

The People and the sole remaining respondent, Murphy Farms, now seek to settle. For the reasons below, the Board directs the Clerk to provide public notice of the stipulation, proposed settlement, and request for relief from the hearing requirement.

Under the Environmental Protection Act (Act) (415 ILCS 5 (2006)), 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 (2006); 35 Ill. Adm. Code 103. The People allege in the three-count second amended complaint that respondents violated Sections 9(a) and 12(a), (d), and (f) of the Act and Section 501.405(a) of the Board's agriculture regulations (415 ILCS 5/9(a) and 12(a), (d), and (f); 35 Ill. Adm. Code 501.405(a)). The People further allege that respondents violated these provisions by causing or allowing the emission of offensive odors, and causing or allowing the discharge of livestock waste to a tributary of French Creek without a National Pollutant Discharge Elimination System (NPDES) permit so as to create a water pollution hazard.

On June 16, 2008, the parties filed a stipulation and proposed settlement (Stip), accompanied by a request for relief from the hearing requirement of Section 31(c)(1) of the Act (415 ILCS 5/31(c)(1) (2006)). These filings are authorized by Section 31(c)(2) of the Act (415 ILCS 5/31(c)(2) (2006)), 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, Murphy Farms:

neither admits nor denies that the facility was the source of unreasonably offensive odors in 1999, 2000, 2002, and 2003, as alleged in the second amended complaint. Murphy Farms disputes that it controlled, or had the ability to control, operation of the facility, and further denies that it had any role in the highlands' choice and design of the buildings and waste treatment facility. Murphy Farms denies all other alleged violations in the second amended complaint. Stip. at 8.

The proposed stipulation does not contain a stipulated civil penalty. But, Murphy Farms agrees to pay a "monetary payment" in the sum of \$35,000 to the University of Illinois, College of Agriculture, Consumer and Environmental Sciences, for the college's Discovery Farms research project.⁴ Stip. at 14.

Unless the Board determines that a hearing is needed, the Board must cause notice of the stipulation, proposed settlement, and request for relief from the hearing requirement. Any person may file a written demand for hearing within 21 days after receiving the notice. If anyone timely files a written demand for hearing, the Board will deny the parties' request for relief and hold a hearing. See 415 ILCS 5/31(c)(2) (2006); 35 Ill. Adm. Code 103.300(b), (c). The Board directs the Clerk to provide the required notice.

⁴ This "monetary payment" appears to be akin to a "supplemental environmental project" (SEP) as authorized by Section 42(h)(7) of the Act, which defines a SEP as an "environmentally beneficial project" that a respondent "agrees to undertake in settlement of an enforcement action . . . but which the respondent is not otherwise legally required to perform." 415 ILCS 5/42(h)(7) (2006).

IT IS SO ORDERED.

I, John Therriault, Assistant Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above order on June 19, 2008 by a vote of 4-0.

A handwritten signature in black ink that reads "John T. Therriault". The signature is written in a cursive style with a long horizontal flourish at the end.

John Therriault, Assistant Clerk
Illinois Pollution Control Board