ILLINOIS POLLUTION CONTROL BOARD November 5, 2009

PEOPLE OF THE STATE OF ILLINOIS,)	
Complainant,))	
V.))	PCB 07-70
J. B. TIMMERMANN FARMS, LTD.,))	(Enforcement - Water)
Respondent.))	

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

On January 29, 2007, the Office of the Attorney General, on behalf of the People of the State of Illinois (People), filed a three-count complaint against J.B. Timmermann Farms, LTD (respondent). The complaint concerns respondent's dairy operation that houses approximately 675 milking cows, located on the north side of Highline Road, in Section 28 of Breese Township, Clinton 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) $(415 \text{ ILCS 5} (2008))^1$, 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 (2008); 35 Ill. Adm. Code 103. In this case, the People allege that respondent's violated Sections 12(a), 12(d) and 12 (f) of the Act and Sections 302.203, 302.206, 309.102(a) of the Board's water pollution regulations (35 Ill. Adm. Code 302.203 and 309.102(a)) and Sections 501.404(c)(3) and 501.403(a) of the Board's agricultural regulations (35 Ill. Adm. Code501.404(c)(3) and 501.403(a)). The complaint alleges that respondent violated these provisions by allowing a livestock waste lagoon to overflow into Shoal Creek without a National Pollutant Discharge Elimination System (NPDES) permit for the site and by depositing contaminants on land in a manner that created a water pollution hazard.

On October 30, 2009, the People and respondent 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) (2008)). This filing is authorized by Section 31(c)(2) of the Act (415 ILCS 5/31(c)(2) (2008)), 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). Under the proposed stipulation, the respondent neither admits nor denies the alleged violations and agrees to pay a civil penalty of \$15,000.

¹ All citations to the Act will be to the 2008 compiled statutes because the provisions at issue have not been substantively amended in the 2008 compiled statutes.

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) (2008); 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 5, 2009, by a vote of 5-0.

In T. Theriaut

John Therriault, Assistant Clerk Illinois Pollution Control Board