Electronic Filing - Received, Clerk's Office, August 16, 2010

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

PEOPLE OF THE STATE OF ILLINOIS,
Complainant,
V.
DON SWINSON, an individual, and CHAMPION ENVIRONMENTAL SERVICES, INC., a Wisconsin Corporation,
Respondents.

PCB NO. 10-08 (Enforcement – Land)

NOTICE OF FILING

)

TO: Brian G. Selander
Schlueter Ecklund
4023 Charles Street
Rockford, Illinois 61108-6199

Clerk Illinois Pollution Control Board James R. Thompson Center 100 W. Randolph Street, Ste. 11-500 Chicago, Illinois 60601

PLEASE TAKE NOTICE that I have today filed with the Office of the Clerk of the Illinois Pollution Control Board an original and nine copies of Complainant's Motion to Dismiss Count VI of the Complaint filed on July 28, 2009, a Notice of Filing and a Certificate of Service, a copy of which is attached herewith and served upon you.

Respectfully submitted,

PEOPLE OF THE STATE OF ILLINOIS

LISA MADIGAN Attorney General State of Illinois

BY:

ZEMEHERET BEREKET-AB Environmental Bureau Assistant Attorney General 69 W. Washington St., Suite 1800 Chicago, Illinois 60602 (312) 814-3816

DATE: August 16, 2010

THIS FILING IS SUBMITTED ON RECYCLED PAPER

Electronic Filing - Received, Clerk's Office, August 16, 2010

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

PEOPLE OF THE STATE OF ILLINOIS,	
Complainant,	
v.	
DON SWINSON, an individual, and CHAMPION ENVIRONMENTAL SERVICES, INC., a Wisconsin Corporation,	

PCB NO. 10-08 (Enforcement – Land)

Respondents.

MOTION TO DISMISS COUNT VI OF THE COMPLAINT FILED ON JULY 28, 2009

In support of this Motion, Complainant states as follows:

1. On July 28, 2009, Complainant filed a Six Count Complaint against Respondents in this matter.

2. Count VI of the Complaint alleges that Don Swinson as owner of the Site violated Section 22.38(b)(11) of the Act, 415 ILCS 5/22.38(b)(11) (2008) for failure to submit to the Illinois EPA the information requested by Section 22.38(b)(11) of the Act.

3. However, pursuant to the terms of Section 3.330(a)(13) of the Act, 415 ILCS

5/3.330(a)(13) (2008), Section 22.38 does not apply to the Swinson Site as the Site is located in a county with a population of less than 700,000.

4. In recognition of this fact, the Stipulation signed by the Parties does not make any reference to Count VI.

Therefore, in order to avoid any contradiction between the Complaint and the Stipulation, Complainant requests to dismiss Count VI of the Complaint filed on July 28, 2009. Respectfully submitted,

PEOPLE OF THE STATE OF ILLINOIS

LISA MADIGAN Attorney General State of Illinois

BY:

肦

ZEMEHERET BEREKET-AB Environmental Bureau Assistant Attorney General 69 W. Washington St., Suite 1800 Chicago, Illinois 60602 (312) 814-3816

DATE: August 16, 2010

G:\Environmental Enforcement\Z BEREKET-AB\SWINSON\Mottodismiss Count VI - 8.16.10.Doc

CERTIFICATE OF SERVICE

I, ZEMEHERET BEREKET-AB, an Assistant Attorney General, do certify that I caused to be served on this 16th day of August 2010, the foregoing Notice of Filing, and Complainant's Motion to Dismiss Count VI of the Complaint filed on July 28, 200, upon the persons listed on said Notice by placing same in an envelope bearing sufficient postage with the United States Postal Service located at 100 West Randolph Street, Chicago, Illinois.

Sinkotts

ZEMEHERET BEREKET-AB

G:\Environmental Enforcement\Z BEREKET-AB\SWINSON\NOF&Cert (Swinson Only) 8-16-10.Doc