

ORIGINAL

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

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JUN 15 1998
STATE OF ILLINOIS
POLLUTION CONTROL BOARD

PEOPLE OF THE STATE OF ILLINOIS,)
)
Complainant,)
)
vs.)
)
THE CENTRAL ILLINOIS CONFERENCE)
OF THE UNITED METHODIST CHURCH,)
an Illinois not-for-profit corporation,)
)
Respondent.)

PCB No. 98- 85
(Land Enforcement)

NOTICE OF FILING

TO: Charles J. Northrup Amy L. Jackson
Sorling, Northrup, Hanna, Hearing Officer
Cullen & Cochran Illinois Pollution Control Board
607 East Adams Street, Suite 800 600 South Second Street
P.O. Box 5131 Suite 402
Springfield, Illinois 62705 Springfield, Illinois 62704

PLEASE TAKE NOTICE that we have today filed with the Illinois Pollution Control Board a Stipulation and Proposal for Settlement and a Motion to Request Relief From Hearing Requirement, copies of which are attached and served upon you.

Respectfully submitted,

PEOPLE OF THE STATE OF ILLINOIS

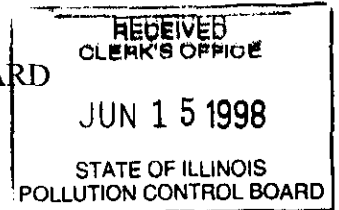
JAMES E. RYAN
Attorney General
State of Illinois

BY: Susan W. Horn
SUSAN W. HORN
Assistant Attorney General
Environmental Bureau
100 West Randolph Street, 11th Floor
Chicago, Illinois 60601
(312) 814- 1511

Dated: June 15, 1998

THIS FILING IS SUBMITTED ON RECYCLED PAPER

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD



PEOPLE OF THE STATE OF ILLINOIS,)
Complainant,)
vs.)
THE CENTRAL ILLINOIS CONFERENCE)
OF THE UNITED METHODIST CHURCH,)
an Illinois not-for-profit corporation,)
Respondent.)

PCB No. 98- 85
(Land Enforcement)

STIPULATION AND PROPOSAL FOR SETTLEMENT

The Complainant, PEOPLE OF THE STATE OF ILLINOIS, by JAMES E. RYAN, Attorney General of the State of Illinois, on his own motion and at the request of the Illinois Environmental Protection Agency ("Illinois EPA"), and the Respondent, THE CENTRAL ILLINOIS CONFERENCE OF THE UNITED METHODIST CHURCH, an Illinois not-for-profit corporation ("Conference"), do hereby agree to this Stipulation and Proposal for Settlement. The parties agree that the statement of facts contained herein represents a fair summary of the evidence and testimony which would be introduced by the parties if a full hearing were held. The parties further stipulate that this statement of facts is made and agreed upon for purposes of settlement only and that neither the fact that a party has entered into this stipulation, nor any of the facts stipulated herein, shall be introduced into evidence in this or any other proceeding except to enforce the terms of this agreement. Notwithstanding the previous sentence, for purposes of Section 42(h) of the Illinois Environmental Protection Act ("Act"), 415 ILCS 5/42(h) (1996), this Stipulation and Proposal for Settlement and any Illinois Pollution Control Board ("Board") order accepting same may be used in any future enforcement action as

evidence of past adjudication of violations of the Act. This agreement shall be null and void unless the Illinois Pollution Control Board ("Board") approves and disposes of this matter on each and every one of the terms and conditions of the settlement set forth herein.

I.

JURISDICTION

The Board has jurisdiction of the subject matter herein and of the parties consenting hereto pursuant to the Act, 415 ILCS 5/1 *et seq.* (1996).

II.

AUTHORIZATION

The undersigned representatives for each party certify that they are fully authorized by the party whom they represent to enter into the terms and conditions of this Stipulation and Proposal for Settlement and to legally bind the party they represent to this Stipulation and Proposal for Settlement.

III.

APPLICABILITY

This Stipulation and Proposal for Settlement shall apply to and be legally binding upon the Complainant and the Respondent, as well as the successors and assignees of each, and any officer, director, agent, employee or servant of the Respondent. The Respondent shall not raise as a defense to any enforcement action taken pursuant to this Stipulation and Proposal for Settlement the failure of its officers, directors, agents, servants or employees to take such action as shall be required to comply with the provisions of this Stipulation and Proposal for Settlement.

IV.

