

**IN THE CIRCUIT COURT OF THE TWELFTH JUDICIAL CIRCUIT  
WILL COUNTY, ILLINOIS  
CHANCERY DIVISION**

PEOPLE OF THE STATE OF ILLINOIS, )  
*ex rel.* KWAME RAOUL, Attorney General )  
of the State of Illinois, )

Plaintiff, )

v. )

No. 24 CH 2024CH000176

WILL COUNTY METROPOLITAN )  
EXPOSITION & AUDITORIUM AUTHORITY, )  
a unit of local government, )  
R. BERTI & SON CONTRACTOR, INC., )  
an Illinois corporation d/b/a R. BERTI BUILDING )  
SOLUTIONS, and )  
UNIVERSAL ASBESTOS REMOVAL, INC., )

Defendants. )

**Initial case management set for**  
12/30/2024 **at:** 9:00 **a.m.** RM 905

**VERIFIED COMPLAINT FOR INJUNCTION AND CIVIL PENALTIES**

Plaintiff, PEOPLE OF THE STATE OF ILLINOIS, *ex rel.* KWAME RAOUL, Attorney General of the State of Illinois, on his own motion and at the request of the Illinois Environmental Protection Agency (“Illinois EPA”), complains of Defendants, WILL COUNTY METROPOLITAN EXPOSITION AND AUDITORIUM AUTHORITY, a unit of local government, R. BERTI & SON CONTRACTOR, INC., and UNIVERSAL ASBESTOS REMOVAL, INC., as follows:

**COUNT I**  
**SUBSTANTIAL DANGER TO THE ENVIRONMENT,**  
**PUBLIC HEALTH AND WELFARE**

1. This Count is brought on behalf of the PEOPLE OF THE STATE OF ILLINOIS, *ex rel.* KWAME RAOUL, the Attorney General of the State of Illinois, on his own motion and at the request of the Illinois EPA, against the Defendants pursuant to the terms and provisions of

Section 43(a) of the Illinois Environmental Protection Act (the “Act”), 415 ILCS 5/43(a) (2022), and is an action to restrain a substantial danger to public health and welfare, and to the environment. Plaintiff seeks immediate and preliminary injunctive relief and civil penalties for the release of asbestos into the environment at the Rialto Square Theater, located at 102 N. Chicago Avenue, Joliet, Will County, Illinois (“Facility” or “Site”).

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 (2022), and charged, *inter alia*, with the duty of enforcing the Act.

3. At all times relevant to this Verified Complaint, the Will County Metropolitan Exposition and Auditorium Authority (“Authority”) was a unit of local government, established by the Will County Metropolitan Exposition and Authority Law of 1997, 70 ILCS 200/280-1 *et seq.*

4. The Site is a multi-use public facility which operates as a venue for concerts and special events, with a seating capacity of approximately 2,000. The Site is also rented out for weddings and other private events. The Authority is the owner and manager of the Site.

5. The main building at the Site consists of a basement, a first floor, which contains the main event stage, auditorium, seating area, and event rooms, second floor and mezzanine, third floor, and fourth floor/attic.

6. As of the date of filing this Verified Complaint, the Site is located in an area of Environmental Justice (“EJ”) concern as identified using Illinois EPA EJ Start.

7. Defendant R. Berti & Sons Contractor, Inc. (“Berti”) is an Illinois corporation, doing business as (“d/b/a”) R. Berti Business Solutions.

8. At a time better known to Defendants, Defendant Authority retained Defendant Berti to perform construction and renovation at the Site.

9. Defendant Universal Asbestos Removal Inc. (“Universal”) is an Illinois corporation. Defendant Universal is in the business of removal and disposal of asbestos containing materials.

10. At a time better known to Defendants, the Defendants Berti and Authority retained Defendant Universal to perform asbestos removal operations at the Site.

