

ILLINOIS POLLUTION CONTROL BOARD
January 26, 2007

PEOPLE OF THE STATE OF ILLINOIS,)
)
Complainant,)
)
v.) PCB 06-150
) (Enforcement - Water)
STOECKER FARMS, INC., an Illinois)
corporation,)
)
Respondent.)

OPINION AND ORDER OF THE BOARD (by G.T. Girard):

On March 28, 2006, the Office of the Attorney General, on behalf of the People of the State of Illinois (People), filed a four-count complaint against Stoecker Farms, Inc. (Stoecker Farms). *See* 415 ILCS 5/31(c)(1) (2004); 35 Ill. Adm. Code 103.204. The complaint concerns Stoecker Farms' swine production facility in Macoupin County.

Under the Environmental Protection Act (Act) (415 ILCS 5/1 *et seq.* (2004)), 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 (2004); 35 Ill. Adm. Code 103. In this case, the People allege that Stoecker Farms violated Section 12(a), (d), and (f) of the Act (415 ILCS 5/12(a), (d), and (f) (2004)) and 35 Ill. Adm. Code 302.203, 304.106, 309.102(a), 501.403(a), 501.404(c)(3), 580.105, and 580.300.

The People further allege that Stoecker Farms violated these provisions by (1) causing or allowing the release of livestock waste onto land so as to create a water pollution hazard; (2) causing, threatening, or allowing the discharge of wastewater and manure solids into an unnamed tributary of Cahokia Creek so as likely to create a nuisance or render those waters harmful or detrimental or injurious to commercial, industrial, agricultural, recreational, or other legitimate uses or to livestock, wild animals, birds, fish, or other aquatic life; (3) causing, threatening, or allowing the discharge of wastewater and manure solids containing settleable solids, floating debris, visible oil, grease, scum or bottom deposits, floating debris, visible oil, odor, plant or algal growth, color or turbidity of other than natural origin into an unnamed tributary of Cahokia Creek; (4) causing, threatening, or allowing the discharge of wastewater and manure solids into an unnamed tributary of Cahokia Creek without a National Pollutant Discharge Elimination System (NPDES) permit; (5) failed to maintain adequate storage capacity in livestock waste pits to prevent an overflow and to provide adequate diversion of surface waters from the pits; and (6) failing to report the release of livestock waste to State officials. The People ask the Board to order Stoecker Farms to cease and desist from further violation and pay a civil penalty of not more than the statutory maximum.

On November 27, 2006, the People and Stoecker Farms 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) (2004)). This filing is authorized by Section 31(c)(2) of the Act (415 ILCS 5/31(c)(2) (2004)). See 35 Ill. Adm. Code 103.300(a), 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 Board provided notice of the stipulation, proposed settlement, and request for relief from hearing. The Board published newspaper notice in the *Macoupin County Enquirer-Democrat* on December 21, 2006; any timely hearing request was due to be filed January 11, 2007. The Board did not receive any requests for hearing. The Board grants the parties' request for relief from the hearing requirement. See 415 ILCS 5/31(c)(2) (2004); 35 Ill. Adm. Code 103.300(b).

Section 103.302 of the Board's procedural rules sets forth the required contents of stipulations and proposed settlements. 35 Ill. Adm. Code 103.302. These requirements include stipulating to facts on the nature, extent, and causes of the alleged violations and the nature of respondents operations. Section 103.302 also requires that the parties stipulate to facts called for by Section 33(c) of the Act (415 ILCS 5/33(c) (2004)), which bears on the reasonableness of the circumstances surrounding the alleged violations. The stipulation also addresses the factors of Section 42(h) of the Act (415 ILCS 5/42(h) (2004)), which may mitigate or aggravate the civil penalty amount.

Under the proposed stipulation, Stoecker Farms admits the alleged violations and agrees to pay a civil penalty of \$5,000. The stipulation includes also includes a compliance plan requiring, in brief, reseeding of a pasture, daily monitoring and periodic recordkeeping regarding manure storage, and use of best management practices. In the event of failure to timely comply as directed, Stoecker Farms agrees to pay stipulated penalties of \$20.00 per day per violation.

The People and Stoecker Farms have satisfied Section 103.302. The Board accepts the stipulation and proposed settlement. The Board has outlined the gist, but not the details, of the stipulation's contents in the order below. In summary, the Board assesses a civil penalty of \$5,000, and orders Stoecker Farms to comply with all terms and conditions of the stipulation.

This docket is now closed. This opinion constitutes the Board's findings of fact and conclusions of law.

ORDER

1. The Board accepts and incorporates by reference the stipulation and proposed settlement. In summary, the Board assesses a civil penalty of \$5,000.
2. Stoecker Farms must pay a civil penalty of \$5,000 no later than February 5, 2007, which is the tenth day after the date of this order. Stoecker Farms must pay the civil penalty by certified check, money order, or electronic funds transfer, payable to the Illinois Environmental Protection Agency, designated for deposit into the Environmental Protection Trust Fund. The case number, case name, and Stoecker

Farms' federal employer identification number must be included on the certified check, money order, or electronic funds transfer statement.

3. Stoecker Farms must send the certified check, money order, or electronic funds transfer to the following address:

Illinois Environmental Protection Agency
Fiscal Services Division
1021 North Grand Avenue East
P.O. Box 19276
Springfield, Illinois 62794-9276

4. Stoecker Farms must send a copy of the certified check, money order, or record of electronic funds transfer and any transmittal letter to the following persons at the indicated address:

Kristen Laughridge Gale
Assistant Attorney General
Environmental Bureau
500 South. Second Street.
Springfield, Illinois 62702

Thomas Andryk
Assistant Counsel
Illinois Environmental Protection Agency
1021 North Grand Avenue East
P.O. Box 19276
Springfield, Illinois 62794-9276

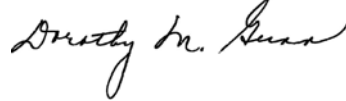
5. Penalties unpaid within the time prescribed will accrue interest under Section 42(g) of the Environmental Protection Act (415 ILCS 5/42(g) (2004)) at the rate set forth in Section 1003(a) of the Illinois Income Tax Act (35 ILCS 5/1003(a) (2004)).
6. Stoecker Farms must timely take all compliance activities outlined in the stipulation.
7. Stoecker Farms must cease and desist from the admitted violations.

IT IS SO ORDERED.

Section 41(a) of the Environmental Protection Act provides that final Board orders may be appealed directly to the Illinois Appellate Court within 35 days after the Board serves the order. 415 ILCS 5/41(a) (2004); *see also* 35 Ill. Adm. Code 101.300(d)(2), 101.906, 102.706. Illinois Supreme Court Rule 335 establishes filing requirements that apply when the Illinois Appellate Court, by statute, directly reviews administrative orders. 172 Ill. 2d R. 335. The

Board's procedural rules provide that motions for the Board to reconsider or modify its final orders may be filed with the Board within 35 days after the order is received. 35 Ill. Adm. Code 101.520; *see also* 35 Ill. Adm. Code 101.902, 102.700, 102.702.

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above opinion and order on January 26, 2007, by a vote of 4-0.

A handwritten signature in cursive script, reading "Dorothy M. Gunn".

Dorothy M. Gunn, Clerk
Illinois Pollution Control Board