

ILLINOIS POLLUTION CONTROL BOARD  
February 3, 2011

PEOPLE OF THE STATE OF ILLINOIS,	)	
	)	
Complainant,	)	
	)	
v.	)	PCB 10-84
	)	(Enforcement - Land)
PROFESSIONAL SWINE MANAGEMENT,	)	
LLC, HILLTOP VIEW, LLC, WILDCAT	)	
FARMS, LLC, HIGH-POWER PORK, LLC,	)	
EAGLE POINT, LLC, LONE HOLLOW,	)	
LLC, TIMBERLINE, LLC, PRAIRIE STATE	)	
GILTS, LTD, NORTH FORK PORK, LLC,	)	
and LITTLE TIMBER, LLC,	)	
	)	
Respondents.	)	

ORDER OF THE BOARD (by G.L. Blankenship):

On July 13, 2010, the Office of the Attorney General, on behalf of the People of the State of Illinois (People), filed a nine-count first amended complaint against Professional Swine Management, LLC, Hilltop View, LLC, Wildcat Farms, LLC, High-Power Pork, LLC, Eagle Point, LLC, Lone Hollow, LLC, Timberline, LLC, Prairie State Gilts, Ltd, North Fork Pork, LLC, and Little Timber, LLC (collectively, respondents).<sup>1</sup> The first amended complaint concerns numerous livestock facilities in several counties. In a separate stipulation, the People and North Fork Pork, LLC (North Fork) now seek to settle without a hearing. The other respondents are not parties to this stipulation. 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 (2008)), 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 (2008); 35 Ill. Adm. Code 103. In this case, count VIII of the first amended complaint alleges, among other things, that North Fork violated Sections 12(a), 12(d), and 12(f) of the Act (415 ILCS 5/12(a), 12(d), 12(f) (2008)) and Section 309.102(a) of the Board's water pollution regulations (35 Ill. Adm. Code 309.102(a)) in connection with North Fork's swine facility located in St. Albans Township (Section 8), just south of the intersection of 450N and 1400E, approximately three miles west of West Point, Hancock County. The People allege that North Fork violated these provisions by (1) causing, allowing, or threatening the discharge of contaminants to waters of the State so as to

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<sup>1</sup> In an order of August 5, 2010, the Board granted the People's motion for leave to file, and accepted for hearing, the first amended complaint. The People had filed the original complaint on April 15, 2010.

cause or tend to cause water pollution, (2) depositing contaminants upon the land in such place and manner as to create a water pollution hazard, and (3) causing or allowing the discharge of livestock wastewater to waters of the State without a National Pollutant Discharge Elimination System (NPDES) permit.

On January 27, 2011, the People and North Fork 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) (2008)). This filing is authorized by Section 31(c)(2) of the Act (415 ILCS 5/31(c)(2) (2008)), 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, North Fork does not affirmatively admit the alleged violations but agrees to pay a civil penalty of \$4,500.

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 request for relief and hold a hearing. *See* 415 ILCS 5/31(c)(2) (2008); 35 Ill. Adm. Code 103.300(b), (c). The Board directs the Clerk to provide the required notice.

Finally, on January 10, 2011, North Fork filed a motion to withdraw, without prejudice, its pending “Motion for Partial Dismissal and/or Strike or Sever Claims,” filed on December 3, 2010. In the motion to withdraw, North Fork cites judicial economy in light of the then-expected stipulation and proposal for settlement as the basis for seeking withdrawal. As no response has been filed to North Fork’s withdrawal motion, the other parties are deemed to have waived any objection to the Board granting that motion. *See* 35 Ill. Adm. Code 101.500(d). The Board grants North Fork’s motion to withdraw. North Fork’s “Motion for Partial Dismissal and/or Strike or Sever Claims” is therefore withdrawn without prejudice.

IT IS SO ORDERED.

I, John Therriault, Assistant Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above order on February 3, 2011, by a vote of 5-0.



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John Therriault, Assistant Clerk  
Illinois Pollution Control Board