11. On July 1, 2024, the Defendants submitted a State of Illinois Demolition/Renovation/Asbestos Project Notification Form (“Notice”) to Illinois EPA. In the Notice, the Defendants advised that they would be removing Regulated Asbestos Containing Material (“RACM”) from the Site as part of renovation activities. The Defendants further advised that they would be removing 6,000 linear feet of pipe insulation RACM from the basement at the Site, and 1,000 square feet of floor tile and mastic RACM from the first floor. The Notice identified Defendant Authority as the Facility owner and Defendant Universal as the Asbestos Contractor.

12. At all times relevant to this Verified Complaint, asbestos-containing material was located on five levels of the building at the Site. This included:

- a. the basement, which contained thermal system pipe insulation, with 5-10% asbestos content;
- b. the first floor and main event space, which contained thermal system pipe insulation and asbestos floor tile and mastic, with 5-10% asbestos content;
- c. the second floor and mezzanine, which contained thermal system pipe insulation, with 5-10% asbestos content; and
- d. the third floor, which contained thermal system pipe insulation with 5-10% asbestos content.

13. On or before July 23, 2024, Illinois EPA received a complaint that there was a large pile of apparently dry ACM on the floor near the organ pit, and accompanying photo.

14. On July 24, 2024, Illinois EPA performed an inspection of the Site. At that time, asbestos removal activities were ongoing in the basement at the Site. Several doorways lead from the basement to the first floor of the building at the Site, none of which had critical barriers in place. No workers were present, but a large number of plastic bags had been accumulated in the basement which contained thermal system pipe insulation that had been cut and stripped from pipes in the basement. The bags were labeled “Danger, contains asbestos fibers”.

15. On July 24, 2024, three “glove bags” of broken and stripped thermal system pipe insulation were present in the work area of the basement. The glove bags were not sealed to prevent the release of asbestos fibers. Further, the material inside was found to be dry, without moisture to prevent migration of asbestos fibers to the environment.

16. On July 24, 2024, several piles of dry, suspected asbestos-containing debris were on the floor of the basement, in the area where thermal system pipe insulation had been removed.

17. On July 24, 2024, a few areas of the basement were partially enclosed with plastic sheeting. However, the plastic sheeting was not installed in an amount or in such a fashion as to create a barrier to the migration of asbestos fibers from outside of the area of removal into the air space in the basement, or to prevent asbestos fibers from migrating through doors and other entry points into the main event space on the first floor of the building.

18. On July 24, 2024, a single device, insufficient to provide adequate containment, was installed and operating. Such a device could not create a sufficient inward gradient of air, known as “negative pressure,” to prevent migration of asbestos fibers into the basement air

space, or to prevent asbestos fibers from migrating through doors and other entry points into the main event space on the first floor of the building.

19. Asbestos is a known human carcinogen with no known safe level of exposure. Studies have shown that ingesting asbestos contaminated food can lead to cancer of the esophagus and digestive tract. Inhaling asbestos fibers causes asbestosis, a scarring of the lungs. Asbestos can also cause mesothelioma, and cancer of the lungs and the lining of the abdominal cavity.

20. Once disturbed, asbestos fibers can remain in the air for approximately 72 hours before being deposited on surfaces. On surfaces, asbestos fibers can be easily disturbed, and once again become airborne.

21. Section 43(a) of the Act, 415 ILCS 5/43(a) (2022), provides, in pertinent part, as follows:

- (a) In circumstances of substantial danger to the environment or to the public health of persons or to the welfare of persons where such danger is to the livelihood of such persons, the State's Attorney or Attorney General, upon request of the Agency or on his own motion, may institute a civil action for an immediate injunction to halt any discharge or other activity causing or contributing to the danger or to require such other action as may be necessary. The court may issue an ex parte order and shall schedule a hearing on the matter not later than 3 working days from the date of injunction.

