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STATE OF ILLINOIS
Pollution Control Board

ORIGINAL

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

PEOPLE OF THE STATE OF ILLINOIS,)
)
Complainant,)
)
vs.) PCB 01-66
)
CAMELOT ENTERPRISES, INC.,)
an Illinois Corp.,STEPHEN EINFELDT)
individually and as president of)
CAMELOT ENTERPRISES, INC.,)
IVEN JOHNSON individually)
and as co-owner of CAMELOT)
ENTERPRISES, INC.,)
)
Respondents.)

NOTICE OF FILING

TO: See Attached Service List

PLEASE TAKE NOTICE that on the 17th day of December, 2001, I filed with the Clerk of 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 hereto and hereby served upon you.

PEOPLE OF THE STATE OF ILLINOIS,

JAMES E. RYAN
Attorney General of the
State of Illinois

BY: _____

MIKE MACKOFF
Assistant Attorney General
Environmental Bureau
188 W. Randolph St., 20th Fl.
Chicago, Illinois 60601
(312) 814-2381

December 17, 2001

THIS FILING IS SUBMITTED ON RECYCLED PAPER

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BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

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Complainant,	)	
	)	
vs.	)	PCB 01-66
	)	
CAMELOT ENTERPRISES, INC., an Illinois Corp., STEPHEN EINFELDT individually and as president of CAMELOT ENTERPRISES, INC., IVEN JOHNSON individually and as co-owner of CAMELOT ENTERPRISES, INC.,	)	
	)	
Respondents.	)	

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 17, 2001, a Stipulation and Proposal for Settlement in this case was filed before the Board.

2. Section 31 of the Environmental Protection Act, 415 ILCS 5/31 (2000)("Act") provides, in pertinent part, as follows:

> 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 for 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).

415 ILCS 5/31(c)(2)(2000).

3. No hearing is currently scheduled in the instant 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 requirement of a hearing pursuant to 415 ILCS 5/31(c)(2)(2000).

Respectfully submitted,

PEOPLE OF THE STATE OF ILLINOIS

JAMES E. RYAN,
Attorney General of the
State of Illinois

BY: _____

MIKE MACKOFF
Assistant Attorney General
Environmental Bureau
188 W. Randolph St. - 20th Fl.
Chicago, Illinois 60601
(312) 814-2381

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STATE OF ILLINOIS
Pollution Control Board

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

PEOPLE OF THE STATE OF ILLINOIS, Complainant, vs. CAMELOT ENTERPRISES, INC., an Illinois Corp., STEPHEN EINFELDT individually and as president of CAMELOT ENTERPRISES, INC., IVEN JOHNSON individually and as co-owner of CAMELOT ENTERPRISES, INC., Respondents.	)	PCB 01-66

STIPULATION AND PROPOSAL FOR SETTLEMENT

Complainant, PEOPLE OF THE STATE OF ILLINOIS, by JAMES E. RYAN, Attorney General of the State of Illinois, at the request of the Illinois Environmental Protection Agency ("Illinois EPA"), and Respondents, CAMELOT ENTERPRISES, INC., ("Camelot"), STEPHEN EINFELDT, individually, and as president of Camelot, and IVEN JOHNSON, individually, and as co-owner of Camelot, do hereby agree to this Stipulation and Proposal for Settlement ("Agreement"). The parties further stipulate that this statement of alleged facts is made and agreed upon for purposes of settlement only and that neither the fact that a party has entered into this Agreement, nor any of the alleged 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, this Stipulation and Proposal for Settlement and any Illinois Pollution Control Board ("Board") order accepting same may be used in any future enforcement action by Complainant as evidence of a past adjudication of the Illinois Environmental Protection Act ("Act"), 415 ILCS 5/1 *et seq.* (2000), for purposes of Sections 39(i) and 42(h) of the Act, 415 ILCS 5/39(i), 42(h)(2000). This Agreement shall be null and void unless the 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.* (2000).

II.

AUTHORIZATION

The undersigned representative for each party certifies that he or she is fully authorized by the party whom he or she

represents to enter into the terms of this Agreement and to legally bind them to it.

III.

APPLICABILITY

This Agreement shall apply to and be binding upon the Complainant and Respondents, and any officer, director, agent and employee or servant of Respondents, as well as Respondents' successors and assigns. Respondents shall not raise as a defense to any enforcement action taken pursuant to this Agreement the failure of their officers, directors, agents, servants or employees to take such action as shall be required to comply with the provisions of this Agreement.

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, and pursuant to the statutory authority vested in him under Section 31 of the Act, 415 ILCS 5/31 (2000).

