

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

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OCT 18 2006

STATE OF ILLINOIS
Pollution Control Board

COUNTY OF JACKSON,)
)
 Complainant,)
)
 v.)
)
 DAN KIMMEL,)
)
 Respondent.)

AC 06 - 21
Site Code: 0778035009

**STIPULATION OF SETTLEMENT AND DISMISSAL
OF RESPONDENT'S PETITION FOR ADMINISTRATIVE REVIEW**

NOW COMES the Complainant, the County of Jackson, ("County"), by and through its attorney, Assistant State's Attorney, Daniel Brenner, and the Respondent, Dan Kimmel, by and through his attorney, Webb H. Smith, and pursuant to Sections 31.1 and 42(b)(4-5) of the Illinois Environmental Protection Act ("Act"), 415 ILCS 5/31.1 and 42(b)(4-5) (2004), and Sections 103.300 through 103.306 of the Illinois Pollution Control Board's ("Board") Rules and Regulations, 35 Ill. Adm. Code 103.300 et. seq., the parties hereby enter into this STIPULATION OF SETTLEMENT AND DISMISSAL OF RESPONDENT'S PETITION FOR ADMINISTRATIVE REVIEW ("Agreement"), and in support hereof, the parties respectfully state as follows:

1. On December 7, 2005, Don Terry, a Solid Waste Inspector, for the Jackson County Health Department, conducted an inspection of a facility owned and operated by the Respondent. The facility is located at 1065 Dumaroc Road, DeSoto, Jackson County, Illinois and is designated with a Site Code No. 0778035009.

2. On or about January 24, 2006, the County served the Respondent with Administrative Citation No. AC 06-21, alleging therein that the Respondent had caused or allowed open dumping at his facility on December 7, 2005, in a manner which resulted in the following occurrences: (1) litter, a violation of 415 ILCS 5/21(p)(1) (2002); and (2) deposition of general construction or demolition debris; or clean construction or demolition debris, a violation of 415 ILCS 5/21 (p)(7)(2002).

3. On or about March 10, 2006, the Respondent filed an Amended Petition for Review contesting the administrative citation.

4. In an effort to resolve this matter without the need for a hearing, the parties have engaged in settlement negotiations and have reached this Agreement and hereby tender it to the Board for approval, the terms and conditions of which are as follows:

a. Respondent admits that he caused or allowed open dumping resulting in litter, a violation of 415 ILCS 5/21(p)(1) (2004). Respondent agrees to pay the statutory civil penalty of \$1,500.00 pursuant to 415 ILCS 5/42(b)(4-5) (2004).

b. Respondent agrees to pay the statutory civil penalty by December 31, 2006. Payment shall be made to the Jackson County Treasurer as payee, Jackson County Courthouse, Murphysboro, Illinois 62966.

c. Respondent agrees to bring the site in compliance with Section 21 of the Act, 415 ILCS 5/21 (2004), by December 31, 2006.

d. Respondent's Amended Petition for Review filed with the Board on or about March 10, 2006, shall be dismissed.

WHEREFORE, the parties request that the Board accept this Agreement and issue an order consistent with its terms and conditions.

By:



Daniel Brenner
Assistant State's Attorney
Jackson County Courthouse, Third Floor
Murphysboro, IL 62966
618-687-7200

For the Complainant

By:



Webb H. Smith
Attorney at Law
Gilbert, Kimmel, Huffman, Prosser & Hewson, Ltd.
102 Orchard Drive
PO Box 1060
Carbondale, Illinois 62903-1060
618-457-3547

For the Respondent

Approved as to form:

Date: 10-11-06


Dan Kimmel

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PROOF OF SERVICE

I hereby certify that I did on the 16th day of October, 2006 send by U.S. Mail, with postage thereon fully prepaid, by depositing in U.S. Post Office Box a true and correct copy of the following instrument(s) entitled STIPULATION OF SETTLEMENT AND DISMISSAL OF RESPONDENT'S PETITION FOR ADMINISTRATIVE REVIEW

To: Webb H. Smith
Attorney at Law
Gilbert, Kimmel, Huffman, Prosser
& Hewson, Ltd.
102 Orchard Drive
PO Box 1060
Carbondale, IL 62903-1060

Carol Webb
Hearing Officer
Illinois Pollution Control Board
1021 North Grand Avenue East
P.O. Box 19274
Springfield, IL 62794-9274

and the original and nine (9) true and correct copies of the same foregoing instruments on the same date by U.S. Mail with postage thereon fully prepaid.

To: Dorothy Gunn, Clerk
Illinois Pollution Control Board
James R. Thompson Center
100 West Randolph Street, Suite 11-500
Chicago, IL 60601



Daniel Brenner
Assistant State's Attorney
Jackson County Courthouse, Third Fl.
Murphysboro, IL 62966
618-687-7200