22. The Defendants caused and allowed the stripping and removal of asbestos, and allowed asbestos fibers to become airborne in the basement of the building at the Site, without sealing the workspace, providing sufficient negative pressure in the workspace, and without otherwise taking adequate measures to prevent the migration of asbestos fibers through doors and other entry points to the Main Event Area on the first floor of the building at the Site.

23. The Defendants failed to adequately wet asbestos-containing thermal system pipe insulation during removal and stored the dry asbestos-containing material in unsealed bags, increasing the risk of discharge of asbestos fibers into the air.

24. By failing to properly remove, handle, and dispose of disturbed asbestos-containing material at the Site, the Defendants created the risk of exposure to asbestos, a known human carcinogen, to patrons of the Facility and members of the general public.

25. By failing to properly remove, handle, and dispose of disturbed asbestos containing materials at the Site, the Defendants thereby created circumstances of substantial danger to the environment and the health and welfare of the general public, in contravention of the requirements of the Act.

26. The substantial danger alleged herein will continue or reoccur unless and until this Court grants equitable relief in the form of immediate, preliminary, and, after trial, permanent injunctive relief.

WHEREFORE, Plaintiff, PEOPLE OF THE STATE OF ILLINOIS, prays that this Court enter an immediate and preliminary injunction and, after trial, a permanent injunction, in favor of Plaintiff and against Defendants, WILL COUNTY METROPOLITAN EXPOSITION AND AUDITORIUM AUTHORITY, R. BERTI & SON CONTRACTOR INC., and UNIVERSAL ASBESTOS REMOVAL, INC., on Count I:

1. Finding that the Defendants have each created and are maintaining a substantial danger to the environment and public health;

2. Enjoining the Defendants from creating any further substantial endangerment pursuant to Section 43(a) of the Act, 415 ILCS 5/43(a) (2022);

3. Ordering the Defendants to take all necessary actions to properly address the

substantial danger to the environment, and to the public health and welfare, including but not limited to prohibiting access to the Site until clearance sampling demonstrates no ongoing asbestos exposure, cleaning and removing all asbestos fibers from affected areas of the building at the Site, wetting and disposing of all disturbed asbestos-containing materials stored at the Site in compliance with the requirements of all Federal and State regulations, and fully demonstrating that any threat to human health has been abated;

4. Ordering the Defendants to wet and dispose of all disturbed asbestos-containing materials stored at the Site in compliance with the requirements of all federal and State regulations;

5. Assessing a civil penalty of Fifty Thousand Dollars (\$50,000.00) against the Defendants for each violation the Act, plus an additional penalty of Ten Thousand Dollars (\$10,000.00) for each day the violations continued;

6. Ordering the Defendants, pursuant to Section 42(f) of the Act, 415 ILCS 5/42(f) (2022), to pay all costs incurred by the State, including oversight, sampling and clean-up costs, and attorney, expert witness and consultant fees expended by the Plaintiff in pursuit of this action; and

7. Granting such other relief as this Court deems equitable and just.

**COUNT II**  
**AIR POLLUTION**

1. This Count is brought on behalf of the PEOPLE OF THE STATE OF ILLINOIS, *ex rel.* KWAME RAOUL, Attorney General of the State of Illinois, on his own motion and at the request of the Illinois EPA pursuant to Section 42(d) and (e) of the Act, 415 ILCS 5/42 (d) and (e) (2022).

2–20. Plaintiff re-alleges and incorporates herein by reference paragraphs 2 through 20 of Count I as paragraphs 2 through 20 of this Count II.

21. Section 9(a) of the Act, 415 ILCS 5/9(a) (2022), 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;

22. Section 201.141 of the Illinois Pollution Control Board (“Board”) Air Pollution Regulations, 35 Ill. Adm. Code 201.141, provides, in pertinent part, 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 . . .

23. Section 3.315 of the Act, 415 ILCS 5/3.315 (2022), 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.

24. Defendant Authority, a political subdivision and public body, is a “person” as that term is defined in Section 3.315 of the Act, 415 ILCS 5/3.315 (2022).

