## ILLINOIS POLLUTION CONTROL BOARD September 8, 2011

PEOPLE OF THE STATE OF ILLINOIS,	)	
Complainant,	)	
Compramati,	)	
v.	)	PCB 11-54
	)	(Enforcement – Air, Water)
STEWART SPREADING, INC.,	)	
an Illinois corporation,	)	
	)	
Respondent.	)	

## OPINION AND ORDER OF THE BOARD (by C.K. Zalewski):

On February 25, 2001, the Office of the Attorney General, on behalf of the People of the State of Illinois (People), filed a five-count complaint against Stewart Spreading, Inc. (Stewart Spreading). The complaint concerns the site of a farm field located east of the intersection of Douglas Road and Collins Road, at the west half of the west half of the northwest quarter of Section 26 in Oswego Township, Kendall County, Illinois where Stewart Spreading would spread waste acquired from the Springbrook Waste Water Treatment Plant in Naperville, Illinois. The parties now seek to settle without a hearing. For the reasons below, the Board accepts the parties' stipulation and proposed settlement.

Under the Environmental Protection Act (Act) (415 ILCS 5 (2010)), 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 (2010); 35 Ill. Adm. Code 103. In this case, the People allege that Stewart Spreading violated the following provisions in the manner described: (1) Section 9(a) of the Act (415 ILCS 5/9(a) (2010)) by failing to properly land apply and incorporate bulk sewage sludge, thereby causing, threatening, or allowing air pollution; (2) Section 12(a) of the Act (415 ILCS 5/12(a) (2010)) by failing to properly land apply and incorporate bulk sewage sludge during ice and snow conditions, thereby causing, threatening, or allowing the discharge of contaminants into waters of the State and thereby causing, threatening, or allowing water pollution; (3) Section 12(b) of the Act (415 ILCS 5/12(b) (2010)) by applying sewage sludge in a manner that was capable of causing or contributing to water pollution without first obtaining a permit from the Illinois Environmental Protection Agency and in violation of Stewart Spreading's existing permit; (4) Section 12(d) of the Act (415 ILCS 5/12(d) (2010)) by stockpiling bulk sewage sludge in a place and manner that created a water pollution hazard; and (5) Sections 391.305(a) and (d) of the Board's water pollution regulations (35 Ill. Adm. Code 391.305(a), (d)) and thereby Section 12(a) of the Act by failing to ensure that stockpiled bulk sewage sludge was properly contained and runoff controlled, and Sections 391.403(b) and (d) of the Board's water pollution regulations (35 Ill. Adm. Code 391.403(b), (d)) and thereby Section 12(a) of the Act by applying sewage sludge to the land and

failing to immediately incorporate the sludge at the site, which is located within 200 feet of surface waters, intermittent streams, and occupied dwellings.

On July 7, 2011, the People and Stewart Spreading 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) (2010)). This filing is authorized by Section 31(c)(2) of the Act (415 ILCS 5/31(c)(2) (2010)), 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 III. 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 *Oswego Ledger-Sentinel* on July 28, 2001. 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) (2010); 35 III. 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 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 Stewart Spreading'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) (2010)), which bears on the reasonableness of the circumstances surrounding the alleged violations. Stewart Spreading does not affirmatively admit the alleged violations. The stipulation also addresses the factors of Section 42(h) of the Act (415 ILCS 5/42(h) (2010)), which may mitigate or aggravate the civil penalty amount. Stewart Spreading agrees to pay a civil penalty of \$13,000.00. The People and Stewart Spreading have satisfied Section 103.302. 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. Stewart Spreading, Inc. must pay a civil penalty of \$13,000.00 no later than October 11, 2011, which is the first business day following the 30th day after the date of this order. Stewart Spreading must pay the civil penalty by certified check or money order payable to the Illinois Environmental Protection Agency for deposit into the Environmental Protection Trust Fund. The case name, case number, and Stewart Spreading's federal tax identification number must appear on the face of the certified check or money order.
- 3. Stewart Spreading 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

Stewart Spreading must send a copy of the certified check or money order and any transmittal letter to:

Krystyna Bednarczyk Environmental Bureau Illinois Attorney General's Office 69 West Washington Street, 18th Floor Chicago, Illinois 60602

- 4. Penalties unpaid within the time prescribed will accrue interest under Section 42(g) of the Environmental Protection Act (415 ILCS 5/42(g) (2010)) at the rate set forth in Section 1003(a) of the Illinois Income Tax Act (35 ILCS 5/1003(a) (2008)).
- 5. Stewart Spreading shall cease and desist from future violations of the Act and Board Regulations that were the subject matter 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) (2010); 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, John T. Therriault, Assistant Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above opinion and order on September 8, 2011, by a vote of 5-0.

John Therriault, Assistant Clerk Illinois Pollution Control Board

In T. Therrian