STATEMENT OF FACTS

A. PARTIES

1. The Attorney General of the State of Illinois brought this action on his own motion and at the request of the Illinois EPA pursuant to the statutory authority vested in him under Sections 22.2(f) and 31 of the Illinois Environmental Protection Act ("Act"), 415 ILCS 5/22.2(f) and 31 (1996).

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 (1996), and charged, *inter alia*, with the duty of enforcing the Act.

3. The Respondent, The Central Illinois Conference of the United Methodist Church, is an Illinois not-for-profit corporation in good standing.

4. At all times relevant to the Complaint and this Stipulation and Proposal for Settlement, the Respondent has owned and operated a recreational camp, commonly known as East Bay Camp, located at RR 2, Hudson, McLean County, Illinois.

B. ALLEGED VIOLATIONS

On December 12, 1997, the Complainant, People of the State of Illinois, filed a complaint against the Respondent, The Central Illinois Conference of the United Methodist Church. The complaint alleges the following:

- Count I: Open Dumping (Violation of 21(a) of the Act);
- Count II: Improper Disposal (Violation of 21(e) of the Act);
- Count III: Conducting a Hazardous Waste Storage/Disposal Facility Without a Permit (Violations of 21(f) of the Act and 35 Ill. Adm. Code 703.121 and 703.150);

- Count IV: Failure to Develop and Follow a Written Waste Analysis Plan (Violations of 21(f) of the Act and 35 Ill. Adm. Code 725.113);
- Count V: Violations of Operating Requirements For Hazardous Waste Storage/Disposal Facility (Violations of 21(f) of the Act and 35 Ill. Adm. Code 725.114, 725.115, 725.116, 725.117, 725.131, 725.132, 725.133, 725.134 and 725.137);
- Count VI: Violation of Land Disposal Requirements (Violations of 21(f) of the Act and 35 Ill. Adm. Code 725.273, 725.412, 725.414 and 728.109);
- Count VII: Failure to have a Contingency Plan for the Site (Violations of 21(f) of the Act and 35 Ill. Adm. Code 725.151);
- Count VIII: Failure to have an Emergency Coordinator for the Site (Violations of 21(f) of the Act and 35 Ill. Adm. Code 725.155 and 725.156);
- Count IX: Failure to Maintain Operating Records (Violations of 21(f) of the Act and 35 Ill. Adm. Code 725.173);
- Count X: Failure to Submit Annual Report (Violations of 21(f) of the Act and 35 Ill. Adm. Code 725.175 and 725.177);
- Count XI: Failure to Prepare and Implement a Groundwater Monitoring Program and Groundwater Sampling Program (Violations of 21(f) of the Act and 35 Ill. Adm. Code 725.190, 725.191, 725.192 and 725.193);
- Count XII: Failure to have Closure Plan (Violations of 21(f) of the Act and 35 Ill. Adm. Code 725.212);
- Count XIII: Failure to have Post-Closure Plan (Violations of 21(f) of the Act and 35 Ill. Adm. Code 725.218);
- Count XIV: Failure to Provide Cost Estimates for Closure (Violations of 21 (f) of the Act and 35 Ill. Adm. Code 725.242);
- Count XV: Failure to Provide Financial Assurance for Closure (Violations of 21(f) of the Act and 35 Ill. Adm. Code 725.243);
- Count XVI: Failure to Provide Cost Estimates and Financial Assurance for Post-Closure Care (Violations of 21(f) of the Act and 35 Ill. Adm. Code 725.244 and 725.245);
- Count XVII: Violation of Record Keeping Requirements (Violations of 21(f) of the Act and 35 Ill. Adm. Code 725.409); and
- Count XVIII: Cost Recovery (Recovery Pursuant to 22.2(f) of the Act).

V.

NATURE OF RESPONDENT'S OPERATIONS

The Respondent owns and operates the site as East Bay Camp, a recreational camp area and lodge.

VI.

EXPLANATION OF PAST FAILURES TO COMPLY WITH THE ACT

1. The Respondent uses pesticides only in its maintenance operations at the site.
2. In approximately August of 1989, the Respondent improperly buried at least eight deteriorated and/or leaking drums at the site. Not all of these drums contained hazardous waste pesticides. In approximately February of 1990, these drums, along with contaminated soil, were removed.
3. In approximately February of 1990, the Respondent stored several containers of pesticides in a storage shed at the site. These pesticides were not stored in accordance with RCRA requirements.
4. Since that time, the Respondent has been working with the Illinois EPA to address soil contamination that resulted from the improper storage and disposal of the drums and other containers of hazardous waste pesticides. This work has been undertaken under RCRA requirements.
5. As of the date of the filing of this Stipulation and Proposal for Settlement, the work to address the contamination has been completed pursuant to the terms of a RCRA closure plan, and the Respondent submitted its final RCRA closure documentation to the Illinois EPA on December 26, 1997.