25. Defendant Berti, an Illinois corporation, is a “person” as that term is defined in Section 3.315 of the Act, 415 ILCS 5/3.315 (2022).

26. Defendant Universal, an Illinois corporation, is a “person” as that term is defined in Section 3.315 of the Act, 415 ILCS 5/3.315 (2022).



27. Section 3.165 of the Act, 415 ILCS 5/3.165 (2022), provides the following definition:

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

28. Asbestos is a “contaminant” as that term is defined in Section 3.165 of the Act, 415 ILCS 5/3.165 (2022).

29. Section 3.115 of the Act, 415 ILCS 5/3.115 (2022), 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.

30. As alleged herein, the Defendants caused and allowed the mishandling of asbestos-containing materials, which caused, threatened or allowed the release of asbestos, a contaminant and known human carcinogen, into public spaces at the Site, in such manner that it threatened to cause injury to human health or to unreasonably interfere with the enjoyment of life or property. The release of asbestos into the atmosphere is, therefore, “air pollution,” as that term is defined in Section 3.115 of the Act, 415 ILCS 5/3.115 (2022).

31. By removing and storing dry, disturbed asbestos-containing thermal system pipe insulation at the Site, without providing for adequate containment, negative pressure, or storage to prevent migration of asbestos fibers into public areas at the Site, the Defendants caused, threatened, or allowed the release of asbestos fibers into the environment.

32. By causing, threatening, or allowing the discharge or emission of asbestos, a contaminant, into the environment, the Defendants thereby caused, threatened or allowed air

pollution, and thereby violated Section 9(a) of the Act, 415 ILCS 5/9(a) (2022), and Section 201.141 of the Board Air Pollution Regulations, 35 Ill. Adm. Code 201.141.

33. Violations of the pertinent environmental statutes and regulations will continue unless and until this Court grants equitable relief in the form of preliminary and, after trial, permanent injunctive relief.

WHEREFORE, Plaintiff, PEOPLE OF THE STATE OF ILLINOIS, prays that this Court enter an immediate and preliminary injunction and, after trial, a permanent injunction, in favor of Plaintiff and against Defendants, WILL COUNTY METROPOLITAN EXPOSITION AND AUDITORIUM AUTHORITY, R. BERTI & SON CONTRACTOR INC., and UNIVERSAL ASBESTOS REMOVAL, INC., on Count II:

1. Finding that the Defendants have violated Section 9(a) of the Act, 415 ILCS 5/9(a) (2022), and Section 201.141 of the Board Air Pollution Regulations, 35 Ill. Adm. Code 201.141;

2. Enjoining the Defendants from any further violations of Section 9(a) of the Act, 415 ILCS 5/9(a) (2022), and Section 201.141 of the Board Air Pollution Regulations, 35 Ill. Adm. Code 201.141;

3. Ordering the Defendants to take all necessary actions to properly address the substantial danger to the environment, and to the public health and welfare, including but not limited to prohibiting access to the Site until clearance sampling demonstrates no ongoing asbestos exposure, cleaning and removing all asbestos fibers from affected areas of the building at the Site, wetting and disposing of all disturbed asbestos-containing materials stored at the Site in compliance with the requirements of all Federal and State regulations, and fully demonstrate that any threat to human health has been abated;

4. Ordering the Defendants to wet and dispose of all disturbed asbestos-containing materials stored at the Site in compliance with the requirements of all federal and State regulations;

5. Assessing a civil penalty of Fifty Thousand Dollars (\$50,000.00) against the Defendants for each violation of Section 9(a) of the Act, and 35 Ill. Adm. Code 201.141, plus an additional penalty of Ten Thousand Dollars (\$10,000.00) for each day the violations continue;

6. Ordering the Defendants, pursuant to Section 42(f) of the Act, 415 ILCS 5/42(f) (2022), to pay all costs incurred by the State, including oversight, sampling and clean-up costs, and attorney, expert witness and consultant fees expended by the Plaintiff in pursuit of this action; and,

7. Granting such other relief as this Court deems equitable and just.

**COUNT III**  
**FAILING TO ADEQUATELY WET ASBESTOS FOR REMOVAL AND STORAGE**

1–24. Plaintiff re-alleges and incorporates by reference herein paragraphs 2 through 20 of Count I and paragraphs 1 and 23 through 26 of Count II, as paragraphs 1 through 24 of this Count III.

