

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

PEOPLE OF THE STATE OF ILLINOIS,)
)
 Complainant,)
)
 -vs-) PCB No. 17-056
)
 GREENVILLE LIVESTOCK, INC., an)
 Illinois corporation,)
)
 Respondent.)

NOTICE OF FILING

To: See Attached Service List

PLEASE TAKE NOTICE that on September 7, 2017, I electronically filed with the Clerk of the Pollution Control Board of the State of Illinois, Notice of Filing, Stipulation and Proposal for Settlement and Motion for Relief from Hearing Requirement, copies of which are attached hereto and herewith served upon you.

Respectfully submitted,

PEOPLE OF THE STATE OF ILLINOIS,

Complainant,

By: s/Rachel R. Medina

Rachel R. Medina, #6297171
Assistant Attorney General
500 South Second Street
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Dated: September 7, 2017

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

PEOPLE OF THE STATE OF ILLINOIS,)	
)	
Complainant,)	
)	
v.)	PCB No. 17-56
)	
GREENVILLE LIVESTOCK, INC.,)	
an Illinois corporation,)	
)	
Respondent.)	

STIPULATION AND PROPOSAL FOR SETTLEMENT

Complainant, PEOPLE OF THE STATE OF ILLINOIS, by LISA MADIGAN, Attorney General of the State of Illinois, the Illinois Environmental Protection Agency (“Illinois EPA”), and GREENVILLE LIVESTOCK, INC. (“Respondent”), the Parties to the Stipulation and Proposal for Settlement (“Parties to the Stipulation”), have agreed to the making of this Stipulation and Proposal for Settlement (“Stipulation”) and submit it to the Illinois Pollution Control Board (“Board”) for approval. This stipulation of facts is made and agreed upon for purposes of settlement only and as a factual basis for the Board’s approval of this Stipulation and issuance of relief. None of the facts stipulated herein shall be introduced into evidence in any other proceeding regarding the violations of the Illinois Environmental Protection Act (“Act”), 415 ILCS 5/1 et seq. (2016), and the Board’s Regulations, alleged in the Complaint except as otherwise provided herein. It is the intent of the Parties to this Stipulation that it be a final adjudication of this matter.

I. STATEMENT OF FACTS

A. Parties

1. On March 17, 2017, a Complaint was filed on behalf of the People of the State of Illinois by Lisa Madigan, Attorney General of the State of Illinois, on her own motion and upon the request of the Illinois EPA, pursuant to Section 31 of the Act, 415 ILCS 5/31 (2016), against the Respondent.

2. The Illinois EPA is an administrative agency of the State of Illinois, created pursuant to Section 4 of the Act, 415 ILCS 5/4 (2016).

3. At all times relevant to this Stipulation, Respondent GREENVILLE LIVESTOCK, INC. ("Greenville") owned and operated a confined animal feeding operation ("CAFO") located at 25815 Hugo Road, Centralia, Clinton County, Illinois, ("the facility"). The legal description of the facility is SW $\frac{1}{4}$ of the NW $\frac{1}{4}$ of Section 9, Township 1N, Range 1W.

B. Site Description

Greenville has the capacity to handle 3,200 beef cattle. Greenville raises cattle from 500 to 800 pounds. The facility has approximately 493 acres available for land application of manure. The production area is approximately 200 acres and includes at least 15 feedlots, four pastures, a sick cow barn, five buildings with attached feedlots, a machine building and an office. The livestock waste facilities consist of a 2,240,021 cubic foot holding pond, six settling basins and associated piping. In addition, the facility contains a flushing total confinement freestall barn ("freestall barn") with two flush holding ponds ("Holding Cell #1" and "Holding Cell #2"), a silage bunker, and a silage pond. Prairie Creek runs adjacent to the facility. On October 20, 2009, Illinois EPA issued Greenville National Pollutant Discharge Elimination System ("NPDES") Permit No. ILA010061 for its CAFO.

C. Complainant's Allegations of Non-Compliance

Complainant contends that the Respondent has violated the following provisions of the Act and Board Regulations.

