ILLINOIS POLLUTION CONTROL BOARD August 19, 2010

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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 Swinson now seek to settle without a hearing. Champion is not a party to the stipulation. For the reasons below, the Board directs the Clerk to provide public notice of the stipulation and proposed settlement and request for relief from the hearing requirement.

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 allege that 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 People further allege that Swinson 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

¹ In a separate order issued July 1, 2010 in this docket, the Board granted a motion for hearing relief and accepted the amended stipulation and proposed settlement involving Champion for publication. *See* People v. Don Swinson and Champion Environmental Services, Inc., PCB 10-8 (July 1, 2010).

(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 August 16, 2010, the People and Swinson 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 stipulation and proposed settlement, Swinson does not affirmatively admit the alleged violations and agrees to pay a civil penalty of \$5,000.

Unless the Board determines that a hearing is needed, the Board must cause notice of the stipulation and proposed settlement and accompanying 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 will deny the parties' request for relief and hold a hearing. *See* 415 ILCS 5/31(c)(2) (2008); 35 Ill. Adm. Code 103.300(b), (c). The Board directs the Clerk to provide the required notice.

IT IS SO ORDERED.

I, John Therriault, Assistant Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above order on August 19, 2010, by a vote of 5-0.

John Therriault, Assistant Clerk Illinois Pollution Control Board