

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

PEOPLE OF THE STATE OF ILLINOIS,)	
)	
Complainant,)	
)	
v.)	PCB No. 21-44
)	(Water – Enforcement)
CORE CHAMPAIGN DANIEL, LLC,)	
an Illinois limited liability company,)	
)	
Respondent.)	

NOTICE OF FILING

To: *See Service List*

PLEASE TAKE NOTICE that on the 29th day of January, 2021, the attached Stipulation and Proposal for Settlement, and Motion for Relief from Hearing Requirement was filed with the Illinois Pollution Control Board, a true and correct copy of which is attached hereto and is hereby served upon you.

Respectfully submitted,

PEOPLE OF THE STATE OF ILLINOIS,
KWAME RAOUL, Attorney General of the State of
Illinois

By: s/Natalie Long
NATALIE LONG
Assistant Attorney General
Environmental Bureau
Illinois Attorney General's Office
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ARDC No. 6309569

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

PEOPLE OF THE STATE OF ILLINOIS,)	
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Complainant,)	
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v.)	PCB No. <u>21-44</u>
)	(Water – Enforcement)
CORE CHAMPAIGN DANIEL, LLC,)	
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Respondent.)	

STIPULATION AND PROPOSAL FOR SETTLEMENT

Complainant, PEOPLE OF THE STATE OF ILLINOIS, by KWAME RAOUL, Attorney General of the State of Illinois, the Illinois Environmental Protection Agency (“Illinois EPA”), and CORE CHAMPAIGN DANIEL, LLC, (“Respondent”), (collectively “Parties to the Stipulation”), have agreed to the making of this Stipulation and Proposal for Settlement (“Stipulation”) and submit it to the Illinois Pollution Control Board (“Board”) for approval. This stipulation of facts is made and agreed upon for purposes of settlement only and as a factual basis for the Board’s approval of this Stipulation and issuance of relief. None of the facts stipulated herein shall be introduced into evidence in any other proceeding regarding the violations of the Illinois Environmental Protection Act (“Act”), 415 ILCS 5/1, et seq. (2018), and the Board’s regulations, alleged in the Complaint except as otherwise provided herein. It is the intent of the Parties to the Stipulation that it be a final adjudication of this matter.

I. STATEMENT OF FACTS

A. Parties

1. On December 18, 2020, a Complaint was filed on behalf of the People of the State of Illinois by Kwame Raoul, Attorney General of the State of Illinois, on his own motion and

upon the request of the Illinois EPA, pursuant to Section 31 of the Act, 415 ILCS 5/31 (2018), against the Respondent.

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 (2018).

3. At all times relevant to the Complaint, Respondent was and is an Illinois limited liability company that is authorized to transact business in the State of Illinois.

4. At all times relevant to the Complaint, Respondent owned the building located at 812 South Sixth Street, Champaign, Illinois, 61820 ("Site"). The parcel number for the property is 46-21-18-178-005.

B. Allegations of Non-Compliance

Complainant contends that the Respondent has violated the following provisions of the Act and Board regulations:

Count I: Water Pollution

Section 12(a) of the Act, 415 ILCS 5/12(a) (2018)

Count II: Air Pollution

Section 9(a) of the Act, 415 ILCS 5/9(a) (2018)

Count III: Offensive Conditions

Section 12(a) of the Act, 415 ILCS 5/12(a) (2018), and Section 302.203 of the Board Water Pollution Regulations, 35 Ill. Adm. Code 302.203

C. Admission of Violations

The Respondent admits to the violation(s) alleged in the Complaint filed in this matter and referenced within Section I.B herein.

D. Compliance Activities to Date

1. On April 16, 2019, a representative of Core Campus, LLC, an entity related to Respondent, submitted a report to Illinois EMA describing the release.

2. While Illinois EPA was still at the Site on April 16, 2019, a representative of Clean Harbors Environmental Services (“Clean Harbors”), called Illinois EPA to inquire what equipment would be needed for remediation. Illinois EPA requested three vacuum trucks, a frac tank, absorbent booms and pads, and oil dry. Locations specified for remediation with the equipment were near the bridges on South Gregory Street and Race Street, and at Wright Street near the intersection with Healy Street, in Urbana, Illinois.