- Count I: **Water Pollution**
Section 12(a) of the Act, 415 ILCS 5/12(a) (2016)

- Count II: **Water Pollution Hazard**
Section 12(d) of the Act, 415 ILCS 5/12(d) (2016)

- Count III: **Offensive Conditions**
35 Ill. Adm. Code 302.203 and Section 12(a) of the Act, 415 ILCS 5/12(a) (2016)

- Count IV: **Violations Related to Inadequate Livestock Management Facilities**
35 Ill. Adm. Code 501.403(a), and Section 12(a) of the Act, 415 ILCS 5/12(a) (2016)

- Count V: **Violations Related to Handling and Storing Livestock Waste**
35 Ill. Adm. Code 501.404(c)(4)(A), and Section 12(a) of the Act, 415 ILCS 5/12(a) (2016)

- Count VI: **Violations Related to Field Application of Livestock Waste**
35 Ill. Adm. Code 501.405(a), and Section 12(a) of the Act, 415 ILCS 5/12(a) (2016)

- Count VII: **NPDES Permit Violations**
Section 12(f) of the Act, 415 ILCS 5/12(f) (2016), 35 Ill. Adm. Code 309.102(a). Special Conditions 3(a), 3(d), 4(c)(i), 4(c)(ii), and 4(c)(vi) of NPDES General Permit No. ILA010061

D. Admission of Violations

Respondent represents that it has entered into this Stipulation for the purpose of settling and compromising disputed claims without having to incur the expense of contested litigation. By entering into this Stipulation and complying with its terms, Respondent does not affirmatively admit the allegations of violation within the Complaint and referenced within Section I.C. herein, and this Stipulation shall not be interpreted as including such admission.

E. Compliance Activities to Date

The violations alleged in the Complaint and referenced in I.C. above, were identified during an Illinois EPA inspection on March 19, 2013. At the time of the follow-up inspection on March 26, 2013, the discharge of discolored water from the waterway had ceased. Further, Respondent has since fully implemented all of the compliance measures that were recommended by the Illinois EPA in the Violation Notice that it issued pursuant to Section 31 of the Act, 415 ILCS 5/31, including the installation of concrete and earthen curbs around feedlots and feedlot bunks to prevent runoff from escaping the feedlots.

In addition, Illinois EPA conducted a follow-up inspection on September 1, 2016, which reflected that Respondent had made other improvements in its facility including installing a new flushing total confinement freestall barn with two new flush holding ponds (Holding Cell #1 and Holding Cell #2), a new commodity shed, silage bunker and a silage pond since the time of the last inspection. Solid waste from the freestall barn is flushed into Holding Cell #1 using liquid from Holding Cell #2. Holding Cells #1 and #2 can either be drained to or recharged from the primary holding pond. The freestall barn is guttered to capture storm water which is discharged to the roadside ditch. At least one open feedlot was eliminated as a result of installing the new freestall barn. The new silage bunker is located in the area south of the office and is graded to drain runoff into the new silage pond that is located south of the silage bunker. The old silage storage bunker located southeast of the primary holding pond has been eliminated.

II. APPLICABILITY

This Stipulation shall apply to and be binding upon the Parties to the Stipulation. Respondent shall not raise as a defense to any enforcement action taken pursuant to this Stipulation the failure of any of its officers, directors, agents, employees or successors or assigns to take such action as shall be required to comply with the provisions of this Stipulation. This Stipulation may be used against Respondent in any subsequent enforcement action or permit proceeding as proof of a past adjudication of violation of the Act and the Board Regulations for all violations alleged in the Complaint in this matter, for purposes of Sections 39 and 42 of the Act, 415 ILCS 5/39 and 42 (2016).

III. IMPACT ON THE PUBLIC RESULTING FROM ALLEGED NON-COMPLIANCE

Section 33(c) of the Act, 415 ILCS 5/33(c) (2016), provides as follows:

In making its orders and determinations, the Board shall take into consideration all the facts and circumstances bearing upon the reasonableness of the emissions, discharges, or deposits involved including, but not limited to:

1. the character and degree of injury to, or interference with the protection of the health, general welfare and physical property of the people;
2. the social and economic value of the pollution source;
3. the suitability or unsuitability of the pollution source to the area in which it is located, including the question of priority of location in the area involved;
4. the technical practicability and economic reasonableness of reducing or eliminating the emissions, discharges or deposits resulting from such pollution source; and
5. any subsequent compliance.

In response to these factors, the Parties to the Stipulation state the following:

1. Human health and the environment are threatened when livestock water enters waters of the State.

2. Respondent's facility is currently operational as a beef cattle farm with a capacity of 3,200 beef cattle. Livestock production carries both social and economic value.

3. Respondent's facility is suitable to the area in which it is located. Suitability also depends upon proper management and proper grading to ensure no runoff occurs. Once Respondent completed the recommended compliance measures specified in this Stipulation, any issue related to suitability was resolved.

4. The significant rainfall that occurred in March of 2013 presented the facility with technical challenges, but those challenges are surmountable with good operational practices, and it is economically reasonable to achieve those practices.

