

ILLINOIS POLLUTION CONTROL BOARD
January 25, 2018

PEOPLE OF THE STATE OF ILLINOIS,)
)
 Complainant,)
)
 v.) PCB 18-43
) (Enforcement – Air, Water)
 SCOTT DEAN d/b/a SCOTT DEAN SWINE)
 FARM and HOLLIS SHAFER d/b/a HOLLIS)
 SHAFER SWINE FARM,)
)
 Respondents.)

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

On December 4, 2017, the Office of the Attorney General, on behalf of the People of the State of Illinois (People), filed a six-count complaint against Scott Dean, doing business as “Scott Dean Swine Farm” (Dean Farm), and Hollis Shafer, doing business as “Hollis Shafer Swine Farm” (Shafer Farm). The complaint concerns Dean Farm’s swine wean-to-finish facility located at 2222 East Highway 24 in Astoria, Fulton 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 (2016)), 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 (2016); 35 Ill. Adm. Code 103. In this case, the People allege five violations of the Act by Dean Farm and one violation of the Act by Shafer Farm.

The complaint alleges both Dean Farm and Shafer Farm violated Section 12(a) of the Act (415 ILCS 5/12(a) (2016)) by causing, allowing, or threatening to discharge contaminants into waters of the State. According to the complaint, Dean Farm’s application of liquid manure to fields surrounding the Dean Farm facility resulted in surface runoff into nearby waterways. In addition, the complaint alleges that Dean Farm discharged solid swine manure into nearby waterways through its manure application wagon. The complaint further alleges that Shafer Farm leased two confinement buildings from Dean Farm, owned the swine at the dean Farm facility, and owned and controlled part of the operation that caused or allowed the swine manure discharge.

The complaint alleges four more violations by Dean Farms. First, the People allege Dean Farm violated Section 12(d) (415 ILCS 5/12(d) (2016)) of the Act by surface applying liquid swine manure to land near waterways so as to create a water pollution hazard. Second, the People allege Dean Farms violated Section 12(f) (415 ILCS 5/12(f) (2016)) of the Act and Section 309.102(a) of the Board’s regulations (35 Ill. Adm. Code 309.102(a)) by causing or

allowing the discharge of livestock waste without National Pollutant Discharge Elimination System (NPDES) permit coverage. Third, the People allege Dean Farm violated Sections 12(a) and (d) (415 ILCS 5/12(a), (d) (2016)) of the Act and Section 501.405(a) of the Board's regulations (35 Ill. Adm. Code 501.405(a)) by surface applying liquid swine manure in quantities exceeding the practical limit for the soil type. And fourth, the People allege Dean Farm violated Section 9(a) (415 ILCS 5/9(a) (2016)) of the Act and Sections 501.402(c)(3) and 501.405(b) of the Board's regulations (35 Ill. Adm. Code 501.402(c)(3), 501.405(b)) by failing to use adequate odor control methods and technology at its livestock facility, causing air pollution.

On December 4, 2017, the People, Dean Farm, and Shafer Farm 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) (2016)). This filing is authorized by Section 31(c)(2) of the Act (415 ILCS 5/31(c)(2) (2016)), 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 *Daily Ledger* on December 12, 2017. 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) (2016); 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 Dean Farm's and Shafer Farm'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) (2016)), which bears on the reasonableness of the circumstances surrounding the alleged violations. Dean Farm and Shafer Farm admit the alleged violations. The stipulation also addresses the factors of Section 42(h) of the Act (415 ILCS 5/42(h) (2016)), which may mitigate or aggravate the civil penalty amount. Dean Farm agrees to pay a civil penalty of \$10,000. Shafer Farm agrees to pay a civil penalty of \$5,000. The People, Dean Farm, and Shafer Farm 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. Scott Dean must pay a civil penalty of \$10,000 no later than February 26, 2018, which is the first business day following the 30th day after the date of this order. Scott Dean must pay the civil penalty by certified check or money order, payable to the Illinois Environmental Protection Agency for deposit into the Environmental Protection Fund. The case name and case number must appear on the face of the certified check or money order.

3. Hollis Shafer must pay a civil penalty of \$5,000 no later than February 26, 2018, which is the first business day following the 30th day after the date of this order. Hollis Shafer must pay the civil penalty by certified check or money order, payable to the Illinois Environmental Protection Agency for deposit into the Environmental Protection Fund. The case name and case number must appear on the face of the certified check or money order.
4. Scott Dean and Hollis Shafer must submit their payments 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

Scott Dean and Hollis Shafer must send a copy of each certified check or money order and any transmittal letter to:

Brian Clappier
Assistant Attorney General
Environmental Bureau
Illinois Attorney General's Office
500 South Second Street
Springfield, Illinois 62704

5. Penalties unpaid within the time prescribed will accrue interest under Section 42(g) of the Environmental Protection Act (415 ILCS 5/42(g) (2016)) at the rate set forth in Section 1003(a) of the Illinois Income Tax Act (35 ILCS 5/1003(a) (2016)).
6. Scott Dean and Hollis Shafer 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.


Board Members C.M. Santos and B.K. Carter abstained.

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) (2016); *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. Filing a motion asking that the

Board reconsider this final order is not a prerequisite to appealing the order. 35 Ill. Adm. Code 101.902.

Names and Addresses for Receiving Service of Any Petition for Review Filed with the Appellate Court	
Parties	Board
Office of the Attorney General Attn: Brian J. Clappier 500 South Second Street Springfield, Illinois 62706 bclappier@atg.state.il.us	Illinois Pollution Control Board Attn: Don A. Brown, Clerk James R. Thompson Center 100 West Randolph Street, Suite 11-500 Chicago, Illinois 60601
Scott Dean d/b/a/ Scott Dean Swine Farm Attn: Scott Dean 2222 East Highway 24 Astoria, Illinois 61501 scottdea@gmail.com	
Hollis Schafer d/b/a Hollis Schafer Swine Farm Attn: Hollis Schafer P.O. Box 675 Astoria, Illinois 61501 hollisshafer@hughes.net	

I, Don A. Brown, Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above opinion and order on January 25, 2018, by a vote of 3-0.



Don A. Brown, Clerk
Illinois Pollution Control Board