3. On April 17, 2019, Illinois EPA met with a representative of Clean Harbors in Urbana, Illinois. The Clean Harbors representative reported that 5,000 to 6,000 gallons of water and oil had been removed from the Creek. The water in the Creek was clear at that time, with no evidence of a sheen or detectable odor.

4. On April 18, 2019, Clean Harbors removed the aboveground storage tank from the Site and cleaned the basement.

5. All booms were removed and remediation completed on June 13, 2019.

II. APPLICABILITY

This Stipulation shall apply to and be binding upon the Parties to the Stipulation. The Respondent shall not raise as a defense to any enforcement action taken pursuant to this Stipulation the failure of any of its officers, directors, agents, employees or successors or assigns to take such action as shall be required to comply with the provisions of this Stipulation. This Stipulation may be used against the Respondent in any subsequent enforcement action or permit proceeding as proof of a past adjudication of violation of the Act and the Board Regulations for

all violations alleged in the Complaint in this matter, for purposes of Sections 39 and 42 of the Act, 415 ILCS 5/39 and 42 (2018).

**III. IMPACT ON THE PUBLIC RESULTING
FROM ALLEGED NON-COMPLIANCE**

Section 33(c) of the Act, 415 ILCS 5/33(c) (2018), 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:

- (i) the character and degree of injury to, or interference with the protection of the health, general welfare and physical property of the people;
- (ii) the social and economic value of the pollution source;
- (iii) 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;
- (iv) the technical practicability and economic reasonableness of reducing or eliminating the emissions, discharges or deposits resulting from such pollution source; and
- (v) any subsequent compliance.

In response to these factors, the Parties to the Stipulation state the following:

1. The release of fuel oil from the Site impacted both air and water, threatening human health and the environment.
2. There was social and economic benefit to the Site, which has now been demolished.
3. Operation of the Site was suitable for the area in which it is located.
4. Removal of the aboveground storage tank from which the release occurred, before the release occurred, was both technically practicable and economically reasonable.

5. Respondent has subsequently complied with the Act and the Board regulations.

IV. CONSIDERATION OF SECTION 42(h) FACTORS

Section 42(h) of the Act, 415 ILCS 5/42(h) (2018), 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 respondent 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 respondent because of delay in compliance with requirements, in which case the economic benefits shall be determined by the lowest cost alternative for achieving compliance;
- (4) the amount of monetary penalty which will serve to deter further violations by the respondent and to otherwise aid in enhancing voluntary compliance with this Act by the respondent and other persons similarly subject to the Act;
- (5) the number, proximity in time, and gravity of previously adjudicated violations of this Act by the respondent;
- (6) whether the respondent voluntarily self-disclosed, in accordance with subsection (i) of this Section, the non-compliance to the Agency;
- (7) whether the respondent has agreed to undertake a “supplemental environmental project,” which means an environmentally beneficial project that a respondent agrees to undertake in settlement of an enforcement action brought under this Act, but which the respondent is not otherwise legally required to perform; and
- (8) whether the respondent has successfully completed a Compliance Commitment Agreement under subsection (a) of Section 31 of this Act to remedy the violations that are the subject of the complaint.

In response to these factors, the Parties to the Stipulation state as follows:

1. The violations began on or around April 15, 2019, and were individually resolved at various times in the following year. Remediation was completed on June 13, 2019.
2. While the Respondent's initial response to the release was delayed, once the Illinois EPA notified it of its noncompliance, Respondent was generally diligent in attempting to come back into compliance with the Act, Board regulations and applicable federal regulations.
3. The civil penalty takes into account any economic benefit realized by the Respondent as a result of avoided or delayed compliance.
4. Complainant has determined, based upon the specific facts of this matter, that a penalty of SEVENTEEN THOUSAND FIVE HUNDRED DOLLARS (\$17,500.00) will serve to deter further violations and aid in future voluntary compliance with the Act and Board regulations.
5. To Complainant's knowledge, Respondent has no previously adjudicated violations of the Act.
6. Respondent did not self-disclose in this matter.
7. The settlement of this matter does not include a supplemental environmental project.
8. A Compliance Commitment Agreement was not proposed by Respondent in this matter.

