

ILLINOIS POLLUTION CONTROL BOARD
August 23, 2012

PEOPLE OF THE STATE OF ILLINOIS,)
)
Complainant,)
)
v.) PCB 12-133
) (Enforcement - Water)
NORTHWEST ILLINI FEEDLOTS)
CORPORATION, an Illinois corporation,)
)
Respondent.)

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

On June 8, 2012, the Office of the Attorney General, on behalf of the People of the State of Illinois (People), filed a nine-count complaint against Northwest Illini Feedlots Corporation (Northwest). The complaint concerns Northwest's cattle feedlot located at 12490 Illinois Route 73, P. O. Box 61, Lanark, Carroll 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 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 Northwest violated Sections 9(a), 12(a), 12(d), 12(f) of the Act, 415 ILCS 5/9(a), 12(a), 12(d), 12(f) (2010), and 35 Ill. Adm. Code 306.102(a), 309.102(a), 501.403(a), 501.404(c)(2), 501.404(c)(4)(A), 501.405(a), and 501.405(b). According to the complaint, the respondent violated these provisions by allowing its livestock waste lagoon berm to fail and discharge waste water into waters of the State, by allowing livestock waste to be deposited on the ground through its lagoon dewatering process in such a manner to allow the pumped waste water to ultimately run off into Straddle Creek, by failing to comply with the Field Application of Livestock Waste provisions and discharge limitations of its National Pollutant Discharge Elimination System (NPDES) permit, by failing to employ adequate measures to prevent the discharge of livestock waste into waters of the State during adverse weather conditions and flooding, by failing to provide adequate curbing or other structures to divert clean storm water from entering its livestock lagoon, by failing to ensure that its livestock lagoon was impermeable or sealed to prevent surface water pollution, by failing to leave adequate capacity in its liquid livestock waste storage lagoon to prevent water pollution, by pumping the contents of its waste lagoon onto a nearby field in such a manner to allow some of the pumped water to ultimately drain into a ditch that discharges into Straddle Creek, and by failing to conduct the land application of livestock waste in such a manner as to minimize air pollution to neighboring farms or residences.

On June 8, 2012, the People and Northwest 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). The Board provided notice of the stipulation, proposed settlement, and request for relief. The newspaper notice was published in the *Prairie Advocate* on July 18, 2012. 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 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 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 Northwest'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. Northwest 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. Northwest agrees to pay a civil penalty of \$6,500.00. The People and Northwest 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. Northwest Illini Feedlots Corporation (Northwest) must pay a civil penalty of \$6,500.00 no later than September 24, 2012, which is the first business day following the 30th day after the date of this order. Northwest 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 Northwest's federal tax identification number must appear on the face of the certified check or money order.
3. Northwest 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

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

George D. Theophilos
Assistant Attorney General
Environmental Bureau
Illinois Attorney General's Office
69 W. Washington Street, Suite 1800
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) (2010)).
5. Northwest must cease and desist from future violations of the Environmental Protection 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) (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 order on August 23, 2012 by a vote of 5-0.



John T. Therriault, Assistant Clerk
Illinois Pollution Control Board