

**BEFORE THE ILLINOIS POLLUTION CONTROL BOARD**

PEOPLE OF THE STATE OF ILLINOIS,	)	
	)	
Complainant,	)	
	)	PCB No. 13-43
v.	)	(Enforcement - Air)
	)	
BLICK'S CONSTRUCTION CO., INC. an	)	
Illinois corporation, and RON BRICKER,	)	
	)	
Respondents.	)	

**RESPONDENT, BLICK'S CONSTRUCTION CO., INC.'S RESPONSE TO  
COMPLAINANT'S FIRST SET OF INTERROGATORIES**

NOW COMES the Respondent, BLICK'S CONSTRUCTION CO., INC. ("Blick's"), by and through its attorneys, HINSHAW & CULBERTSON LLP, and for its Answers to Complainant's First Set of Interrogatories:

**PRELIMINARY STATEMENT**

Information provided in these Responses to Interrogatories is made without waiving, or intending to waive, but on the contrary preserving, and intending to preserve: (a) the right to object on the grounds of competency, privilege, relevance, materiality or any other proper grounds, to the use of any information identified or produced in response to these discovery requests for any purpose, in whole or in part, in any subsequent step or proceeding in this action or any other action; (b) the right to object on any and all grounds, at any time, to other discovery procedures involving or relating to the subject matter of the requests to which Blick's has responded herein; and (c) the right at any time to revise, correct, add to or clarify any of the responses provided herein.

In addition, an inadvertent identification or production of any protected or privileged information shall not be deemed a waiver of any applicable protection or privilege with respect

to such information. All information provided by Blick's in response to these interrogatories is for use in this litigation only and for no other purpose.

Blick's has made diligent and thorough efforts to search for as complete a response as possible given the breadth of Complainant's interrogatories. Blick's reserves the right to supplement its responses to these interrogatories to the extent that Blick's subsequently identifies additional non-privileged information responsive to these interrogatories. Indeed the instructions to Complainant's First Set of Interrogatories expressly acknowledge that Blick's may supplement their answers if Blick's obtains further or supplemental information, despite the reference to a different forum.

Finally, the fact that Blick's objects to any individual interrogatory should not necessarily be taken to signify or imply that further information responsive to such interrogatory actually exists, has ever has existed or that the response is incomplete.

### **GENERAL OBJECTIONS**

In response to Complainant's interrogatories, Blick's raises the following general objections which are intended to apply to each and every interrogatory:

1. Blick's objects that Defendant Complainant's interrogatories are overly broad, unduly burdensome and in some instances not reasonably calculated to lead to the discovery of admissible evidence in this action.

2. Blick's objects that certain terms or structure in Complainant's interrogatories are vague and undefined, and in response to Complainant's interrogatories Blick's has attempted to specify their interpretation of vague or undefined terms where possible in order to provide as clear a response as possible or has answered to the best of its reasonable interpretation.

3. Blick's objects to the instructions for these interrogatories to the extent that they seek to impose upon Blick's discovery obligations that are different from, or greater than, those imposed by the rules of the Pollution Control Board / Illinois Administrative Code.

4. Blick's objects to each interrogatory to the extent that it calls for the disclosure of information protected by the attorney-client privilege.

5. Blick's objects to each interrogatory to the extent that it calls for the disclosure of information which constitutes protected attorney work product and to the extent that the information requested was obtained and prepared in anticipation of litigation or for hearing or trial.

6. Blick's objects to each interrogatory to the extent that it seeks legal conclusions.

Without waiver of these objections, Blick's answers Complainant's interrogatories as follows:

### **INTERROGATORIES**

**Interrogatory No. 1:** Identify each person who supplied information for answers to these interrogatories and further state for which interrogatories each person so identified supplied information.

**ANSWER:** John Blickhan supplied the information in Respondent Blick's responses to all interrogatories.

**Interrogatory No. 2:** In the Answer to Counts I, III, and IV of Complaint, Blick's denies each and every allegation of Paragraph 24 of Count III of the Complaint. Please explain the basis and identify each and every fact relied upon for your denial to the allegation that, "Respondents caused or allowed dry, friable regulated asbestos-containing material at the facility to be removed which caused, threatened or allowed the discharge of or emission of asbestos into the environment so as to cause or tend to cause air pollution in Illinois." (Complaint, Count I, ¶ 24).