2. The Illinois EPA is an administrative agency in the executive branch of the State government of Illinois, created

pursuant to Section 4 of the Act, 415 ILCS 5/4 (2000), and is charged, *inter alia*, with the duty of enforcing the Act.

3. At all times relevant to the Complaint and this Stipulation and this Proposal for Settlement, Respondent, Camelot Enterprises, Inc. was an Illinois corporation.

4. At all times relevant to the Complaint and this Stipulation and Proposal for Settlement, Respondents Iven Johnson ("Johnson") and Stephen Einfeldt ("Einfeldt") were Illinois citizens, co-owners of Camelot, and jointly in charge of the day-to-day operations of Camelot.

5. Respondents have been engaged in construction at a site known as the Northern Lights subdivision which is located in the Village of Bradley, Kankakee County, Illinois ("site").

6. Neither Respondent Camelot, nor Respondents Einfeldt and Johnson had a National Pollutant Discharge Elimination System ("NPDES") stormwater discharge permit prior to beginning construction at the site.

B. <u>Alleged Violations</u>

1. In its Complaint, Complainant alleges the following violations of the Act:

Count I: NPDES permit violations, in violation of

Section 12(f) of the Act, 415 ILCS 5/12(f) (2000), and 35 Ill. Adm. Code 309.102(a).

2. Respondents admit the alleged violations.

V.

IMPACT ON THE PUBLIC RESULTING FROM ALLEGED NON-COMPLIANCE

Section 33(c) of the Act, 415 ILCS 5/33(c)(2000), 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.

In response to these factors, the parties state the following:

1. Although human health and the environment were potentially threatened and the Illinois EPA's information gathering responsibilities hindered by Respondents' unpermitted construction activities, there is no evidence of actual negative impact to the public resulting from Respondents' alleged noncompliance.

2. There is social and economic benefit to the construction site.

3. The construction was suitable for the area in which it occurred.

4. Obtaining a storm water permit prior to construction at the site is both technically practicable and economically reasonable.

5. Respondents have subsequently complied with the Act and the Board Regulations.

VI.

CONSIDERATION OF SECTION 42(h) FACTORS

Section 42(h) of the Act, 415 ILCS 5/42(h)(2000), 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 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 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 this Act by the violator.

In response to these factors, the parties state as follows:

1. The Respondents are alleged to have failed to obtain a permit prior to beginning construction activities at the site. The violations began on or around February 1999. Respondents filed the proper permit application on December 15, 1999.

2. Complainant alleges that Respondents were not diligent in attempting to come back into compliance with the Act, Board Regulations and applicable Federal regulations.

3. Complainant alleges that any economic benefit Respondents realized from their noncompliance is unquantifiable but is believed to be nominal.

4. Complainant has determined that a penalty of Ten Thousand Dollars ($10,000.00) will serve to deter further violations and aid in future voluntary compliance with the Act and Board regulations.

5. To Complainant's knowledge, Respondents have no previously adjudicated violations of the Act.

VII.

TERMS OF SETTLEMENT

A. **Penalty Payment**

1. The Respondents shall be jointly and severally liable for and pay a penalty in the sum of Ten Thousand Dollars ($10,000.00) within thirty (30) days of the date the Board adopts and accepts this Agreement. The penalty described in this Agreement shall be paid by certified check payable to the Illinois EPA, designated to the Illinois Environmental Protection Trust Fund and submitted to:

Illinois Environmental Protection Agency
Fiscal Services Section
1021 North Grand Avenue East

P.O. Box 19276
Springfield, IL 62794-9276

The name and number of the case and Respondent's Federal Employer Identification Number (FEIN), 36-4044460, and/or Social Security Numbers 348-54-0036 for Einfeldt, and 394-32-3058 for Johnson, shall appear on the check.

2. Pursuant to Section 42(g) of the Act, 415 ILCS 5/42(g) (2000), interest shall accrue on any payment not paid within the time period prescribed above at the maximum rate allowable under Section 1003(a) of the Illinois Income Tax Act, 35 ILCS 5/1003 (2000). Interest on any unpaid payment shall begin to accrue from the date the payment is due and continue to accrue until the date payment is received. When partial payment(s) are made, such partial payment shall be first applied to any interest on unpaid payment then due and owing. All interest on payment owed shall be paid by certified check or money order, payable to the Treasurer of the State of Illinois, designated to the Environmental Protection Trust Fund and delivered to the address described above.

3. For purposes of payment and collection, Respondents may be reached at the following address:

For Camelot Enterprises, Inc.