VII.

FUTURE PLANS FOR COMPLIANCE

Without admitting or denying the existence of such alleged past failures, the Respondent shall comply with the Act and the Board's Regulations and all permits issued thereunder, and the

Respondent shall cease and desist from any actions that might or would violate the provisions of the Act and the regulations promulgated thereunder.

VIII.

IMPACT ON THE PUBLIC RESULTING FROM NON-COMPLIANCE

Section 33(c) of the Act, 415 ILCS 5/33(c) (1996), provides as follows:

In making its orders and determinations, the Board shall take into consideration all the facts and circumstances bearing upon the reasonableness of the emissions, discharges, or deposits involved including, but not limited to:

1. The character and degree of injury to, or interference with the protection of the health, general welfare and physical property of the people;
2. The social and economic value of the pollution source;
3. The suitability or unsuitability of the pollution source to the area in which it is located, including the question of priority of location in the area involved;
4. The technical practicability and economic reasonableness of reducing or eliminating the emissions, discharges or deposits resulting from such pollution source; and
5. Any subsequent compliance.

Although the Respondent neither admits nor denies the violations of the Act and Board's regulations as set forth herein, the parties state as follows:

1. The injury to the health, general welfare and physical property of the people was that hazardous waste pesticides were stored and disposed of at the site without a permit from the Illinois EPA and without properly preparing the site for such storage and disposal. These actions contaminated the soil in the drum disposal area and thereby threatened the health, general welfare and physical property of the people. However, no evidence exists, nor is any allegation made,

that this contaminated soil resulted in any impact to human health or the general welfare. Also, sampling identified no impact to groundwater.

2. The parties agree that East Bay Camp is of social and economic value;
3. The hazardous waste pesticides were not suitable for disposal at the site;
4. Complying with the requirements of the Act and the Illinois Pollution Control Board's regulations regarding the proper storage and disposal of the hazardous waste pesticides was both technically practicable and economically reasonable; and
5. The Respondent has properly remediated the contamination at the site, and the Respondent has submitted the final closure documentation to the Illinois EPA to certify that the facility is properly closed pursuant to RCRA.

IX.

CONSIDERATION OF SECTION 42(h) FACTORS

Section 42(h) of the Act, 415 ILCS 5/42 (h) (1996), provides as follows:

In determining the appropriate civil penalty to be imposed under this Section, the Board is authorized to consider any matters of record in mitigation or aggravation of penalty, including but not limited to the following factors:

1. the duration and gravity of the violation;
2. the presence or absence of due diligence on the part of the violator in attempting to comply with the requirements of this Act and regulations thereunder or to secure relief therefrom as provided by this Act;
3. any economic benefits accrued by the violator because of delay in compliance with the requirements;
4. the amount of monetary penalty which will serve to deter further violations by the violator and to otherwise aid in enhancing voluntary compliance with this Act by the violator and other persons similarly subject to the Act; and

5. the number, proximity in time, and gravity of previously adjudicated violations of the Act by the violator.

Although the Respondent neither admits nor denies the violations of the Act and the Board's regulations as set forth herein, the parties state as follows:

1. The hazardous waste storage and disposal activities began in at least 1989. Any improperly disposed of or stored drums were removed in February 1990, but because the Illinois EPA has not yet certified that the site has been properly closed pursuant to RCRA, the alleged violations continue through the date of the filing of this Stipulation and Proposal for Settlement;

2. The Respondent made no attempt to comply with the regulations regarding the storage and disposal of the hazardous waste pesticides at the site until the Illinois EPA involvement at the site in February 1990. Since that time, the Respondent has worked with the Illinois EPA to satisfactorily address any concerns at the site;

3. The Respondent accrued the economic benefit of not having to properly dispose of the hazardous waste pesticides and surrounding soil contaminated with these hazardous waste pesticides from at least August of 1989 through February of 1990 for the storage site and at least August of 1989 through the date of the filing of this Stipulation and Proposal for Settlement for the drum disposal area. However, the Respondent represents that it has incurred costs of approximately \$251,000.00 since 1990 to address any on-site contamination;

4. The Complainant has determined that a Fifteen Thousand Dollar (\$15, 000.00) settlement payment by the Respondent to the Environmental Protection Trust Fund, referred to in Section X. of this Stipulation and Proposal for Settlement, will serve to deter further violations *and aid in future voluntary enforcement* of the Act and Board regulations; and

5. The Respondent has no previously adjudicated violations of the Act.

X.