25. Section 9.1(d)(1) of the Act, 415 ILCS 5/9.1(d)(1) (2022), provides, in pertinent part, as follows:

(d) No person shall:

(1) violate any provision of Section 111, 112, 165, or 173 of the Clean Air Act, as now or hereafter amended, or federal regulations adopted pursuant thereto; . . .

26. Section 112(d)(1) of the Clean Air Act, 42 U.S.C. § 7412(d)(1), provides, in pertinent part, as follows:

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 ...

27. Subpart M of Title 40, Part 61 of the Code of Federal Regulations (“C.F.R.”) was adopted pursuant to Section 112 of the Clean Air Act as part of the National Emission Standards for Hazardous Air Pollutants (“NESHAP”) regulations. Subpart M contains the NESHAP for asbestos. The standards of 40 C.F.R. 61, Subpart M are enforceable in the State of Illinois pursuant to Section 9.1(d)(1) of the Act, 415 ILCS 5/9.1(d)(1) (2022).

28. Section 61.141 of the Asbestos NESHAP, 40 C.F.R. § 61.141, provides, in pertinent part, the following definitions:

\* \* \*

*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.

*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.

\* \* \*

*Category II nonfriable asbestos-containing material (ACM)* means any material, excluding Category 1 nonfriable ACM, containing more than 1 percent asbestos as determined using the methods specified in Appendix E, subpart E, 40 CFR part 763, section 1, Polarized Light Microscopy that,

when dry, cannot be crumbled, pulverized, or reduced to powder by hand pressure.

*Commercial asbestos* means any material containing asbestos that is extracted from ore and has value because of its asbestos content.

*Cutting* means to penetrate with a sharp-edged instrument and includes sawing, but does not include shearing, slicing, or punching.

\* \* \*

*Facility* means any . . . commercial, . . . industrial, or residential structure, installation, or building . . .

*Facility component* means any part of a facility including equipment.

*Friable asbestos material* means any material containing more than 1 percent asbestos as determined using the method specified in appendix E, subpart E, 40 CFR part 763, section 1, Polarized Light Microscopy, that, when dry, can be crumbled, pulverized, or reduced to powder by hand pressure . . .

\* \* \*

*Nonfriable asbestos-containing material* means any material containing more than 1 percent asbestos as determined using the method specified in appendix E, subpart E, 40 CFR part 763, section 1, Polarized Light Microscopy, that, when dry, cannot be crumbled, pulverized, or reduced to powder by hand pressure.

\* \* \*

*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.

\* \* \*

*Strip* means to take off RACM from any part of a facility or facility components.

\* \* \*

*Visible emissions* means any emissions, which are visually detectable without the aid of instruments, coming from RACM or asbestos-containing waste material, or from any asbestos milling, manufacturing, or fabricating operation. This does not include condensed, uncombined water vapor.

*Waste generator* means any owner or operator of a source covered by this subpart whose act or process produces asbestos-containing waste material.

\* \* \*

29. The Rialto Theater at the Site is a commercial building, and therefore is a “facility” as that term is defined in Section 61.141 of the Asbestos NESHAP, 40 C.F.R. § 61.141.

30. At all times relevant to the Verified Complaint, the Site contained at least 6,000 linear feet of thermal system pipe insulation, containing between 5-10% asbestos, identified in the Defendant’s State of Illinois Demolition/Renovation/Asbestos Project Notification Form as regulated asbestos containing material (“RACM”).

