## ILLINOIS POLLUTION CONTROL BOARD January 10, 2013

PEOPLE OF THE STATE OF ILLINOIS,	)	
Complainant,	)	
V.	)	PCB 11-68
TRADITION INVESTMENTS, LLC, an	)	(Enforcement - Water)
Illinois limited liability corporation,	)	
Respondent.	ý	

OPINION AND ORDER OF THE BOARD (by D. Glosser):

On April 20, 2011, the Office of the Attorney General, on behalf of the People of the State of Illinois (People), filed a five-count complaint against Tradition Investments, LLC (Tradition). The complaint concerns Tradition's proposed dairy operations facilities at 12504 East Canyon Road, Stockton, Jo Daviess County and 12521 East Mahoney, Warren, Jo Daviess 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 Tradition violated Sections 12(a), (d), and (f) of the Act, 415 ILCS 5/21(a), (d), (f) (2010), and Sections 302.203 and 304.106 of the Board's Water Pollution Regulations, 35 Ill. Adm. Code 302.203, 304.106, 309.102(a), by causing or tending to cause water pollution in Illinois by 1) causing or allowing the discharge of silage leachate into waters of the State without National Pollutant Discharge Elimination System (NPDES) permit coverage, and in a manner to create or likely create a nuisance; 2) causing or allowing silage leachate to remain pooled on the land in a manner that allowed it to continually discharge from the land application field and allowed it to exist as a water pollution hazard on the land; 3) applying leachate wastewater in a manner to land that contained a field tile so as to allow a discharge and cause unnaturally pink/purple coloration in waters in a tributary of the South Fork of the Apple River; and 4) causing or allowing a point source discharge exhibiting a very obvious pink/purple color that resulted in the entire receiving body of water exhibiting the same color.

On, November 7, 2012, the People and Tradition 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 *Village Voices* on November 21, 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 III. Adm. Code 103.302. These requirements include stipulating to facts on the nature, extent, and causes of the alleged violations and the nature of Tradition'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. Tradition neither admits nor denies 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. Tradition agrees to pay a civil penalty of \$1,000. The People and Tradition 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.

## <u>ORDER</u>

- 1. The Board accepts and incorporates by reference the stipulation and proposed settlement.
- 2. Tradition Investments, LLC (Tradition) must pay a civil penalty of \$1,000 no later than February 11, 2013, which is the first business day following the 30th day after the date of this order. Tradition 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 Tradition's federal employer identification number must appear on the face of the certified check or money order.
- 3. Tradition 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

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

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. Tradition 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.

## IT IS SO ORDERED.

I, John T. Therriault, Assistant Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above order on January 10, 2013, by a vote of 5-0.

In T. J

John T. Therriault, Assistant Clerk Illinois Pollution Control Board