ILLINOIS POLLUTION CONTROL BOARD November 1, 2007

- Water)

PEOPLE OF THE STATE OF ILLINOIS,)	
)	
Complainant,)	
)	
V.)	PCB 07-23
)	(Enforcement
GREG GIERTZ d/b/a GIERTZ SWINE)	
FARM #1,)	
)	
Respondent.)	

ORDER OF THE BOARD (by N.J. Melas):

On October 13, 2006, complainant, the Office of the Attorney General, on behalf of the People of the State of Illinois (People), filed a seven-count complaint against respondent, Greg Giertz d/b/a Giertz Swine Farm #1 (Giertz). The complaint concerns livestock waste releases in March-April and November 2004 from the Giertz swine finishing facility located approximately twenty miles south of the City of Moline at 5212 Knoxville Road, New Windsor, Mercer County. The parties now seek to settle without a hearing. For the reasons below, the Board directs the Clerk to provide public notice of the parties' stipulation, proposed settlement, and request for relief from the hearing requirement.

Under the Environmental Protection Act (Act) (415 ILCS 5 (2006)), 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 (2006); 35 Ill. Adm. Code 103. In this case, the People allege that Giertz caused or allowed the release of livestock waste in violation of the Act and the Board's livestock waste rules at 35 Ill. Adm. Code 500 *et seq.* According to the complaint, respondent violated, in separate incidents on various specified dates occurring in March-April and in November 2004 1) Sections 12(a) and (d) of the Act (415 ILCS 5/12(a), (d) (2006)) by causing or allowing the discharge of livestock waste so as to cause or threaten water pollution and create a water pollution hazard and 35 Ill. Adm. Code 501.403(a) and 501.404(c)(4)6(A) by failure to have in place appropriate diversion dikes and manure storage capacity, 2) Section 12(f) of the Act (415 ILCS 5/126(f) (2006)) and 35 Ill. Adm. Code 309.102(a) by causing, allowing, or threatening the discharge of a contaminant without a permit under the National Pollutant Discharge Elimination System (NPDES), and 3) Section 4(h) of the Act (415 ILCS 5/4(h) (2006)) and 35 Ill. Adm. Code 580.105 by failing to timely report releases of livestock waste from a facility.

On October 26, 2007, the People and Giertz 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) (2006)). This filing is authorized by Section 31(c)(2) of the Act (415 ILCS 5/31(c)(2) (2006)), 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

earing. *See* 35 Ill. Adm. Code 103.300(a). Under the proposed stipulation, Giertz neither admits nor denies the alleged violations, but agrees to pay a civil penalty of \$3,500.

Unless the Board determines that a hearing is needed, the Board must cause notice of the stipulation, proposed settlement, and request for relief from the hearing requirement. Any person may file a written demand for hearing within 21 days after receiving the notice. If anyone timely files a written demand for hearing, the Board will deny the parties' request for relief and hold a hearing. *See* 415 ILCS 5/31(c)(2) (2006); 35 Ill. Adm. Code 103.300(b), (c). The Board directs the Clerk to provide the required notice.

IT IS SO ORDERED.

I, John Therriault, Assistant Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above order on November 1, 2007, by a vote of 4-0.

In T. Therian

John Therriault, Assistant Clerk Illinois Pollution Control Board