

ILLINOIS POLLUTION CONTROL BOARD

October 18, 2007

PEOPLE OF THE STATE OF ILLINOIS,)	
)	
Complainant,)	
)	
v.)	PCB 06-33
)	(Enforcement - Land)
FIRST CHOICE CONSTRUCTION, INC.,)	
)	
Respondent.)	

ORDER OF THE BOARD (by N. J. Melas):

On September 1, 2005, the Office of the Attorney General, on behalf of the People of the State of Illinois (People), filed a complaint against J & S Companies, Inc. (J & S) and First Choice Construction, Inc. (First Choice) (collectively, respondents). *See* 415 ILCS 5/31(c)(1) (2006); 35 Ill. Adm. Code 103.204. The complaint results from activities occurring between February and December 2003 during the respondents' demolition of Lansdowne Junior High School in East St. Louis, St. Clair County. In a final order as to J & S only, the Board assessed a \$25,000 penalty against J & S, having previously granted the People's motion for summary judgment against J & S only. People v. J & S Companies, Inc., and First Choice Construction, Inc., PCB 06-33 (June 29, 2006) (summary judgment order) and (August 17, 2006) (final order).

The People and First Choice now seek to settle without a hearing. For the reasons below, the Board directs the Clerk to provide public notice of the parties' stipulation, proposed settlement, and request for relief from the hearing requirement.

Under the Environmental Protection Act (Act) (415 ILCS 5 (2006)), 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 (2006); 35 Ill. Adm. Code 103. In this case, the People allege that respondent First Choice violated Sections 21(a), (e), (p)(1), and (p)(7) of the Act (415 ILCS 5/21(a), (e), (p)(1), and (p)(7) (2006)). The People further allege that First Choice violated these provisions by (1) causing or allowing the open dumping of waste; (2) conducting a waste storage, waste treatment, or waste disposal operation without a permit or in violation of Board regulations; (3) disposing, treating, storing, abandoning, or transporting waste at a site that did not meet the requirements of the Act and Board regulations; (4) causing or allowing the open dumping of waste in a manner that resulted in litter; and (5) causing or allowing the open dumping of waste in a manner that resulted in deposition of general construction or demolition debris.


On October 7, 2007, the People and respondent First Choice 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) (2006)). This filing is authorized by Section 31(c)(2) of the Act (415 ILCS 5/31(c)(2) (2006)), 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 proposed stipulation, respondent First Choice admits the alleged violations and agrees to pay a civil penalty of \$2,000.

Unless the Board determines that a hearing is needed, the Board must cause notice of the stipulation, proposed settlement, and 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) (2006); 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 October 18, 2007 by a vote of 4-0.

A handwritten signature in black ink, reading "John T. Therriault". The signature is fluid and cursive, with a long horizontal stroke at the end.

John Therriault, Assistant Clerk
Illinois Pollution Control Board