

ILLINOIS POLLUTION CONTROL BOARD  
July 1, 2010

PEOPLE OF THE STATE OF ILLINOIS,	)	
	)	
Complainant,	)	
	)	
v.	)	PCB 10-08
	)	(Enforcement - Land)
DON SWINSON, an individual, and	)	
CHAMPION ENVIRONMENTAL	)	
SERVICES, INC., a Wisconsin corporation,	)	
	)	
Respondents.	)	

ORDER OF THE BOARD (by G.L. Blankenship):

On July 28, 2009, the Office of the Attorney General, on behalf of the People of the State of Illinois (People), filed a six-count complaint against Don Swinson (Swinson) and Champion Environmental Services, Inc. (Champion). The complaint concerns Swinson's vacant lot located at 2000 Cunningham Road in the City of Rockford, Winnebago County, and the general construction or demolition debris (C&D) that Champion allegedly transported there. The People and Champion now seek to settle without a hearing. Swinson is not a party to the amended stipulation. For the reasons below, the Board directs the Clerk to provide public notice of the amended stipulation and proposed settlement and request for relief from the hearing requirement.

Under the Environmental Protection Act (Act) (415 ILCS 5 (2008)), 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 (2008); 35 Ill. Adm. Code 103. In this case, the People allege that Champion and Swinson violated Sections 21(a), (d)(1), (e), and (p)(1) of the Act (415 ILCS 5/21(a), (d)(1), (e), (p)(1) (2008)) by (1) causing or allowing the open dumping of waste at a site that does not fulfill the requirements of a sanitary landfill (count I), (2) disposing of C&D waste without a permit granted by the Illinois Environmental Protection Agency (Agency) (count II), (3) disposing of waste at an unpermitted facility (count IV), and (4) causing or allowing the open dumping of waste in a manner resulting in litter (count V). The People further allege that Swinson violated Sections 21(d)(2) and 22.38(b)(11) of the Act (415 ILCS 5/21(d)(2), 22.38(b)(11) (2008)) and Sections 807.201 and 807.202(a) of the Board's waste disposal regulations (35 Ill. Adm. Code 807.201, 807.202(a)) by (1) developing and operating a solid waste management site without a permit from the Agency (count III) and (2) failing to submit the necessary information to the Agency prior to accepting C&D waste at the site (count VI).

On June 14, 2010, the People and Champion 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) (2008)). On June 17, 2010, the Board issued an order noting that while count III of the complaint was alleged against Swinson only, the stipulation, which was between the People and Champion only, included count III. To address the inconsistency, the Board

directed that either the People file an amended complaint or the People and Champion file an amended stipulation and proposed settlement, accompanied by another request for relief from the hearing requirement.

On June 24, 2010, the People filed an amended stipulation and proposed settlement, accompanied by a second request for relief from the hearing requirement of Section 31(c)(1) of the Act (415 ILCS 5/31(c)(1) (2008)). This filing is authorized by Section 31(c)(2) of the Act (415 ILCS 5/31(c)(2) (2008)), 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). The second request for relief states that the amendment to the stipulation “seeks to correct the mistake [of including count III of the complaint in a stipulation with Champion] and delete the allegation . . . as this allegation does not relate to Champion.” Second Request at 1. The amended stipulation does not include count III of the complaint, that is, the alleged violation by Swinson of Section 21(d)(2) of the Act (415 ILCS 5/21(d)(2) (2008)) or Sections 807.201 and 807.202(a) of the Board’s waste disposal regulations (35 Ill. Adm. Code 807.201, 807.202(a)). All of the violations alleged against Champion, as set forth in counts I, II, IV, and V of the complaint, are included in the amended stipulation.<sup>1</sup> Under the amended stipulation, Champion does not affirmatively admit the violations alleged against it, but agrees to pay a civil penalty of \$2,500.

Unless the Board determines that a hearing is needed, the Board must cause notice of the amended stipulation and proposed settlement and accompanying 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) (2008); 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 July 1, 2010, by a vote of 5-0.




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John Therriault, Assistant Clerk

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<sup>1</sup> The amended stipulation lists Champion’s alleged violations of Section 21(e) of the Act (415 ILCS 5/21(e) (2008)), which concerns count IV of the complaint, and Section 21(p)(1) of the Act, which pertains to count V of the complaint. Through apparent inadvertence, however, the amended stipulation incorrectly identifies these alleged violations as having been pled under count III and count IV, respectively. The Board construes this as mere scrivener’s error to effectuate the plain intent of the People and Champion.

Illinois Pollution Control Board