

# Stormwater Enforcement: United States/Alabama/Illinois and Solar Energy Construction Firm Enter into Consent Decree



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The United States Department of Justice (“DOJ”) and two states entered into a January 8th Consent Decree (“CD”) in the United States District Court for the Northern District of California with the following entities:

- Swinerton Builders, f/d/b/a Swinerton Renewable Energy
- Swinerton Builders, Corporation
- Swinerton Builders, Inc.

(collectively, Swinerton)

The states entering into the CD include:

- State of Illinois
- Alabama Department of Environmental Management

See Civil No. 3:24-cv-00274.

DOJ and the two states filed a Complaint concurrently with the CD alleging that Swinerton violated the following:

- Section 301 of the Clean Water Act
- Illinois Environmental Protection Act, 415 ILCS 5/1 et seq.
- Alabama Water Pollution Control Act, Ala. Code §§ 22-22-1 through 22-22-14 as amended

The Complaint alleged that Swinerton violated conditions and limitations in National Pollutant Discharge Elimination System permits during construction of solar energy facilities in the following locations:

- White County, Illinois
- Perry County, Illinois
- Chambers County, Alabama

The Complaint alleged that the construction at those sites took place without adequate safeguards to prevent discharges of excess sediment and stormwater to waterways. Further, the Complaint alleged that sediment was discharged in stormwater without authorization by an NPDES permit from the site in Alabama and an additional site in American Falls, Idaho.

The CD states that Swinerton and related companies no longer construct solar energy facilities because an unrelated third party purchased the business unit and assets related to the construction of the solar facilities. Further, Swinerton does not admit any liability to the United States or the states arising out of the transactions or occurrences alleged in the Complaint.

A civil penalty of \$2,300,000 is assessed. The civil penalty is allocated as follows:

- \$1,614,600 to DOJ
- \$5,400,500 to Alabama Department of Environmental Management
- \$144,900 to Illinois Environmental Protection Agency

The CD provides that Swinerton will undertake certain mitigation actions in Idaho and Alabama. The Alabama mitigation action includes the purchase of \$14,020 stream credits from a mitigation bank approved by the United States Army Corps of Engineers located within the State of Alabama and the watersheds identified by the Hydrologic Unit Code 0313, 0314, or 0314 (the "Primary Area").

A copy of the CD can be downloaded [here](#).