

ILLINOIS POLLUTION CONTROL BOARD
November 17, 2011

PEOPLE OF THE STATE OF ILLINOIS,)
)
Complainant,)
)
v.) PCB 12-28
) (Enforcement – Water)
STROUT CROSSING, LLC,)
JERRY WEBSTER and MARK WEBSTER)
)
Respondents.)

OPINION AND ORDER OF THE BOARD (by T.A. Holbrook):

On August 17, 2011, the Office of the Attorney General, on behalf of the People of the State of Illinois (People), filed a six-count complaint against Strout Crossing, LLC (Strout Crossing), Jerry Webster, and Mark Webster (collectively, respondents). The complaint concerns Strout Crossing's head sow operation and the Websters' land application of livestock waste. The operations are located at Section 14, Township 7 South, Range 3, West of the 4th Principal Meridian in Pike 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 on behalf of the People to enforce Illinois' environmental requirements. *See* 415 ILCS 5/31 (2010); 35 Ill. Adm. Code 103. In this case, the People allege that the respondents violated Sections 12(a), 12(d), and 12(f) of the Act (415 ILCS 5/12(a), 12(d), 12(f) (2010)) and Sections 303.203, 304.106, 501.405(a), and 502.103 of the Board's Water Pollution Regulations (35 Ill. Adm. Code 303.203, 304.106, 501.405(a), 502.103). According to the complaint, respondents violated these provisions by: 1) causing or allowing the discharge of swine waste to cause water pollution; 2) depositing swine waste upon the land in proximity to Silkwood Creek when rain was imminent to create a water pollution hazard; 3) causing, threatening, or allowing the discharge of swine waste from a land application into Silkwood Creek without an NPDES permit and in violation of the Board's regulations; 4) applying swine waste to land so as to allow discharge of contaminants resulting in unnatural color, odor, and turbidity in Silkwood Creek; 5) causing or allowing a point source discharge from the swine waste that resulted in Silkwood Creek exhibiting the same odor, turbidity, and scum as the swine waste; and 6) applying swine waste on a steep slope and in close proximity to surface waters during a time when rain was imminent.

On August 17, 2011, the People and respondents 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 the *Pike Press* on October 5, 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) (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 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 Strout Crossing'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. The respondents neither admit nor deny the alleged violation. 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. The respondents collectively agree to pay a civil penalty of \$6,500.00. The People and the respondents 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. Strout Crossing, LLC, Jerry Webster, and Mark Webster must pay a civil penalty of \$6,500.00 no later than December 19, 2011, which is the first business day following the 30th day after the date of this order. Respondents 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 respondent's federal tax identification number must appear on the face of the certified check or money order.
3. Respondents must submit payment of the civil penalty to:

Illinois Environmental Protection Agency
Fiscal Services
1021 North Grand Avenue East
P.O. Box 19276
Springfield, IL 62794-9276

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

Rachel R. Medina, Assistant Attorney General
Environmental Enforcement Bureau

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. In addition:
 - a) Respondents shall report all releases of livestock waste at and from the facility and land application fields, pursuant to 35 Ill. Adm. Code 580.
 - b) Within 30 days of receipt of any request for additional information from the Illinois EPA concerning the NPDES application submitted on March 9, 2011, Strout Crossing shall provide the requested information.
 - c) Respondents shall cease and desist from all land applications within 200 feet of any surface water. Respondents shall maintain a vegetative strip of 200 feet or greater between land application areas and any surface water.
 - d) Respondents shall cease and desist the application of livestock waste to saturated soils and when precipitation is imminent and apparent. Respondents shall apply livestock waste at or below agronomic rates to suitable ground such as pasture, hay or row crop ground where the crop being grown can uptake and utilize the available nutrients and in a manner that avoids applying livestock waste at rates that exceed the hydraulic capacity of the soil and/or cause runoff.
 - e) Respondents shall properly apply livestock waste in accordance with 35 Ill. Adm. Code Part 560, and
 - f) Respondents shall 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.

I, John T. Therriault, Assistant Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above opinion and order on November 17, 2011, by a vote of 5-0.

A handwritten signature in black ink, reading "John T. Therriault". The signature is written in a cursive style with a long horizontal flourish extending to the right.

John T. Therriault, Assistant Clerk
Illinois Pollution Control Board