31. The thermal system pipe insulation 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 asbestos removal operations at the Facility.

32. Because the thermal system pipe insulation 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 renovation operations at the Site it is “RACM” as that term is defined in Section 61.141 of the Asbestos NESHAP, 40 C.F.R. § 61.141.

33. Activities at the Site included the stripping of RACM during renovation of the Site. The Defendants were therefore conducting a “renovation” operation as that term is defined in Section 61.141 of the Asbestos NESHAP, 40 C.F.R. § 61.141.

34. Defendant Authority, as owner of the Site, is an “owner” of a demolition or renovation activity as that term is defined in Section 61.141 of the Asbestos NESHAP, 40 C.F.R. § 61.141.

35. Defendant Berti, as general contractor of the renovation work at the Site, is an “operator” of a demolition or renovation activity, as that term is defined in Section 61.141 of the Asbestos NESHAP, 40 C.F.R. § 61.141.

36. Defendant Universal, as contractor responsible for the asbestos removal operation relevant to this Verified Complaint, is also an “operator” of a demolition or renovation activity, as that term is defined in Section 61.141 of the Asbestos NESHAP, 40 C.F.R. § 61.141.

37. Section 61.145(a) of the Asbestos NESHAP, 40 C.F.R. § 61.145(a), provides, in pertinent part, as follows:

- (a) ...The requirements of paragraphs (b) and (c) of this section apply to each owner or operator of a demolition or renovation activity, including the removal of RACM as follows:

\* \* \*

- (4) In a facility being renovated, including any individual nonscheduled renovation operation, all the requirements of paragraph (b) and (c) of this section apply if the combined amount

of RACM to be stripped, removed, dislodged, cut, drilled, or similarly disturbed is

- (i) At least 80 linear meters (260 linear feet) on pipes or at least 15 square meters (160 square feet) on other facility components, or
- (ii) At least 1 cubic meter (35 cubic feet) off facility components where the length or area could not be measured previously.

\* \* \*

38. The Defendants' renovation activities involved the stripping and removing of more than 6,000 linear feet of asbestos-insulated pipe. The Defendants are subject to the requirements of Sections 61.145(b) and (c) of the Asbestos NESHAP, 40 C.F.R. § 61.145(b) and (c).

39. Section 61.145(c) of the Asbestos NESHAP, 40 C.F.R. § 61.145(c), 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:

\* \* \*

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

\* \* \*

- (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 . . .

40. On July 24, 2024, the Defendants stripped and removed RACM in the form of thermal system pipe insulation. However, the RACM on the floor of the basement and in



unsealed bags in the basement was dry, and there was no indication that the Defendants had adequately wet the RACM prior to stripping it from pipes in the basement. On information and belief, the Defendants failed to adequately wet the thermal system pipe insulation prior to stripping and removing it from pipes.

41. On July 24, 2024, dry RACM, in the form of stripped thermal system pipe insulation, was present in unsealed glove bags and unsealed polyethylene bags in the basement at the Site.

42. By failing to adequately wet the thermal system pipe insulation prior to stripping and removing it from pipes in the basement of the Facility, and ensuring that it remained wet, the Defendants violated Section 61.145(c)(3) of the Asbestos NESHAP, 40 C.F.R. § 61.145(c)(3), and thereby also violated Section 9.1(d)(1) of the Act, 415 ILCS 5/9.1(d)(1) (2022).

43. By failing to adequately wet the RACM prior to placing it in unsealed glove bags and unsealed polyethylene bags in the basement at the Site, and by failing to ensure that it remained wet until contained for disposal, the Defendants violated Section 61.145(c)(6) of the Asbestos NESHAP, 40 C.F.R. § 61.145(c)(6), and thereby also violated Section 9.1(d)(1) of the Act, 415 ILCS 5/9.1(d)(1) (2022).