5. Respondent is a permitted facility and has undertaken and will continue to undertake measures to ensure it does not discharge livestock waste from its feedlots.

IV. CONSIDERATION OF SECTION 42(h) FACTORS

Section 42(h) of the Act, 415 ILCS 5/42(h) (2016), provides as follows:

In determining the appropriate civil penalty to be imposed under . . . this Section, the Board is authorized to consider any matters of record in mitigation or aggravation of penalty, including but not limited to the following factors:

1. the duration and gravity of the violation;
2. the presence or absence of due diligence on the part of the respondent in attempting to comply with requirements of this Act and regulations thereunder or to secure relief therefrom as provided by this Act;
3. any economic benefits accrued by the respondent because of delay in compliance with requirements, in which case the economic benefits shall be determined by the lowest cost alternative for achieving compliance;
4. the amount of monetary penalty which will serve to deter further violations by the respondent and to otherwise aid in enhancing voluntary compliance with this Act by the respondent and other persons similarly subject to the Act;

5. the number, proximity in time, and gravity of previously adjudicated violations of this Act by the respondent;
6. whether the respondent voluntarily self-disclosed, in accordance with subsection (i) of this Section, the non-compliance to the Agency;
7. whether the respondent has agreed to undertake a "supplemental environmental project," which means an environmentally beneficial project that a respondent agrees to undertake in settlement of an enforcement action brought under this Act, but which the respondent is not otherwise legally required to perform; and,
8. whether the respondent has successfully completed a Compliance Commitment Agreement under subsection (a) of Section 31 of this Act to remedy the violations that are the subject of the complaint.

In response to these factors, the Parties to the Stipulation state as follows:

1. During the inspection on March 19, 2013, the Illinois EPA observed surface runoff from the feedlots and land application of livestock waste in areas too proximate to surface waters. No fish kills were observed.
2. Respondent failed to show diligence in compliance with its NPDES permit as specifically evidenced by the application of livestock waste over a waterway. Respondent cooperated with the Illinois EPA by installing needed curbing at its feedlots, amending its practices of livestock waste application and working with its engineering consultant to review its facilities and practices.
3. No economic benefit of non-compliance has been calculated in this matter.
4. The Parties to the Stipulation agree that the incidents alleged in the Complaint and referenced in Section I.C. above, were isolated to a specific period in time, that Respondent had received a compliant inspection report from the United States Environmental Protection Agency on September 9, 2010 and one from the Illinois EPA

on September 1, 2016, and that the penalty of \$14,000 will serve to deter future violations and aid in future voluntary compliance with the Act and Board regulations.

5. Respondent has no previously adjudicated violations with the State of Illinois. An inspection by the United States Environmental Protection Agency in 2006 led to its entry of an Administrative Order, Docket Number V-W-08-A0-07, on October 2, 2008.

6. There was no self-disclosure of the violations involved in this matter.

7. A supplemental environmental project is not proposed in this matter.

8. There was no Compliance Commitment Agreement involved in this matter.

V. TERMS OF SETTLEMENT

A. Penalty Payment

1. Respondent shall pay a civil penalty in the sum of Fourteen Thousand Dollars (\$14,000.00) within thirty (30) days from the date the Board adopts and accepts this Stipulation.

B. Interest and Default

1. If Respondent fails to make any payment required by this Stipulation on or before the date upon which the payment is due, the Respondent shall be in default and the remaining unpaid balance of the penalty, plus any accrued interest, shall be due and owing immediately. In the event of default, the Complainant shall be entitled to reasonable costs of collection, including reasonable attorney's fees.

2. Pursuant to Section 42(g) of the Act, interest shall accrue on any penalty amount owed by the Respondent not paid within the time prescribed herein. Interest on unpaid penalties shall begin to accrue from the date such are due and continue to accrue to the date full payment

is received. Where partial payment is made on any penalty amount that is due, such partial payment shall be first applied to any interest on unpaid penalties then owing.

C. Payment Procedures

1. All payments required by this Stipulation shall be made by certified check or money order payable to the Illinois EPA for deposit into the Environmental Protection Trust Fund ("EPTF"). Payments shall be sent by first class mail and delivered to:

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

2. The name and case number shall appear on the face of the certified check or money order.

3. A copy of the certified check or money order and any transmittal letter shall be sent to:

Rachel R. Medina
Environmental Bureau
Illinois Attorney General's Office
500 South Second Street
Springfield, Illinois 62706

D. Future Compliance

1. Respondent will comply with all applicable permitting, recordkeeping, reporting and documentation requirements found in the Act, related regulations and Respondent's NPDES permit.

