

ILLINOIS POLLUTION CONTROL BOARD  
June 17, 2010

PEOPLE OF THE STATE OF ILLINOIS,	)	
	)	
Complainant,	)	
	)	
v.	)	PCB10-08
	)	(Enforcement - Land)
DON SWINSON, an individual, and	)	
CHAMPION ENVIRONMENTAL	)	
SERVICES, INC., a Wisconsin corporation,	)	
	)	
Respondents.	)	

ORDER OF THE BOARD (by G.L. Blankenship):

On July 28, 2009, the Office of the Attorney General, on behalf of the People of the State of Illinois (People), filed a six-count complaint against Don Swinson (Swinson) and Champion Environmental Services, Inc. (Champion). The complaint concerns Swinson’s vacant lot located at 2000 Cunningham Road in the City of Rockford, Winnebago County, and the general construction or demolition debris (C&D) that Champion allegedly transported there. The People and Champion now seek to settle without a hearing. Swinson is not a party to the stipulation. For the reasons below, the Board directs that either an amended complaint or an amended stipulation be filed to reconcile an inconsistency between the complaint and the stipulation.

Under the Environmental Protection Act (Act) (415 ILCS 5 (2008)), the Attorney General and the State’s Attorneys may bring actions before the Board to enforce Illinois’ environmental requirements on behalf of the People. *See* 415 ILCS 5/31 (2008); 35 Ill. Adm. Code 103. In this case, the People’s complaint alleges that both Champion and Swinson violated Sections 21(a), (d)(1), (e), and (p)(1) of the Act (415 ILCS 5/21(a), (d)(1), (e), (p)(1) (2008)) by (1) causing or allowing the open dumping of waste at a site that does not fulfill the requirements of a sanitary landfill (count I), (2) disposing of C&D waste without a permit granted by the Illinois Environmental Protection Agency (Agency) (count II), (3) disposing of waste at an unpermitted facility (count IV), and (4) causing or allowing the open dumping of waste in a manner resulting in litter (count V). The complaint further alleges that Swinson alone violated Sections 21(d)(2) and 22.38(b)(11) of the Act (415 ILCS 5/21(d)(2), 22.38(b)(11) (2008)) and Sections 807.201 and 807.202(a) of the Board’s waste disposal regulations (35 Ill. Adm. Code 807.201, 807.202(a)) by (1) developing and operating a solid waste management site without a permit from the Agency (count III) and (2) failing to submit the necessary information to the Agency prior to accepting C&D waste at the site (count VI).

On June 14, 2010, the People and Champion filed a stipulation and proposed settlement, accompanied by a request for relief from the hearing requirement of Section 31(c)(1) of the Act (415 ILCS 5/31(c)(1) (2008)). This filing is authorized by Section 31(c)(2) of the Act (415 ILCS 5/31(c)(2) (2008)), which requires that the public have an opportunity to request a hearing

whenever the State and a respondent propose settling an enforcement action without a public hearing. *See* 35 Ill. Adm. Code 103.300(a). Under the proposed stipulation, Champion does not affirmatively admit the alleged violations but agrees to pay a civil penalty of \$2,500.

Generally, unless the Board determines that a hearing is needed, the Board causes notice of a stipulation, proposed settlement, and request for relief from the hearing requirement. Any person may file a written demand for hearing within 21 days after receiving the notice. If anyone timely files a written demand for hearing, the Board denies the parties' request for relief and holds a hearing. *See* 415 ILCS 5/31(c)(2) (2008); 35 Ill. Adm. Code 103.300(b), (c).

In this case, however, the Board will not direct the Clerk to provide such notice at this time because there is an inconsistency between the complaint and the stipulation that must first be reconciled. Specifically, while count III of the complaint is alleged against Swinson only, the stipulation, which is between the People and Champion only, includes count III. *See* Stipulation at 3-4. This discrepancy must be addressed before the Board will provide any notice under Section 31(c)(2) of the Act (415 ILCS 5/31(c)(2) (2008)). Accordingly, the Board directs that either the People file an amended complaint or the People and Champion file an amended stipulation and proposed settlement, accompanied by another request for relief from the hearing requirement. *See* People v. Village of Rockton, PCB 09-104, slip op. at 1-2 (Nov. 19, 2009) (directing Clerk to provide notice of amended stipulation that reconciled inconsistency between complaint and original stipulation).

IT IS SO ORDERED.

I, John Therriault, Assistant Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above order on June 17, 2010, by a vote of 5-0.



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John Therriault, Assistant Clerk  
Illinois Pollution Control Board