V. TERMS OF SETTLEMENT

A. Penalty Payment

1. The Respondent shall pay a civil penalty in the sum of SEVENTEEN THOUSAND FIVE HUNDRED Dollars (\$17,500.00) within thirty (30) days from the date the

Board adopts and accepts this Stipulation.

B. Interest and Default

1. If the Respondent fails to make any payment required by this Stipulation on or before the date upon which the payment is due, the Respondent shall be in default and the remaining unpaid balance of the penalty, plus any accrued interest, shall be due and owing immediately. In the event of default, the Complainant shall be entitled to reasonable costs of collection, including reasonable attorney's fees.

2. Pursuant to Section 42(g) of the Act, interest shall accrue on any penalty amount owed by the Respondent not paid within the time prescribed herein. Interest on unpaid penalties shall begin to accrue from the date such are due and continue to accrue to the date full payment is received. Where partial payment is made on any penalty amount that is due, such partial payment shall be first applied to any interest on unpaid penalties then owing.

C. Payment Procedures

1. All payments required by this Stipulation shall be made by certified check or money order payable to the Illinois EPA for deposit into the Environmental Protection Trust Fund ("EPTF"). Payments shall be sent by first class mail and delivered to:

Illinois Environmental Protection Agency
Fiscal Services
1021 North Grand Avenue East
P.O. Box 19276
Springfield, Illinois 62794-9276

2. The case name and case number shall appear on the face of the certified check or money order.

3. A copy of the certified check or money order and any transmittal letter shall be sent to:

Natalie Long
Assistant Attorney General
Environmental Bureau
Illinois Attorney General's Office
500 South Second Street
Springfield, Illinois 62701

D. Future Compliance

1. This Stipulation in no way affects the responsibilities of the Respondent to comply with any other federal, state or local laws or regulations, including but not limited to the Act and the Board Regulations.

2. The Respondent shall cease and desist from future violations of the Act and Board Regulations that were the subject matter of the Complaint.

E. Release from Liability

In consideration of the Respondent's payment of the \$17,500.00 penalty, its commitment to cease and desist as contained in Section V.D.4 above, completion of all activities required hereunder, and upon the Board's approval of this Stipulation, the Complainant releases, waives and discharges the Respondent from any further liability or penalties for the violations of the Act and Board regulations that were the subject matter of the Complaint herein. The release set forth above does not extend to any matters other than those expressly specified in Complainant's Complaint filed on December 18, 2020. The Complainant reserves, and this Stipulation is without prejudice to, all rights of the State of Illinois against the Respondent with respect to all other matters, including but not limited to, the following:

- a. criminal liability;
- b. liability for future violation of state, federal, local, and common laws and/or regulations;
- c. liability for natural resources damage arising out of the alleged violations; and

- d. liability or claims based on the Respondent's failure to satisfy the requirements of this Stipulation.

Nothing in this Stipulation is intended as a waiver, discharge, release, or covenant not to sue for any claim or cause of action, administrative or judicial, civil or criminal, past or future, in law or in equity, which the State of Illinois may have against any person, as defined by Section 3.315 of the Act, 415 ILCS 5/3.315, or entity other than the Respondent.

F. Correspondence, Reports and Other Documents

Any and all correspondence, reports and any other documents required under this Stipulation, except for penalty payments, shall be submitted as follows:

As to the Complainant

Natalie Long
Assistant Attorney General
Environmental Bureau
Illinois Attorney General's Office
500 South Second Street
Springfield, Illinois 62701
(217) 782-9031
NLong@atg.state.il.us

Mike Roubitchek
Assistant Counsel
Division of Legal Counsel
Illinois Environmental Protection Agency
1021 North Grand Avenue East
P.O. Box 19276
Springfield, Illinois 62794-9276
Mike.Roubitchek@illinois.gov

As to the Respondent

Sean W. Bezark
Greenberg Traurig, LLP
77 West Wacker Drive
Suite 3100
Chicago, Illinois 60601

(312) 476-5027
bezarks@gtlaw.com

Bill Stewart
Senior Development Manager
1643 N. Milwaukee Avenue
5th Floor
Chicago, IL 60647

G. Enforcement and Modification of Stipulation

Upon the entry of the Board's Order approving and accepting this Stipulation, that Order is a binding and enforceable order of the Board and may be enforced as such through any and all available means.

