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MAR 28 2006

STATE OF ILLINOIS
Pollution Control Board

OFFICE OF THE ATTORNEY GENERAL
STATE OF ILLINOIS

Lisa Madigan
ATTORNEY GENERAL

March 22, 2006

PCB 06-150

The Honorable Dorothy Gunn
Illinois Pollution Control Board
James R. Thompson Center, Ste. 11-500
100 West Randolph
Chicago, Illinois 60601

Re: ***People v. Stoecker Farms, Inc.***

Dear Clerk Gunn:

Enclosed for filing please find the original and ten copies of a Notice of Filing, Entry of Appearance and Complaint in regard to the above-captioned matter. Please file the originals and return file-stamped copies to me in the enclosed, self-addressed envelope.

Thank you for your cooperation and consideration.

Very truly yours,

A handwritten signature in cursive script, reading "Kristen Laughridge Gale".

Kristen Laughridge Gale
Environmental Bureau
500 South Second Street
Springfield, Illinois 62706
(217) 782-9031

KLG/pp
Enclosures

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

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MAR 28 2006

STATE OF ILLINOIS
Pollution Control Board

PEOPLE OF THE STATE OF ILLINOIS,)
)
Complainant,)
)
vs.)
)
STOECKER FARMS, INC.,)
an Illinois corporation,)
)
Respondent.)

PCB No. 06-150
(Enforcement)

NOTICE OF FILING

To: STOECKER FARMS, INC.
c/o Lyle Edward Stoecker, R.A.
21398 Sunset Road
Litchfield, IL 62056

PLEASE TAKE NOTICE that on this date I mailed for filing with the Clerk of the Pollution Control Board of the State of Illinois, a COMPLAINT, a copy of which is attached hereto and herewith served upon you. Failure to file an answer to this Complaint within 60 days may have severe consequences. Failure to answer will mean that all allegations in this Complaint will be taken as if admitted for purposes of this proceeding. If you have any questions about this procedure, you should contact the hearing officer assigned to this proceeding, the Clerk's Office or an attorney.

FURTHER, please take notice that financing may be available, through the Illinois Environmental Facilities Financing Act, 20 ILCS 3515/1 (2004), to correct the pollution alleged in the Complaint filed in this case.

Respectfully submitted,

PEOPLE OF THE STATE OF ILLINOIS

LISA MADIGAN,
Attorney General of the
State of Illinois

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

BY:



KRISTEN LAUGHRIDGE GALE
Assistant Attorney General
Environmental Bureau

500 South Second Street
Springfield, Illinois 62706
217/782-9031
Dated: March 22, 2006

CERTIFICATE OF SERVICE

I hereby certify that I did on March 22, 2006, send by certified mail, with postage thereon fully prepaid, by depositing in a United States Post Office Box a true and correct copy of the following instruments entitled NOTICE OF FILING, ENTRY OF APPEARANCE and COMPLAINT:

To: STOECKER FARMS, INC.
c/o Lyle Edward Stoecker, R.A.
21398 Sunset Road
Litchfield, IL 62056

and the original and ten copies by First Class Mail with postage thereon fully prepaid of the same foregoing instrument(s):

To: Dorothy Gunn, Clerk
Illinois Pollution Control Board
James R. Thompson Center
Suite 11-500
100 West Randolph
Chicago, Illinois 60601



Kristen Laughridge Gale
Assistant Attorney General

This filing is submitted on recycled paper.

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BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

MAR 28 2006

STATE OF ILLINOIS
Pollution Control Board

PEOPLE OF THE STATE OF ILLINOIS,)
)
Complainant,)
)
vs.)
)
STOECKER FARMS, INC.,)
an Illinois corporation,)
)
Respondent.)

PCB No. 06-150
(Enforcement)


ENTRY OF APPEARANCE

On behalf of the Complainant, PEOPLE OF THE STATE OF ILLINOIS, KRISTEN LAUGHRIDGE GALE, Assistant Attorney General of the State of Illinois, hereby enters her appearance as attorney of record.

Respectfully submitted,

PEOPLE OF THE STATE OF ILLINOIS,
LISA MADIGAN
Attorney General of the
State of Illinois

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

BY: 
KRISTEN LAUGHRIDGE GALE
Environmental Bureau
Assistant Attorney General

500 South Second Street
Springfield, Illinois 62706
217/782-9031
Dated: March 22, 2006

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

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STATE OF ILLINOIS
Pollution Control Board

PEOPLE OF THE STATE OF ILLINOIS,)
)
Complainant,)
)
-vs-)
)
STOECKER FARMS, INC., an Illinois)
corporation,)
)
Respondent.)

