

ILLINOIS POLLUTION CONTROL BOARD

February 3, 2000

PEOPLE OF THE STATE OF ILLINOIS,)
)
 Complainant,)
)
 v.) PCB 96-111
) (Enforcement - Water)
 JOHN CHALMERS, individually and)
 d/b/a JOHN CHALMERS HOG FARM,)
)
 Respondent.)

ORDER OF THE BOARD (by M. McFawn):

On January 6, 2000, the Board found that respondent violated various sections of the Environmental Protection Act (415 ILCS 5/et seq. (1998)) and Board regulations. The Board ordered respondent to pay a civil penalty in the amount of \$5,750 for the violations, by February 6, 2000. On January 28, 2000, respondent filed a motion to extend the time to pay the penalty, which the Board construes as a motion to modify the January 6, 2000 order, pursuant to 35 Ill. Adm. 101.246. In the motion, respondent asserts that he needs 60 additional days to pay the penalty. Attached to the motion is a letter from petitioner representing that petitioner does not object to respondent receiving 60 additional days in which to pay the assessed penalty.

The motion to modify is granted. Respondent has until April 6, 2000, in which to pay the penalty. The revised Board order reads as follows:

ORDER

1. The Board finds that respondent violated Section 12(a) of the Illinois Environmental Protection Act (415 ILCS 5/12(a) (1998)) on May 11, 1992, May 6, 1993, June 15, 1993, February 14, 1994, February 17, 1994, and July 26, 1994, by failing to maintain the waste created at the Chalmers site in such a manner as to prevent the threat of pollution to a water of the State.
2. The Board finds that respondent violated Section 12(d) of the Illinois Environmental Protection Act (415 ILCS 5/12(d) (1998)) on May 6, 1993, and June 15, 1993, by depositing contaminants upon the land in such a place and manner so as to create a water pollution hazard.
3. The Board finds that respondent violated Section 12(f) of the Illinois Environmental Protection Act (415 ILCS 5/12(f) (1998)) on May 11, 1992,

June 15, 1993, February 14, 1994, February 17, 1994, and July 26, 1994, by discharging contaminants into a water of the State without an NPDES permit.

4. The Board finds that respondent violated Section 302.203 of the Board's regulations (35 Ill. Adm. Code 302.203) on May 11, 1992, and May 6, 1993, by failing to keep the waters of the State free from sludge or bottom deposits, floating debris, visible oil, odor, plant or algal growth, color or turbidity of other than natural origin.
5. The Board finds that respondent violated Section 302.212 of the Board's regulations (35 Ill. Adm. Code 302.212) on June 15, 1993, by contaminating a water of the State with ammonia nitrogen in excess of the 15 mg/L allowed.
6. The Board finds that respondent violated Section 304.106 of the Board's regulations (35 Ill. Adm. Code 304.106) on May 11, 1992, by allowing effluent to contain settleable solids, floating debris, visible oil, grease, scum or sludge solids.
7. The Board finds that respondent violated Section 501.404(c)(3) of the Board's regulations (35 Ill. Adm. Code 501.404(c)(3)) on February 9, 1994, due to the overflow of lagoon #1.
8. The Board finds that respondent violated Sections 501.404(c)(3) and (c)(4)(A) of the Board's regulations on May 11, 1992, by allowing a lagoon overflow to occur, which caused water pollution.
9. The Board orders respondent to cease and desist from all further violations of the Act and Board regulations.
10. The Board orders respondent to provide monthly reports to the Illinois Environmental Protection Agency, at the Agency's regional Springfield office, describing the freeboard amounts of each of the four lagoons. The first report shall be due one month after the date of this order and the subsequent 23 reports will be due on each monthly anniversary thereafter for a total of two years, or until the lagoons are closed according to applicable law, whichever occurs first.
11. The Board orders respondent to pay a civil penalty in the amount of \$5,750 by certified check or money order made payable to the Environmental Protection Trust Fund. Respondent shall send the payment no later than April 6, 2000, at 4:30 p.m. by first class mail to:

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

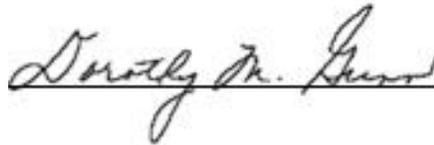
P.O. Box 19276
Springfield, IL 62794-9276

12. Respondent shall write the case name and number (People of the State of Illinois v. John Chalmers, individually and d/b/a John Chalmers Hog Farm, PCB 96-111), and his social security number on the certified check or money order.
13. If the penalty is not paid within the time prescribed, it shall incur interest at the rate set forth in subsection (a) of Section 1003 of the Illinois Income Tax Act (35 ILCS 5/1003 (1998)) as now or hereafter amended, from the date payment is due until the date payment is received. Interest shall not accrue during the pendency of an appeal during which payment of the penalty has been stayed.

IT IS SO ORDERED.

Section 41 of the Environmental Protection Act (415 ILCS 5/41 (1998)) provides for the appeal of final Board orders to the Illinois Appellate Court within 35 days of service of this order. Illinois Supreme Court Rule 335 establishes such filing requirements. See 172 Ill. 2d R. 335; see also 35 Ill. Adm. Code 101.246, Motions for Reconsideration.

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, hereby certify that the above order was adopted on the 3rd day of February 2000 by a vote of 5-0.

A handwritten signature in cursive script, reading "Dorothy M. Gunn", written over a horizontal line.

Dorothy M. Gunn, Clerk
Illinois Pollution Control Board