H. Execution of Stipulation

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

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

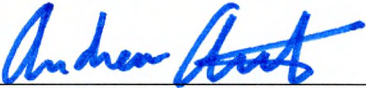
FOR THE COMPLAINANT:

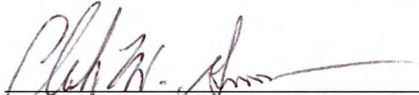
PEOPLE OF THE STATE OF ILLINOIS
by KWAME RAOUL
Attorney General of the State of Illinois

ILLINOIS ENVIRONMENTAL
PROTECTION AGENCY

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

JOHN KIM, Director
Illinois Environmental Protection Agency

BY: 
ANDREW B. ARMSTRONG, Chief
Assistant Attorney General
Environmental Bureau

BY: 
CHARLES W. GUNNARSON
Chief Legal Counsel

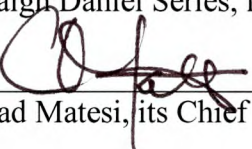
DATE: 01/25/2021

DATE: 01/13/21

FOR THE RESPONDENT:

CORE CHAMPAIGN DANIEL, LLC

BY: CORE CAMPUS DEVELOPER, LLC-
Champaign Daniel Series, its Development Manager

BY: 
Chad Matesi, its Chief Operating Officer

DATE: 1.6.2021

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MOTION FOR RELIEF FROM HEARING REQUIREMENT

NOW COMES Complainant, PEOPLE OF THE STATE OF ILLINOIS, by KWAME RAOUL, Attorney General of the State of Illinois, and pursuant to Section 31(c)(2) of the Illinois Environmental Protection Act (“Act”), 415 ILCS 5/31(c)(2) (2018), moves that the Illinois Pollution Control Board (“Board”) grant the parties in the above-captioned matter relief from the hearing requirement imposed by Section 31(c)(1) of the Act, 415 ILCS 5/31(c)(1) (2018). In support of this motion, Complainant states as follows:

1. The Complaint in this matter alleges violations of Sections 9(a) and 12(a) of the Act, 415 ILCS 5/9(a) and 12(a) (2018), and Section 302.203 of the Board Water Pollution Regulations, 35 Ill. Adm. Code 302.203.
2. Complainant filed its Complaint on December 18, 2020.
3. The parties have reached agreement on all outstanding issues in this matter.
4. This agreement is presented to the Board in a Stipulation and Proposal for Settlement filed this same date.
5. All parties agree that a hearing on the Stipulation and Proposal for Settlement is not necessary, and respectfully request relief from such a hearing as allowed by Section 31(c)(2) of the Act, 415 ILCS 5/31(c)(2) (2018).

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, hereby requests that the Board grant this Motion for Relief from Hearing Requirement set forth in Section 31(c)(1) of the Act, 415 ILCS 5/31(c)(1) (2018).

Respectfully submitted,

PEOPLE OF THE STATE OF ILLINOIS,
KWAME RAOUL, Attorney General of the State of
Illinois

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500 South Second Street
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nlong@atg.state.il.us
ebs@atg.state.il.us
ARDC No. 6309569

DATE: January 29, 2021

CERTIFICATE OF SERVICE

I, NATALIE LONG, an Assistant Attorney General, do certify that I caused to be served this 29th day of January, 2021, the attached Notice of Filing, Stipulation and Proposal for Settlement, and Motion for Relief from Hearing Requirement upon the persons listed on the Service List *via email*.

s/Natalie Long
NATALIE LONG
Assistant Attorney General
Environmental Bureau
Illinois Attorney General's Office
500 South Second Street
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nlong@atg.state.il.us
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ARDC No. 6309569

SERVICE LIST

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Carol Webb
Hearing Officer
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