PCB No. 06-
(Enforcement)

COMPLAINT

Complainant, PEOPLE OF THE STATE OF ILLINOIS, by LISA MADIGAN, Attorney General of the State of Illinois, and at the request of the ILLINOIS ENVIRONMENTAL PROTECTION AGENCY, complains of the Respondent, STOECKER FARMS, INC., as follows:

COUNT I
WATER POLLUTION VIOLATIONS

1. This Complaint is brought by the Attorney General on her own motion and at the request of the Illinois Environmental Protection Agency ("Illinois EPA"), pursuant to the terms and provisions of Section 31 of the Illinois Environmental Protection Act ("Act"), 415 ILCS 5/31 (2004).
2. The Illinois EPA is an agency of the State of Illinois created by the Illinois General Assembly in Section 4 of the Act, 415 ILCS 5/4 (2004), and charged, *inter alia*, with the duty of enforcing the Act in proceedings before the Illinois Pollution Control Board ("Board").
3. The Complaint is brought pursuant to Section 31 of the Act, 415 ILCS 5/31 (2004), after providing the Respondent with notice and opportunity for a meeting with the Illinois EPA.
4. The Respondent, STOECKER FARMS, INC., is an Illinois corporation in good standing and owns and operates a swine production facility in Macoupin County, Illinois.

5. The swine production facility consists of three confinement buildings with manure pits underneath each building.

6. Section 12 of the Act, 415 ILCS 5/12 (2004), provides in pertinent part that:

No person shall:

a. Cause or threaten or allow the discharge of any contaminants into the environment in any State so as to cause or tend to cause water pollution in Illinois, either alone or in combination with matter from other sources, or so as to violate regulations or standards adopted by the Pollution Control Board under this Act;

* * *

d. Deposit any contaminants upon the land in such place and manner as to create a water pollution hazard;

* * *

f. Cause, threaten or allow the discharge of any contaminant into the waters of the State, as defined herein, including but not limited to, waters to any sewage works, or into any well or from any point source within the State, without an NPDES permit for point source discharges issued by the Agency under Section 39(b) of this Act, or in violation of any term or condition imposed by such permit, or in violation of any NPDES permit filing requirement established under Section 39(b), or in violation of any regulations adopted by the Board or of any order adopted by the Board with respect to the NPDES program.

* * *

7. Section 3.545 of the Act, 415 ILCS 5/3.545 (2004) provides:

“Water pollution” is such alteration of the physical, thermal, chemical, biological or radioactive properties of any waters of the State, or such discharge of any contaminant into any waters of the State, as will or is likely to create a nuisance or render such waters harmful or detrimental or injurious to public health, safety or welfare, or to domestic, commercial, industrial, agricultural, recreational, or other legitimate uses, or to livestock, wild animals, birds, fish, or other aquatic life.

8. Section 3.550 of the Act, 415 ILCS 3.550 (2004) provides:

“Waters” means all accumulations of water, surface and underground, natural, and artificial, public and private, or parts thereof, which are wholly or partially within, flow through, or border upon this State.

9. Section 501.403(a) of the Board's Agriculture Regulations, 35 Ill. Adm. Code

501.403(a), provides:

Existing livestock management facilities and livestock waste-handling facilities shall have adequate diversion dikes, walls or curbs that will prevent excessive outside surface waters from flowing through the animal feeding operation and will direct runoff to an appropriate disposal, holding or storage area. The diversions are required on all aforementioned structures unless there is negligible outside surface water which can flow through the facility or the runoff is tributary to an acceptable disposal area or a livestock waste-handling facility. If inadequate diversions cause or threaten to cause a violation of the Act or applicable regulations, the Agency may require corrective measures.

10. Section 501.404(c)(3) of the Board's Agriculture Regulations, 35 Ill. Adm. Code

501.404(c)(3), provides:

The contents of livestock waste-handling facilities shall be kept at levels such that there is adequate storage capacity so that an overflow does not occur except in the case of precipitation in excess of a 25-year 24-hour storm.