44. Violations of the pertinent environmental statutes and regulations will continue unless and until this Court grants equitable relief in the form of preliminary and, after trial, permanent injunctive relief.

WHEREFORE, Plaintiff, PEOPLE OF THE STATE OF ILLINOIS, prays that this Court enter an immediate and preliminary injunction and, after trial, a permanent injunction, in favor of Plaintiff and against Defendants, WILL COUNTY METROPOLITAN EXPOSITION AND

AUDITORIUM AUTHORITY, R. BERTI & SON CONTRACTOR INC., and UNIVERSAL ASBESTOS REMOVAL, INC., on Count III:

1. Finding that the Defendants have violated Section 9.1(d)(1) of the Act, 415 ILCS 5/9.1(d)(1) (2022), and Sections 61.145(c)(3) and 61.145(c)(6) of the Asbestos NESHAP, 40 C.F.R. §§ 61.145(c)(3) and 61.145(c)(6);

2. Enjoining the Defendants from any further violations of Section 9.1(d)(1) of the Act, 415 ILCS 5/9.1(d)(1) (2022), and Sections 61.145(c)(3) and 61.145(c)(6) of the Asbestos NESHAP, 40 C.F.R. §§ 61.145(c)(3) and 61.145(c)(6);

3. Ordering the Defendants to take all necessary actions to properly address the substantial danger to the environment, and to the public health and welfare, including but not limited to prohibiting access to the Site until clearance sampling demonstrates no ongoing asbestos exposure, cleaning and removing all asbestos fibers from affected areas of the building at the Site, wetting and disposing of all disturbed asbestos-containing materials stored at the Site in compliance with the requirements of all Federal and State regulations, and fully demonstrate that any threat to human health has been abated;

4. Assessing a civil penalty of Fifty Thousand Dollars (\$50,000.00) against the Defendants for each violation of Section 9.1(d)(1) of the Act, 415 ILCS 5/9.1(d)(1) (2022), and Sections 61.145(c)(3) and 61.145(c)(6) of the Asbestos NESHAP, 40 C.F.R. §§ 61.145(c)(3) and 61.145(c)(6), plus an additional penalty of Ten Thousand Dollars (\$10,000.00) for each day the violations continued;

5. Ordering the Defendants, pursuant to Section 42(f) of the Act, 415 ILCS 5/42(f) (2022), to pay all costs incurred by the State, including oversight, sampling and clean-up costs, and attorney, expert witness and consultant fees expended by the Plaintiff in pursuit of this

action; and,

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

**COUNT IV**  
**FAILURE TO PROPERLY STORE AND DISPOSE OF**  
**ASBESTOS-CONTAINING WASTE MATERIAL**

1–38. Plaintiff re-alleges and incorporates by reference herein paragraphs 1 through 38 of Count III as paragraphs 1 through 38 of this Count IV.

39. The broken and stripped thermal system pipe insulation on the floor in the basement at the Site and stored in unsealed glove bags at the Site on July 24, 2024, is “asbestos-containing waste material” as that term is defined in Section 61.141 of the Asbestos NESHAP, 40 C.F.R. § 61.141.

40. Section 61.150(a) of the Asbestos NESHAP, 40 C.F.R. § 61.150, 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 paragraph (a) (1) through (4) of this section.
  - (1) Adequately wet asbestos-containing waste material as follows:
    - (i) Mix control device asbestos waste to form a slurry; adequately wet other asbestos-containing waste material; and
    - (ii) 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

\* \* \*

41. The Defendants, as owners and operators of an asbestos demolition or renovation activity subject to 40 C.F.R. 61.145, were required under Section 61.150(a) of the Asbestos NESHAP, 40 C.F.R. § 61.150(a), to wet the broken and stripped thermal system pipe insulation, ensure that the material remained wet, and place the material into sealed leak-tight containers after removal.