**ANSWER:** Respondent Blick's had no involvement in the allegations of Paragraph 24 of Count III of the Complaint. On information and belief, Blick's states that Respondent Ron Bricker, provided a key by the First Bankers Trust and affiliates ("Bank"), and certain of the

Bank's employees performed salvaging and/or demolition activities at the Facility before Blick's was given a key or access to the Facility, which actions of Bricker and/or the Bank's employees resulted in the allegations referenced in Paragraph 24 of Count III of the Complaint.

**Interrogatory No. 3:** In the Answer to Counts I, and IV of Complaint, Blick's denies each and every allegation of Paragraph 26 of Count III of the Complaint. Please explain the basis and identify each and every fact relied upon for your denial to the allegation that, "Respondents did not remove all RACM, including Category I non-friable ACM that would breakup, dislodge, or be similarly disturbed prior to commencing salvaging activities." (Complaint, Count III, ¶ 26).

**ANSWER:** Respondent Blick's objects to Interrogatory No. 3 as vague and ambiguous and presents a "negative pregnant" question. Notwithstanding this objection, Blick's had no involvement in any removal of asbestos-containing materials from the Facility referenced in Paragraph 26 of Count III of the Complaint. Blick's was hired by General Contractor Jerry Maas Construction to conduct demolition activities at the Facility. Blick's sought and received successive proposals from Triple A Asbestos Service to remove any asbestos-containing materials prior to Blick's commencement of any salvaging or demolition activities, but neither Blick's nor Triple A performed any asbestos-containing materials removal, demolition or salvaging activities at the Facility referenced in Paragraph 26 of Count III of the Complaint during the time of Blick's involvement.

See also, response to Interrogatory No. 2.

**Interrogatory No. 4:** In the Answer to Counts I, III, and IV of Complaint, Blick's denies each and every allegation of Paragraph 28 of Count III of the Complaint. Please explain the basis and identify each and every fact relied upon for your denial to the allegation that, "Respondents did not adequately wet, and maintain wet, all RACM and regulated asbestos-containing waste material until collected and contained in accordance with asbestos NESHAP requirements in preparation for disposal at a site permitted to accept such waste." (Complaint, Count III, ¶ 28).

**ANSWER:** Respondent Blick's had no involvement in the allegations of Paragraph 28 of Count III of the Complaint. See also response to Interrogatory No. 3.

**Interrogatory No. 5:** In the Answer to Counts I, III, and IV of Complaint, Blick's denies each and every allegation of Paragraph 24 (sic) of Count IV of the Complaint. Please explain the basis and identify each and every fact relied upon for your denial to the allegation that, "Respondents did not wet asbestos-containing waste material or keep asbestos-containing waste material wet during handling and loading for transport to a disposal site; or process asbestos-containing waste material into non-friable forms, and Respondent's (sic) did not use an alternative emission control and waste treatment method that received prior approval by the U.S. EPA's Administrator during renovation activities." (Complaint, Count IV, ¶ 25).

**ANSWER:** Respondent Blick's objects to Interrogatory No. 5 as vague and confusing. Blick's is answering this interrogatory as though the proper reference was to Paragraph 25 of Count IV of the Complaint. Blick's had no involvement in the allegations of Paragraph 25 of Count IV of the Complaint. See also response to Interrogatory No. 3.

**Interrogatory No. 6:** In the Answer to Counts I, III and IV of Complaint, Blick's denies each and every allegation of Paragraph 27 of Count IV of the Complaint. Please explain the basis and identify each and every fact relied upon for your denial to the allegation that, "Respondents did not adequately wet, and maintain wet, all RACM and regulated asbestos" containing waste material until collected and contained in accordance with asbestos NESIAP requirements in preparation for disposal at a site permitted to accept such waste." (Complaint, Count IV, ¶ 27).

**ANSWER:** Respondent Blick's had no involvement in the allegations of paragraph 27 of the Complaint. See also response to Interrogatory No. 3.

**Interrogatory No. 7:** Identify any and all communications, both oral and written, and meetings between Blick's, its employees, agents, contractors, consultants, representatives, and employers, and Respondent Ron Bricker, the other respondent in this case, that pertain to the former commercial banking building located at 1201 Broadway, Quincy, Illinois from the year 2000 through present.