11. Section 580.105 of the Board's Agriculture Regulations, 35 Ill. Adm. Code

580.105, provides:

a) An owner or operator of a livestock waste handling facility shall report any release of livestock waste from the livestock waste handling facility or from the transport of livestock waste by means of transportation equipment within 24 hours after the discovery of the release. Reports of releases to surface waters, including to sinkholes, drain inlets, broken subsurface drains or other conduits to groundwater or surface waters, shall be made upon discovery of the release, except when such immediate notification will impede the owner's or operator's response to correct the cause of the release or to contain the livestock waste, in which case the report shall be made as soon as possible but no later than 24 hours after discovery.

b) *Reporting shall not be required in the case of a release of less than 25 gallons that is not released to the waters of the State or from a controlled and recovered release during field application. [510 ILCS 77/18(a)]*

c) The report required under subsection (a) shall be given to the Illinois Environmental Protection Agency through the Illinois Emergency Management Agency by [telephone].

12. Section 580.300 of the Board's Agriculture Regulations, 35 Ill. Adm. Code

580.300, provides, in pertinent part:

An owner or operator of a livestock waste handling facility who reports by telephone any release of livestock waste shall provide a follow-up written report of the release within 5 days after the discovery of the release. . . .

13. In late January and early February 2005, the manure pit underneath the south confinement building overflowed, releasing a large quantity of livestock waste to the pasture below. This incident resulted from the combination of: 1) the breakdown of the land application equipment in December 2004, 2) the failure of the pump to the 500,000 gallon Slurrystore tank so that the tank could not be used for storage, 3) weather conditions which thawed the fields, 4) inadequate water diversion, including most of the downspouts being broken, which allowed excessive amounts of water to flow into the pit, and 5) the consequent lack of adequate storage capacity.

14. The livestock waste released to the pasture deposited contaminants upon the land in such place and manner as to create a water pollution hazard. In particular, on February 8, 2005, the wastewater and manure solids had accumulated in an area approximately 40 feet wide and 200 feet long and were flowing through a roadside ditch for an additional 50 feet before discharging into an unnamed tributary of Cahokia Creek.

15. Stoecker Farms, Inc., deposited contaminants upon the land in such place and manner as to create a water pollution hazard and caused, threatened or allowed the discharge of wastewater and manure solids into an unnamed tributary of Cahokia Creek so as likely to create a nuisance or render such waters harmful or detrimental or injurious to domestic, commercial, industrial, agricultural, recreational, or other legitimate uses, or to livestock, wild animals, birds, fish, or other aquatic life.

16. By depositing wastewater and manure solids upon the land in such place and manner as to create a water pollution hazard, the Respondent has violated Section 12(d) of the Act, 415 ILCS 5/12(d) (2004).

17. By causing, threatening or allowing the discharge of wastewater and manure solids into waters of the State so as to cause or tend to cause water pollution, the Respondent has violated Section 12(a) of the Act, 415 ILCS 5/12(a) (2004).

PRAYER FOR RELIEF

WHEREFORE, Complainant, the People of the State of Illinois, respectively request that the Board enter an order against the Respondent:

- A. Authorizing a hearing in this matter at which time the Respondent will be required to answer the allegations herein;
- B. Finding that Respondent has violated the Act and regulations as alleged herein;
- C. Ordering Respondent to cease and desist from any further violations of the Act and associated regulations;
- D. Pursuant to Section 42(b)(1) of the Act, 415 ILCS 5/42(b)(1) (2004), impose a civil penalty of not more than the statutory maximum; and
- E. Granting such other relief as the Board may deem appropriate.

COUNT II
OFFENSIVE DISCHARGES AND CONDITIONS

1-14. Complainant realleges and incorporates herein by paragraphs 1 through 14 of Count I as paragraphs 1 through 14 of this Count II.

15. Section 304.106 of the Board's Water Pollution Regulations, 35 Ill. Adm. Code 304.106, provides:

Offensive Discharges

In addition to the other requirements of this Part, no effluent shall contain settleable solids, floating debris, visible oil, grease, scum or sludge solids. Color, odor and turbidity must be reduced to below obvious levels.

16. Section 302.203 of the Board's Water Pollution Regulations, 35 Ill. Adm. Code 302.203, provides:

Offensive Conditions

Waters of the State shall be free from sludge or bottom deposits, floating debris, visible oil, odor, plant or algal growth, color or turbidity of other than natural origin. The allowed mixing provisions of Section 302.102 shall not be used to comply with the provisions of this Section.

17. On February 8, 2005, the Illinois EPA sampled the unnamed tributary of Cahokia Creek, both upstream and downstream of the discharge of wastewater and manure solids into the stream; the subsequent analytical results demonstrated the pollutional impact of the discharge.

