ILLINOIS POLLUTION CONTROL BOARD March 15, 2007

PEOPLE OF THE STATE OF ILLINOIS,)	
)	
Complainant,)	
)	
V.)	PCB 07-73
)	(Enforcement - Water)
RANDY EDMUND d/b/a EDMUND FARM	MS,)	
an Illinois limited liability company,)	
)	
Respondent.)	

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

On February 1, 2007, the Office of the Attorney General, on behalf of the People of the State of Illinois (People), filed a five-count complaint against Randy Edmund d/b/a Edmund Farms (Edmund) concerning Edmund's swine farrow to finish facility located approximately one mile northeast of Cambridge, at 11104 Illinois Highway 82, Cambridge Township, in rural Henry County. The parties now seek to settle. For the reasons below, the Board accepts the parties' stipulation and proposed settlement.

Under the Environmental Protection Act (Act) (415 ILCS 5 (2004)), the Attorney General and the State's Attorneys may bring actions before the Board on behalf of the People to enforce Illinois' environmental requirements. *See* 415 ILCS 5/31 (2004); 35 Ill. Adm. Code 103. In this case, the People allege that Edmund violated Sections 12(a), (d), and (f) of the Act (415 ILCS 5/12(a), (d), (f) (2004)) and 35 Ill. Adm. Code 302.203, 302.212(a), 309.102(a), 501.403(a), 501.404(c)(4)(A), and 501.405(a).

According to the People's complaint, Edmund violated the Act and Board regulations as follows: (1) by causing or allowing the discharge of contaminants in such a manner as to cause or threaten water pollution; (2) by causing or allowing a discharge of contaminants to exist on the land so as to create a water pollution hazard; (3) by failing to have adequate diversion dikes, walls, or curbs; (4) by failing to have structures in place to direct runoff; (5) by failing to have adequate storage capacity; (6) by causing, allowing, or threatening the discharge of any contaminant into the waters of the State without a National Pollution Discharge Elimination System (NPDES) permit; (7) by causing or allowing the discharge of livestock waste to an unnamed tributary of Spring Creek in rural Henry County, so as to cause the stream to be dark-colored, turbid, and odorous, smelling of swine manure, with numerous dead minnows; (8) by causing or allowing the discharge of livestock waste into a feeder creek running through the facility and to an unnamed tributary of Spring Creek, which resulted in levels of ammonia ranging from 20 to 3900 mg/l; and (9) by applying livestock waste to steeply sloped saturated fields that resulted in a runoff of waste to waters of the State.

On February 1, 2007, the People and Edmund 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)), 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. The newspaper notice was published in the Cambridge Chronicle on February 15, 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. *See* 35 III. Adm. Code 103.302. These requirements include stipulating to facts on the nature, extent, and causes of the alleged violations and the nature of Edmund's 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 People and Edmund have satisfied Section 103.302. Edmund neither admits nor denies 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. Edmund agrees to pay a civil penalty of \$7,500. The Board accepts the stipulation and proposed settlement.

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.
- 2. Edmund must pay a civil penalty of \$7,500 no later than April 16, 2007, which is the first business day following the 30th day after the date of this order. Edmund must pay the civil penalty by certified check, money order, or electronic funds transfer, payable to the Illinois Environmental Protection Agency, designated to the Illinois Environmental Protection Trust Fund.
- 3. Edmund must submit payment of the civil penalty to:

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

Edmund must send a copy of the certified check, money order, or record of electronic funds transfer and any transmittal letter to:

Jane E. McBride Assistant Attorney General Environmental Bureau Office of the Attorney General 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

- 4. 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)).
- 5. Edmund must cease and desist from future violations of the Act and Board regulations that were the subject of the complaint.

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 March 15, 2007, by a vote of 4-0.

Dorothy M. Gunn, Clerk

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