**ANSWER:** Respondent Blick's objects to this interrogatory as overly broad in that it requests information from an unduly lengthy time period commencing in 2000, well outside of the relevant time period of the Complaint's allegations. Notwithstanding this objection, Blick's provides known responsive information from the relevant time period. In April 2011, Respondent Ron Bricker called and asked John Blickhan of Blick's whether he could collect usable door frames, drop ceiling materials, framing, cabinets (and other such materials) from the



Facility in conjunction with Blick's demolition activities. John Blickhan agreed that Bricker could do so when Blick's commenced demolition activities. Bricker then called at various times to ask about status. On or about May 9 or May 10, 2011, John Blickhan was provided a single key to the Facility by a Bank security or maintenance employee. On May 10, 2011 when John Blickhan went to the Facility to provide Triple A's workers access to remove asbestos-containing materials, he found Bricker already in the Facility actively engaged in salvaging activities. The two men shared small talk and Bricker told John Blickhan that the Bank had provided him with access and a key to the east door. John Blickhan was the only Blick's employee with a key to the Facility and he had not provided Ron Bricker with access or permission to enter the Facility at that time or earlier.

**Interrogatory No. 8:** Identify any and all communications, both oral and written, and meetings between the agents, employees, representatives, consultants, contractors, or subcontractors (including but not limited to Triple A) of Blick's and/or First Bankers Trust Company, N.A. related to authorization to access to the Facility, removal of building components (including, but not limited to, furnishings, flooring, and/or ceiling material, electrical components, metal, and was material) prior to the demolition of the Facility, the presence and/or location of RACM and/or ACM at the Facility, the handling or removal of such material, and the measures to prevent or restrict public access at the Facility. Describe the purpose for and subject matter discussed at each such meeting, teleconference, or other communication, and any documents generated at or in connection with each such meeting, teleconference, or other communication.

**ANSWER:** John Blickhan of Respondent Blick's attended a planning meeting with a Bank representative and others on or about May 10, 2011 at the Bank's new offices. The meeting concerned planning for the demolition, installation of protective barriers, and may have discussed Triple A's access to the building to perform handling and removal of asbestos-containing materials ("ACM"). John Blickhan received from the Bank a single key to the Facility on either May 9, 2011 or at this May 10, 2011 meeting.

Blick's involvement with measures to prevent or restrict public access at or to the Facility was limited to installing concrete jersey barriers and reinforced mesh fencing per local code around the outside of the Facility on or about May 17, 2011 to prevent building materials from falling or straying outside of the Facility area. Over time, Blick's also received phone calls from "Brett" at the Bank with various planning questions, including a request for the installation of further fencing around the Facility's parking and other areas.

On May 25, 2011, John Blickhan of Respondent Blick's attended a meeting at the Bank's offices concerning further planning and addressing the discovery of additional ACM. Blick's believes that this meeting was attended by one or more Bank representatives, Triple A representatives, and perhaps others.

Blick's believes that the Bank retained control of the Facility and intended to keep the building locked and managed access to the building and Facility through the Bank's control or provision of keys to the building. Blick's never received control of the Facility and nor did Blick's receive a start date for the contracted demolition activities.

**Interrogatory No. 9:** With regards to the Facility, describe in detail Blick's actions, protocols, communications, both oral and written, responsible persons, and procedures, including but not limited to any changes in those procedures, for ensuring that all activities conform to the Act and relevant Regulations as they pertain to RACM and ACM.

**ANSWER:** Respondent Blick's hires or sub-contracts to licensed asbestos removal contractors for all asbestos-related activities. In this case, Respondent Blick's sub-contracted with Triple A Asbestos Service for asbestos-containing material removal activities.

**Interrogatory No. 10:** Identify each person known by Blick's, its agents, employees, contractors representatives, and consultants, or had reason to know who performed work within the Facility, entered the Facility, or requested entry to the Facility. Describe the work performed by whom, and when.

**ANSWER:** Respondent Blick's objects to Interrogatory No. 10 as vague and ambiguous. Notwithstanding this objection, Blick's believes this interrogatory seeks information on those individuals with knowledge of or known to Blick's to have sought to enter the Facility, to have entered the Facility, and/or performed work in the Facility. The only work that Blick's performed at the Facility was placement of the concrete Jersey barriers and reinforced mesh fencing per local code on or about May 17, 2011 and added further chain link fencing around access and parking areas at a later date. Blick's also escorted employees of Triple A Asbestos Removal to the Facility on or about May 10, 2011. On some later date, upon the discovery of further ACM at the Facility, Triple A employees marked the ACM with red spray paint but someone disturbed the ACM anyway. Blick's believes that various Bank employees and Respondent Ron Bricker undertook salvaging activities at the Facility at times prior to and after Blick's received a single key to the Facility on May 9, 2011 and that the Bank and its employees provided Bricker with a key and/or access to the Facility. Upon information and belief, Blick's believes that Bricker, the Bank and its employees, Triple A and its employees, and the general contractor Mass and its employees, may each possess further knowledge of those who have sought to enter the Facility, entered the Facility and/or performed work in the Facility.