18. Stoecker Farms, Inc., caused, threatened or allowed the discharge of wastewater and manure solids, containing settleable solids, floating debris, visible oil, grease, scum or sludge solids, into an unnamed tributary of Cahokia Creek, resulting in the presence of sludge or bottom deposits, floating debris, visible oil, odor, plant or algal growth, color or turbidity of other than natural origin in such waters.

19. By causing, threatening or allowing the offensive discharges, resulting in offensive conditions in waters of the State, the Respondent has violated Sections 304.106 and 302.203 of the Board's Water Pollution Regulations, 35 Ill. Adm. Code 304.106, 302.203.

20. By causing, threatening or allowing the discharge of contaminants into an unnamed tributary of Cahokia Creek so as to violate regulations or standards adopted by the Board, the Respondent has violated Section 12(a) of the Act, 415 ILCS 5/12(a) (2004).

PRAYER FOR RELIEF

WHEREFORE, Complainant, the People of the State of Illinois, respectively request that the Board enter an order against the Respondent:

A. Authorizing a hearing in this matter at which time the Respondent will be required to answer the allegations herein;

B. Finding that Respondent has violated the Act and regulations as alleged herein;

C. Ordering Respondent to cease and desist from any further violations of the Act and associated regulations;

D. Pursuant to Section 42(b)(1) of the Act, 415 ILCS 5/42(b)(1) (2004), impose a civil penalty of not more than the statutory maximum; and

E. Granting such other relief as the Board may deem appropriate.

COUNT III
NPDES PERMIT VIOLATIONS

1-14. Complainant realleges and incorporates herein by paragraphs 1 through 14 of Count I as paragraphs 1 through 14 of this Count III.

15. Section 309.102(a) of the Board's Water Pollution Regulations, 35 Ill. Adm. Code 309.102(a), provides:

Except as in compliance with the provision of the Act, Board regulations, and the CWA, and the provisions and conditions of the NPDES permit issued to the discharger, the discharge of any contaminant or pollutant by any person into the waters of the State from a point source or into a well shall be unlawful.

16. Stoecker Farms, Inc., caused, threatened or allowed the discharge of wastewater and manure solids into an unnamed tributary of Cahokia Creek without an NPDES permit for point source discharges issued by the Illinois EPA under Section 39(b) of the Act.

17. By causing, threatening or allowing the discharge of contaminants into an unnamed tributary of Cahokia Creek without an NPDES permit, the Respondent has violated Section 12(f) of the Act, 415 ILCS 5/12(f) (2004), and Section 309.102(a) of the Board's Water Pollution Regulations, 35 Ill. Adm. Code 309.102(a).

PRAYER FOR RELIEF

WHEREFORE, Complainant, the People of the State of Illinois, respectively request that the Board enter an order against the Respondent:

A. Authorizing a hearing in this matter at which time the Respondent will be

required to answer the allegations herein;

B. Finding that Respondent has violated the Act and regulations as alleged herein;

C. Ordering Respondent to cease and desist from any further violations of the Act and associated regulations;

D. Pursuant to Section 42(b)(1) of the Act, 415 ILCS 5/42(b)(1) (2004), impose a civil penalty of not more than the statutory maximum; and

E. Granting such other relief as the Board may deem appropriate.

COUNT IV
MANAGEMENT AND REPORTING VIOLATIONS

1-14. Complainant realleges and incorporates herein by paragraphs 1 through 14 of Count I as paragraphs 1 through 14 of this Count IV.

15. Stoecker Farms, Inc., failed to maintain adequate storage capacity in the livestock waste pits to prevent an overflow and to provide adequate diversion of surface waters from such pits, thereby violating Sections 501.404(c)(3) and 501.403(a) of the Board's Agriculture Regulations, 35 Ill. Adm. Code 501.404(c)(3), 501.403(a).

16. Stoecker Farms, Inc., failed to report the release of livestock waste to State officials, thereby violating Sections 580.105 and 580.300 of the Board's Agriculture Regulations, 35 Ill. Adm. Code 580.105, 580.300.

PRAYER FOR RELIEF

WHEREFORE, Complainant, the People of the State of Illinois, respectively request that the Board enter an order against the Respondent:

A. Authorizing a hearing in this matter at which time the Respondent will be required to answer the allegations herein;

B. Finding that Respondent has violated the Act and regulations as alleged herein;

C. Ordering Respondent to cease and desist from any further violations of the Act