42. On July 24, 2024, the Defendants stripped and removed the broken and stripped thermal system pipe insulation, but failed to wet the material, and placed the dry material into unsealed glove bags in the basement of the Site. The Defendants thereby violated Section 61.150(a) of the Asbestos NESHAP, 40 C.F.R. § 61.150(a), and thereby also violated Section 9.1(d)(1) of the Act, 415 ILCS 5/9.1(d)(1) (2022).

WHEREFORE, Plaintiff, PEOPLE OF THE STATE OF ILLINOIS, prays that this Court enter an immediate and preliminary injunction and, after trial, a permanent injunction, in favor of Plaintiff and against Defendants, WILL COUNTY METROPOLITAN EXPOSITION AND AUDITORIUM AUTHORITY, R. BERTI & SON CONTRACTOR INC., and UNIVERSAL ASBESTOS REMOVAL, INC., on Count IV:

1. Finding that the Defendants have violated Section 9.1(d)(1) of the Act, 415 ILCS 5/9.1(d)(1) (2022), and Section 61.150(a) of the Asbestos NESHAP, 40 C.F.R. § 61.150(a);
2. Enjoining the Defendants from any further violations of Section 9.1(d)(1) of the Act, 415 ILCS 5/9.1(d)(1) (2022), and Section 61.150(a) of the Asbestos NESHAP, 40 C.F.R. § 61.150(a);
3. Ordering the Defendants to take all necessary actions to properly address the

substantial danger to the environment, and to the public health and welfare, including but not limited to prohibiting access to the Site until clearance sampling demonstrates no ongoing asbestos exposure, cleaning and removing all asbestos fibers from affected areas of the building at the Site, wetting and disposing of all disturbed asbestos-containing materials stored at the Site in compliance with the requirements of all Federal and State regulations, and fully demonstrate that any threat to human health has been abated;

4. Assessing a civil penalty of Fifty Thousand Dollars (\$50,000.00) against the Defendant for each violation of Section 9.1(d)(1) of the Act, 415 ILCS 5/9.1(d)(1) (2022), and Section 61.150(a) of the Asbestos NESHAP, 40 C.F.R. § 61.150(a), plus an additional penalty of Ten Thousand Dollars (\$10,000.00) for each day the violations continued;

5. Ordering the Defendant, pursuant to Section 42(f) of the Act, 415 ILCS 5/42(f) (2022), to pay all costs incurred by the State, including oversight, sampling and clean-up costs, and attorney, expert witness and consultant fees expended by the Plaintiff in pursuit of this action; and

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

PEOPLE OF THE STATE OF ILLINOIS,  
*ex rel.* KWAME RAOUL, Attorney  
General of the State of Illinois,

MATTHEW J. DUNN, Chief  
Environmental Enforcement/  
Asbestos Litigation Division

By: /s/Stephen Sylvester  
STEPHEN SYLVESTER, Chief  
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**VERIFICATION**

I,       Peter Brusky      , do state as follows:

1. I am currently employed by the Illinois Environmental Protection Agency (“Illinois EPA”) in Springfield, Illinois as an Environmental Protection Specialist, Working Supervisor.


2. I have been employed by the Illinois EPA for the past 5.5 years with the last 1.5 years in my current position.

3. The duties and responsibilities of my current position include: complaint and incident investigation for Asbestos NESHAP compliance and review of related project notification forms.

4. I have read the foregoing Verified Complaint for Injunction and Civil Penalties (the “Complaint”) and am aware of the contents thereof.

5. The factual matters set forth in the Verified Complaint are true in substance and in fact, to the best of my knowledge, information, and belief.

6. Under penalties as provided by law pursuant to Section 1-109 of the Code of Civil Procedure, the undersigned certifies that the statements set forth in this instrument are true and correct, except as to matters therein stated to be on information and belief and as to such matters the undersigned certifies as aforesaid that he verily believes the same to be true.

  
\_\_\_\_\_  
Illinois Environmental Protection Agency  
Dated: 8/15/24