**Interrogatory No. 11:** Identify each date Blick's, its agents, employees, contractors, representatives, and consultants visited, entered, or authorized entry by a person other than its agents, employees, contractors, representatives, and consultants to the Facility.

**ANSWER:** Respondent Blick's visited the Facility on various occasions to survey the pending demolition project. Blick's also escorted Triple A employees to the Facility on May 10, 2011. John Blickhan observed Bricker at the Facility many times conducting salvaging activities. On information and belief, Blick's states that Bricker must have received the same permission and a key and/or authority to enter the building from the Bank or one of its



employees as Blick's never provided access to Bricker, nor did Blickhan ever have control of the Facility or authority to do so.

**Interrogatory No. 12:** Identify each person controlling or having authority to control the removal of ACM, demolition of the Facility, and access to the Facility. Describe that authority, dates such authority was exercised, and all communications relative to the exercise of that authority.

**ANSWER:** On information and belief, Respondent Blick's believes that only Triple A had authority to remove or control the removal of ACM from the Facility. Blick's does not know when the asbestos-containing materials were removed.

**Interrogatory No. 13:** Identify each person possessing or having access to a key or any other device required to enter the Facility. Describe the location of each lock that each key operates. For each person possessing a key or other device, identify each person from whom a key was obtained, date received, and date possession was relinquished and to whom.

**ANSWER:** On or about May 9 or May 10, 2011, John Blickhan was provided one key to the north door of the Bank building by a Bank security, property manager or maintenance representative. Blick's kept possession of this single key until Mr. Blickhan gave the key to Lee Austif of Triple A sometime after a June 7, 2011 call from Mr. Austif that he was collecting all of the keys. On information and belief, Respondent Ron Bricker had a key to east door to the Facility during a period commencing prior to May 9, 2011. John Blickhan and Blick's Construction never provided Ron Bricker with a key or otherwise provided Mr. Bricker with access to the Facility. Various Bank employees had keys and accessed the Facility as well.

Dated: November 17, 2014 Respectfully submitted,

/s/ Thomas D. Lupo

Thomas D. Lupo  
Attorney for Blick's Construction Co., Inc.

Thomas D. Lupo  
HINSHAW & CULBERTSON LLP  
222 North LaSalle Street  
Suite 300  
Chicago, IL 60601  
312-704-3000

AFFIDAVIT OF SERVICE

STATE OF ILLINOIS        )  
  ) SS  
COUNTY OF COOK        )

The undersigned certifies that on November 17, 2014, she served a copy of the foregoing Respondent, Blick's Construction Co., Inc.'s Response to Complainant's First Set of Interrogatories upon the following:

PCB 2013-043  
Ron Bricker  
P.O. Box 24  
Fowler, Illinois 62338

PCB 2013-043  
John T. Therriault  
Illinois Pollution Control Board  
James R. Thompson Center  
100 West Randolph Street  
Suite 11-500  
Chicago, Illinois 60601

PCB 2013-043  
Carl J. Blickhan, Sr.  
Blick's Construction Co., Inc.  
P.O. Box 530  
Lock & Dam Road  
Quincy, Illinois 62301

PCB 2013-043  
Jamie D. Getz  
Assistant Attorney General  
Environmental Bureau  
Illinois Attorney General's Office  
69 W. Washington Street, 18th Floor  
Chicago, Illinois 60602  
(312) 814-6986  
[jgetz@atg.state.il.us](mailto:jgetz@atg.state.il.us)

PCB 2013-043  
Gerald L. Timmerwilke  
Blickhan, Timmerwilke, et al.  
226 North Sixth Street  
Quincy, Illinois 62301

PCB 2013-043  
Carol Webb  
Hearing Officer  
Illinois Pollution Control Board  
1021 North Grand Avenue East  
P.O. Box 19274  
Springfield, Illinois 62794-9274  
217/524-8509  
[Carol.Webb@illinois.gov](mailto:Carol.Webb@illinois.gov)

by depositing a copy thereof, enclosed in an envelope, in the United States Mail at 222 North LaSalle Street, Chicago, Illinois 60601, proper postage prepaid, at or about the hour of 5:00 o'clock p.m., addressed as above.

HINSHAW & CULBERTSON LLP  
222 North La Salle Street, Suite 300  
Chicago, Illinois 60601  
312.704.3000