TERMS OF SETTLEMENT

1. For purposes of reaching settlement, the Respondent neither admits nor denies the violations alleged in the complaint.

2. The Respondent shall make two settlement payments as follows:

- a. Within thirty (30) days from the date on which the Board adopts a final order approving this Stipulation and Proposal for Settlement, the Respondent shall pay \$40,076.00 by a certified check or money order made payable to the Treasurer of the State of Illinois and designated for deposit in the Illinois Hazardous Waste Fund to reimburse the Illinois EPA for the costs it incurred at the site; and

- b. Within thirty (30) days from the date on which the Board adopts a final order approving this Stipulation and Proposal for Settlement, the Respondent shall pay a penalty of \$15,000.00 by a certified check or money order made payable to the Treasurer of the State of Illinois and designated for deposit in the Illinois Environmental Protection Trust Fund.

3. These payments shall be sent by first class mail to:

Illinois Environmental Protection Agency
Fiscal Services Division
1021 North Grand Avenue East
P.O. Box 19276
Springfield, Illinois 62702.

On each check or money order, the Respondent shall include the case name and number and the Respondent's Federal Employer Identification Number ("FEIN"). A copy of each check or money order shall be sent by first class mail to:

Susan W. Horn
Assistant Attorney General
Office of the Illinois Attorney General
100 West Randolph Street
11th Floor, Environmental Bureau
Chicago, Illinois 60601.

4. Pursuant to Section 42(g) of the Act, 415 ILCS 5/42(g)(1996), interest shall accrue on any penalty amount not paid within the time period prescribed herein at the maximum rate allowable under Section 1003(a) of the Illinois Income Tax Act, 35 ILCS 5/1003(a)(1996), as follows:

a. Interest on unpaid penalties shall begin to accrue from the date the payments are due and continue to accrue until the date payment is received;

b. Where partial payment is made on any payment amount that is due, such partial payment shall first be applied to any interest on unpaid payments then owing; and

c. All interest on payments owed to the Complainant shall be paid by certified check payable to the Treasurer of the State of Illinois for deposit in the same fund the payment shall be deposited into pursuant to Section X.2. above and delivered to:

Illinois Environmental Protection Agency
Fiscal Services Division
1021 North Grand Avenue East
P.O. Box 19276
Springfield, Illinois 62702.

5. On each check or money order for accrued interest owed pursuant to Section X.4. above, the Respondent shall include the case name and number and the Respondent's Federal Employer Identification Number ("FEIN"). A copy of each check or money order shall be sent by *first class mail* to :

Susan W. Horn
Assistant Attorney General
Office of the Illinois Attorney General
100 West Randolph Street
11th Floor, Environmental Bureau
Chicago, Illinois 60601.

6. The Respondent shall conduct all future operations in compliance with the Act and regulations promulgated thereunder.

XI.

COMPLIANCE WITH OTHER LAWS AND REGULATIONS

This Stipulation and Proposal for Settlement in no way affects the Respondent's responsibility to comply with any federal, state or local regulation, including but not limited to, the Act, 415 ILCS 5/1 *et seq.* (1996), and the Board's regulations.

XII.

RELEASE FROM LIABILITY

In consideration for the Respondent's payments of \$40,076.00 and \$15,000.00 and commitment to refrain from future violations of the Act, the Complainant shall release, waive and discharge the Respondent from any further liability for the Illinois EPA's past costs incurred at the site and any further liability or penalties for violations of the Act which were the subject matter of the complaint herein upon receipt by the Illinois EPA of all payments required by Section X. of this Stipulation and Proposal for Settlement. However, nothing in this Stipulation and Proposal for Settlement shall be construed as a waiver by the Complainant of the right to redress future violations of the Act and/or obtain penalties with respect thereto.

WHEREFORE, the Complainant and the Respondent request that the Board adopt and accept the foregoing Stipulation and Proposal for Settlement as written.