Camelot Enterprises, Inc.
c/o Jenner & Block
One IBM Plaza
Chicago, IL 60611
Attn: Christina M. Landgraf

with a copy to:

Swaim & Swaim, Ltd.
One Dearborn Square
Suite 639
Kankakee, IL 60901
Attn: J. Scott Swaim

For Einfeldt:

Stephen Einfeldt
c/o Swaim & Swaim, Ltd.
One Dearborn Square
Kankakee, IL 60901

For Johnson:

Iven Johnson
c/o Jenner & Block
One IBM Plaza
Chicago, IL 60611
Attn: Christina M. Landgraf

B. Cease and Desist

The Respondents shall cease and desist from future violations of the act, the Board Regulations promulgated hereunder, and other applicable federal, state and local laws,

ordinances and regulations.

C. Future Compliance

1. In the future, Respondents shall timely and properly obtain Illinois EPA permits before commencing construction at any site.

D. Right of Entry

1. In addition to any other authority, the Illinois EPA, its employees and representatives, the Illinois Attorney General, and his/her agents and representatives, shall have the right of entry or access to the Respondent's public water supply facility which was the subject of this proceeding at all reasonable times, for the purposes of conducting inspections. In conducting any inspection of the site, the Illinois EPA, its employees and representatives, the Attorney General, and his/her agents and representatives, may take any photographs or samples as they deem necessary in order to conduct their inspection. Copies of these photographs and samples will be provided to Respondent upon written request.

VIII.

COMPLIANCE WITH OTHER LAWS AND REGULATIONS

This Agreement in no way affects the responsibility of the

Respondent to comply with any federal, state or local regulations, including but not limited to the Act, 415 ILCS 5/1 *et seq.* (2000), and the Board regulations, 35 Ill. Adm. Code Subtitles A through H.

IX.

RELEASE FROM LIABILITY

In consideration of Respondents' payment of the penalty specified herein, and commitment to refrain from future violation of the Act, Board Regulations and applicable federal regulations, Complainant releases, waives and discharge Respondents and their officers, directors, agents, servants, employees, successors and assigns from any further liability or penalties for the alleged violations of the Act, and Board Regulations which are the subject matter of the Complaint, following receipt by the Complainant of all monies owing pursuant to Section VII.1. of this Agreement. Nothing in this Agreement shall be construed as a waiver by the Attorney General or the Illinois EPA of the right to redress future or heretofore undiscovered violations, if any, or to obtain penalties with respect thereto.

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

PEOPLE OF THE STATE OF ILLINOIS,

JAMES E. RYAN,
Attorney General
State of Illinois

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

BY: Rose Marie Cazeau by RMM DATE: 9/28/01
ROSEMARIE CAZEAU, Chief
Environmental Bureau
Assistant Attorney General

ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

BY: Joseph E. Svoboda DATE: 9/24/01
JOSEPH E. SVOBODA
Chief Legal Counsel

CAMELOT ENTERPRISES, INC.

BY: _____ DATE: 10-10-01

Name: Stephen M Einfeldt

Title: President

STEPHEN EINFELDT

BY: Stephen M Einfeldt DATE: 10-10-01
STEPHEN EINFELDT

IVEN JOHNSON

BY: Iven Johnson DATE: 10-24-2001
IVEN JOHNSON

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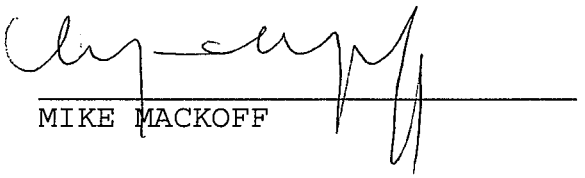
CERTIFICATE OF SERVICE

I, MIKE MACKOFF, an Assistant Attorney General in this case, do certify that I caused to be mailed this 17th day of December, 2001 the foregoing Notice of Filing, Request for Relief from Hearing Requirement, and Stipulation and Proposal for Settlement upon the person(s) listed on said Notice by first class mail in an envelope bearing sufficient postage with the United States Postal Service located at 100 W. Randolph Street, Chicago, Illinois.



MIKE MACKOFF

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SERVICE LIST

Mr. Bradley Halloran
Hearing Officer
Illinois Pollution Control Board
James R. Thompson Center
100 W. Randolph Street
Suite 11-500
Chicago, IL 60601

Mr. J. Scott Swaim
Swaim & Swaim, Ltd.
Suite 400
200 E. Court St.
Kankakee, IL 60901

Ms. Christina Landgraf
Mr. James Vroman
Jenner & Block, LLC
One IBM Plaza
Chicago, IL 60611