

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

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JAN 11 2008

STATE OF ILLINOIS  
Pollution Control Board

ILLINOIS ENVIRONMENTAL )  
PROTECTION AGENCY, )  
 )  
Complainant, )  
 )  
v. )  
 )  
JOHNNY KEMPER d/b/a KEMPER TREE )  
SERVICE, )  
 )  
Respondent. )

AC 06-33

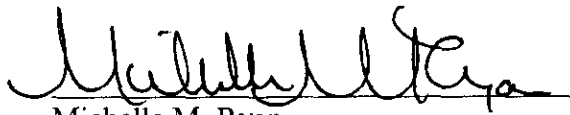
(IEPA No. 61-06-AC)

**NOTICE OF FILING**

To: Larry Jones  
Jones & Jones Law Offices, P.C.  
P.O. Box 8  
Paris, Illinois 61944

PLEASE TAKE NOTICE that on this date I mailed for filing with the Clerk of the Pollution Control Board of the State of Illinois the following instrument(s) entitled STIPULATION OF SETTLEMENT AND DISMISSAL OF RESPONDENT'S PETITION FOR ADMINISTRATIVE REVIEW.

Respectfully submitted,



Michelle M. Ryan  
Special Assistant Attorney General

Illinois Environmental Protection Agency  
1021 North Grand Avenue East  
P.O. Box 19276  
Springfield, Illinois 62794-9276  
(217) 782-5544

Dated: January 8, 2008

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	)	
JOHNNY KEMPER d/b/a KEMPER TREE	)	
SERVICE,	)	
	)	
Respondent.	)	

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

NOW COMES the Complainant, ILLINOIS ENVIRONMENTAL PROTECTION AGENCY ("Illinois EPA"), by and through its attorney, Michelle M. Ryan, and the Respondent, JOHNNY KEMPER d/b/a KEMPER TREE SERVICE ("Respondent"), by and through his attorney, Larry B. Jones, 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 Section 103.180 of the Illinois Pollution Control Board's ("Board") Rules and Regulations, 35 Ill. Adm. Code 103.180, 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 March 1, 2006, Curt White, an Environmental Protection Specialist for the Illinois EPA's Champaign Regional Office, conducted an inspection of a facility owned and operated by the Respondent. The facility is located in the SE ¼ of Section 35, Township 14, Range

12W in Paris, Edgar County, Illinois, and is designated with Illinois EPA Site Code No. 0458085005.

2. On or about March 31, 2006, the Illinois EPA served the Respondent with Administrative Citation No. 61-06-AC, alleging therein that the Respondent had caused or allowed open dumping at its facility on March 1, 2006, in a manner which resulted in the following occurrences: (1) litter, a violation of 415 ILCS 5/21(p)(1) (2004); and (2) open burning, a violation of 415 ILCS 5/21(p)(3) (2004).

3. On or about May 6, 2006, the Respondent filed a Petition for Review contesting the administrative citation.

4. On [DATE], the Bankruptcy Court for the Central District of Illinois entered an order approving the form of this settlement (Exhibit A).

5. 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), and agrees to pay the statutory civil penalty of \$1,500.00 pursuant to 415 ILCS 5/42(b)(4-5) (2004). The statutory civil penalty of \$1,500 is imposed pursuant to the police powers of the State of Illinois, intended to protect the public health, safety, welfare, and environment.
- b. Respondent agrees to pay the statutory civil penalty within 30 days of the date of the Board's order approving this settlement. This settlement agreement is not an action to

collect the agreed penalty, nor will the State of Illinois take any action to collect this penalty during the pendency of Case No. 06-91251, other than through the Central District of Illinois Bankruptcy Court, in consideration of any potential stay against collection activities in other forums.

- c. Respondent agrees to diligently comply with, and shall cease and desist from further violation of the Act, 415 ILCS 5/1 *et seq.* (2006), and the Board's rules and regulations, 35 Ill. Adm. Code Subtitles A through H.
- d. The waste located at the site that was the subject of this administrative citation has been removed and properly disposed of.
- e. The Illinois EPA agrees not to refer the violations that are the subject of this administrative citation to the Office of the Illinois Attorney General or any other prosecuting authority for the initiation of a civil enforcement action.
- f. Respondent's Petition for Review filed with the Board on or about May 6, 2005, shall be dismissed.

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

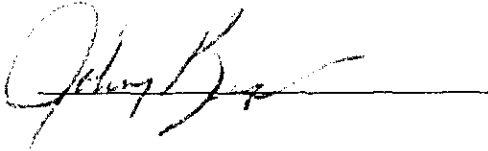
ILLINOIS ENVIRONMENTAL PROTECTION AGENCY, Complainant,

BY:   
Michelle M. Ryan  
Special Assistant Attorney General  
1021 North Grand Avenue East  
Springfield, IL 62702-4059  
(217) 782-5544

DATE: 1/7/08

-AND-

John D. Kemper, Respondent,

A handwritten signature in cursive script, appearing to read "John D. Kemper", written over a horizontal line.

DATE: 11/1/07

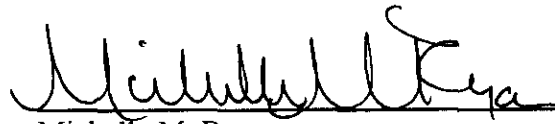
**PROOF OF SERVICE**

I hereby certify that I did on the 8<sup>th</sup> day of January, 2008, send by U.S. Mail, with postage thereon fully prepaid, by depositing in a United States 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: Larry Jones  
Jones & Jones Law Offices, P.C.  
P.O. Box 8  
Paris, Illinois 61944

and the original and nine (9) true and correct copies of the same foregoing instruments on the same date by by Certified Mail, Return Receipt Requested, with postage thereon fully prepaid

To: John Therriault, Acting Clerk  
Pollution Control Board  
James R. Thompson Center  
100 West Randolph Street, Suite 11-500  
Chicago, Illinois 60601

  
Michelle M. Ryan  
Special Assistant Attorney General

Illinois Environmental Protection Agency  
1021 North Grand Avenue East  
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