

ILLINOIS POLLUTION CONTROL BOARD
April 7, 2011

PEOPLE OF THE STATE OF ILLINOIS,)
)
Complainant,)
)
v.) PCB 10-84
) (Enforcement - Land)
PROFESSIONAL SWINE MANAGEMENT,)
LLC, HILLTOPVIEW, 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.)

OPINION AND 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 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)¹. The complaint concerns respondents' numerous livestock facilities in several counties. The People and North Fork Pork, LLC (North Fork) now seek to settle without a hearing. The other respondents are not a parties to this stipulation. For the reasons below, the Board accepts the parties' stipulation and proposed settlement.

Under the Environmental Protection Act (Act) (415 ILCS 5 (2008)), 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 (2008); 35 Ill. Adm. Code 103. In this case, the People allege that respondents' violated Sections 12(a), 12(d) and 12(f) of the Act, 415 ILCS 5/12(a), (d), (f), and 35 Ill. Adm. Code 309.102(a), 302.203, 309.102(a), 620.301. 1 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. 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

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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 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). The Board provided notice of the stipulation, proposed settlement, and request for relief. The newspaper notice was published in *Hancock County Journal-Pilot* on February 23, 2011. 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) (2008); 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 North Fork Pork'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) (2008)), which bears on the reasonableness of the circumstances surrounding the alleged violations. North Fork 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) (2008)), which may mitigate or aggravate the civil penalty amount. North Fork agrees to pay a civil penalty of \$4,500. The People and North Fork 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. North Fork Pork, LLC (North Fork) must pay a civil penalty of \$4,500 no later than May 9, 2011, which is the first business day following the 30th day after the date of this order. North Fork Pork 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 North Fork's federal tax identification number must appear on the face of the certified check or money order.
3. North Fork 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

North Fork 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) (2008)) at the rate set forth in Section 1003(a) of the Illinois Income Tax Act (35 ILCS 5/1003(a) (2008)).
5. North Fork 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) (2008); *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 Therriault, Assistant Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above opinion and order on April 7, 2011, by a vote of 5-0.



John Therriault, Assistant Clerk
Illinois Pollution Control Board