## ILLINOIS POLLUTION CONTROL BOARD May 17, 2012

| PEOPLE OF THE STATE OF ILLINOIS,   | ) |               |
|------------------------------------|---|---------------|
| Complainant,                       | ) |               |
| v.                                 | ) | PCB 11-74     |
|                                    | ) | (Enforcement) |
| ADOLF M. LO and RENEE C. LO, d/b/a | ) |               |
| LO FARMS                           | ) |               |
|                                    | ) |               |
| Respondents.                       | ) |               |

## ORDER OF THE BOARD (by T.A. Holbrook):

On April 22, 2011, the Office of the Attorney General, on behalf of the People of the State of Illinois (People), filed a two-count complaint against Adolf M. Lo and Renee C. Lo, d/b/a/ Lo Farms (respondents). The complaint concerns respondents' agricultural facility located at 1404 North Rising Road, Champaign, Champaign County. 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 to enforce Illinois' environmental requirements on behalf of the People. *See* 415 ILCS 5/31 (2010); 35 Ill. Adm. Code 103. In this case, the People allege that respondents violated Sections 9(a), 9(c), and 21(e) of the Act. The People allege respondents violated these provisions by (1) causing, threatening, or allowing the emission of contaminants into the environment so as to cause or tend to cause air pollution; (2) causing or allowing the open burning of refuse at a site that does not meet the requirements of the Act; and (3) disposing, treating, storing, or abandoning waste at a site that does not meet the requirements of the Act.

On March 30, 2012, the People and respondents 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 Ill. Adm. Code 103.300(a). Under the proposed stipulation, the respondents admit the alleged violation and agree to pay a civil penalty of \$10,000.00.

The Board provided notice of the stipulation, proposed settlement, and request for relief. The newspaper notice was published in the *News-Gazette* on April 10, 2012. The Board did not receive any request for hearing. The Board grants the parties' request for

relief from the hearing requirement. *See* 415 ILCS 5/31(c)(2) (2010); 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 the 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) (2010)). The People and the respondent have satisfied Section 103.302. Respondents admit the alleged violation and agree to pay a civil penalty of \$10,000.00. 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. Respondents must pay a civil penalty of \$10,000.00 by June 18, 2012, which is the first business day following the 30th day after the date of this order. The respondents must pay the civil penalty by certified check or money order, payable to the Environmental Protection Trust Fund. The case number, case name, and respondents' social security number or federal employer identification number must be included on the certified check or money order.
- 3. The respondents must send the certified check or money order to:

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

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

Rachel R. Medina Environmental Bureau Illinois Attorney General's Office 500 South Second Street Springfield, Illinois 62706

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) (2010)).

5. The respondents must cease and desist from the 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) (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 May 17, 2012, by a vote of 5-0.

John T. Therriault, Assistant Clerk Illinois Pollution Control Board