AGREED:

FOR THE COMPLAINANT:

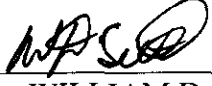
FOR THE RESPONDENT:

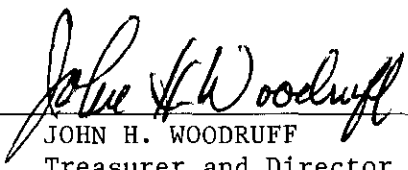
PEOPLE OF THE STATE OF ILLINOIS

THE CENTRAL ILLINOIS CONFERENCE
OF THE UNITED METHODIST CHURCH

JAMES E. RYAN
Attorney General
State of Illinois

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

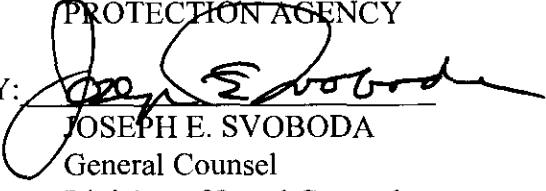
BY: 
WILLIAM D. SEITH, Chief
Environmental Bureau
Assistant Attorney General

BY: 
JOHN H. WOODRUFF
Treasurer and Director
of Administrative Services

DATED: 6/1/98

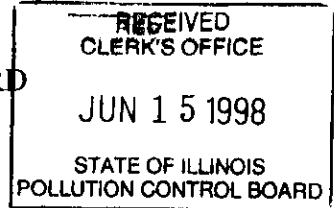
DATED: 6/7/98

ILLINOIS ENVIRONMENTAL
PROTECTION AGENCY

BY: 
JOSEPH E. SVOBODA
General Counsel
Division of Legal Counsel

DATED: 5/27/98

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD



PEOPLE OF THE STATE OF ILLINOIS,)
Complainant,)
vs.)
THE CENTRAL ILLINOIS CONFERENCE)
OF THE UNITED METHODIST CHURCH,)
an Illinois not-for-profit corporation,)
Respondent.)

PCB No. 98- 85
(Land Enforcement)

MOTION TO REQUEST RELIEF FROM HEARING REQUIREMENT

NOW COMES the Complainant, PEOPLE OF THE STATE OF ILLINOIS, by JAMES E. RYAN, Attorney General of the State of Illinois, and requests relief from the hearing requirement in the above-captioned matter. In support thereof, the complainant states as follows:

- 1. On December 12, 1997, the Complainant filed its Complaint in this matter with the Illinois Pollution Control Board ("Board").
2. Section 31(c)(2) of the Illinois Environmental Protection Act ("Act"), 415 ILCS 5/31(c)(2)(1996), allows the parties in certain cases to request relief from the mandatory hearing requirement where the parties have submitted to the Board a stipulation and proposal for settlement. Section 31(c)(2) provides:

Notwithstanding the provisions of subdivision (1) of this subsection (c), whenever a complaint has been filed on behalf of the Agency or by the People of the State of Illinois, the parties may file with the Board a stipulation and proposal for settlement accompanied by a request for relief from the requirement of a hearing pursuant to subdivision (1). Unless the Board, in its discretion, concludes that a hearing will be held, the Board shall cause notice of the stipulation, proposal and request for relief to be published and sent in the same manner as is required for hearing pursuant to subdivision (1) of this subsection. The notice shall include a statement that any person may file a written demand for

hearing within 21 days after receiving the notice. If any person files a timely written demand for hearing, the Board shall deny the request for relief from a hearing and shall hold a hearing in accordance with the provisions of subdivision (1).

3. No hearing is currently scheduled in this case.
4. The Complainant requests the relief conferred by Section 31(c)(2) of the Act.

WHEREFORE, the Complainant, PEOPLE OF THE STATE OF ILLINOIS, by JAMES E. RYAN, Attorney General of the State of Illinois, requests relief from the requirement of a hearing pursuant to 415 ILCS 5/31(c)(2)(1996).

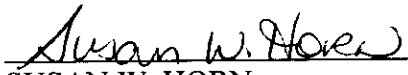
Respectfully submitted,

PEOPLE OF THE STATE OF ILLINOIS

JAMES E. RYAN
Attorney General
State of Illinois

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

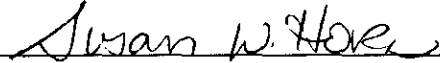
WILLIAM D. SEITH, Chief
Environmental Bureau

BY: 
SUSAN W. HORN
Assistant Attorney General
Environmental Bureau
100 West Randolph Street, 11th Floor
Chicago, Illinois 60601
(312) 814-1511

Dated: June 15, 1998

CERTIFICATE OF SERVICE

I, SUSAN W. HORN, an Assistant Attorney General in this case, do certify that on this 15th day of June, 1998, I caused to be served by first class mail the foregoing Notice of Filing, Stipulation and Proposal for Settlement and Motion to Request Relief from Hearing Requirement upon the persons listed on the Notice of Filing by depositing same in the U.S. Mail depository located at 100 West Randolph Street, Chicago, Illinois, in an envelope with sufficient postage prepaid.



SUSAN W. HORN