March 16th, 2001, to file the reply  
22 brief. If I'm not contacted, and I anticipate that that will be  
23 the case, I'm going to close the record on February 9th and refer  
24 this matter for the Board -- to the Board for a decision. We're

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1 going to stay on the record for a little bit. It's only 10:20 at  
2 this point in time and I want to stay on the record for another  
3 half hour or so. We're going to take a recess, make sure no  
4 members of the public want to come and provide comment. I do  
5 want to note for the record that I'm required under the Board  
6 regulations to make a credibility determination and based on my  
7 legal judgment and experience, I find no credibility issues in  
8 this matter. Let's go off the record.

9 (A half an hour recess was taken.)

10 HEARING OFFICER KNITTLE: We are back on the record after a  
11 half hour recess. It's about 11 o'clock. I'm going to wrap up  
12 the hearing. We have had no members of the public come to  
13 provide public comment and that is it. Thank you very much.

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1 STATE OF ILLINOIS

2 COUNTY OF FAYETTE

3 I, BEVERLY S. HOPKINS, a Notary Public in and  
4 for the County of Fayette, State of Illinois, and CSR, do certify  
5 that on December 7th, 2000, at the William G. Stratton Building,  
6 State Use Office, Room 801, 401 South Spring Street, Springfield,  
7 Illinois, the foregoing proceeding was taken down in shorthand by  
8 me and afterwards transcribed upon the computer.

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I DO HEREBY FURTHER CERTIFY that the foregoing  
is a true and correct transcript of said proceeding.  
IN WITNESS WHEREOF, I have hereunto set my hand  
and affixed my Notarial Seal on this 10th day of December, 2000.

\_\_\_\_\_  
Beverly S. Hopkins  
CSR - #084-004316