2. Respondent shall cease and desist from future violations of the Act and Board Regulations that were the subject matter of the Complaint.

3. In addition to any other authorities, the Illinois EPA, its employees and representatives, and the Attorney General, her employees and representatives, shall have the right of entry into and upon Respondent's facility which is the subject of this Stipulation, at all reasonable times for the purposes of conducting inspections and evaluating compliance status. In conducting such inspections, the Illinois EPA, its employees and representatives, and the Attorney General, her employees and representatives, may take photographs, samples, and collect information, as they deem necessary.

4. This Stipulation in no way affects the responsibilities of Respondent to comply with any other federal, state or local laws or regulations, including but not limited to the Act and the Board Regulations.

E. Release from Liability

In consideration of Respondent's payment of the \$14,000 penalty, its commitment to cease and desist as contained in Section V.D.2 above, completion of all activities required hereunder, and upon the Board's approval of this Stipulation, the Complainant releases, waives and discharges Respondent from any further liability or penalties for the violations of the Act and Board Regulations that were the subject matter of the Complaint. The release set forth above does not extend to any matters other than those expressly specified in Complainant's Complaint filed contemporaneously with this Stipulation. The Complainant reserves and this Stipulation is without prejudice to, all rights of the State of Illinois against the Respondent with respect to all other matters, including but not limited to, the following:

- a. criminal liability;
- b. liability for future violation of state, federal, local, and common laws and/or regulations;

- c. liability for natural resources damage arising out of the alleged violations; and
- d. liability or claims based on Respondent's failure to satisfy the requirements of this Stipulation.

Nothing in this Stipulation is intended as a waiver, discharge, release, or covenant not to sue for any claim or cause of action, administrative or judicial, civil or criminal, past or future, in law or in equity, which the State of Illinois may have against any person, as defined by Section 3.315 of the Act, 415 ILCS 5/3.315, or entity other than Respondent.

F. Correspondence, Reports and Other Documents

Any and all correspondence, reports and any other documents required under this Stipulation, except for penalty payments, shall be submitted as follows:

As to the Complainant

Rachel R. Medina
Assistant Attorney General
Environmental Bureau
Illinois Attorney General's Office
500 S. Second Street
Springfield, IL 62706

Christine Zeivel
Assistant Counsel
Division of Legal Counsel
Illinois Environmental Protection Agency
1021 North Grand Avenue East
P.O. Box 19276
Springfield, Illinois 62794-9276

Joseph Stitely
Illinois Environmental Protection Agency
2309 W. Main Street, Suite 116
Marion, Illinois 62959

As to the Respondents

Claire A. Manning
Brown, Hay & Stephens, LLP
205 S. 5th Street, Suite 700
Springfield, IL 62701

Danny Hugo
Greenville Livestock, Inc.
25815 Hugo Road
Centralia, IL 62801

G. Enforcement of Stipulation

Upon the entry of the Board's Order approving and accepting this Stipulation, this Order is a binding and enforceable order of the Board and may be enforced as such through any and all available means.

H. Opportunity For Public Comments

Pursuant to 35 Ill. Adm. Code 103.300(b)(2), the Board shall publish notice of this Stipulation for at least 30 days prior to the Board accepting the Stipulation. If public comments are submitted to the Board regarding this Stipulation, the Complainant reserves the right to withdraw its consent if the comments regarding the Stipulation disclose facts or considerations which indicate that the Stipulation is inappropriate, improper, or inadequate. Respondent consents to the entry of this Stipulation without further notice and agrees not to withdraw from or oppose acceptance of this Stipulation or to challenge any provision of the Stipulation, unless the Complainant has notified Respondent in writing that it withdraws or withholds its consent for the Stipulation. In the event the Complainant notifies the Respondent that it withdraws or withholds its consent for the Stipulation, then the terms of the agreement may not be used as evidence in any litigation between those entities.

I. Execution of Stipulation

The undersigned representatives for the Parties to the Stipulation certify that they are fully authorized by the party whom they represent to enter into the terms and conditions of this Stipulation and to legally bind them to it.

WHEREFORE, the Parties to the Stipulation request that the Board adopt and accept the foregoing Stipulation and Proposal for Settlement as written.

PEOPLE OF THE STATE OF ILLINOIS,

THE ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

LISA MADIGAN
Attorney General
State of Illinois

ALEC MESSINA, Acting Director
Illinois Environmental Protection Agency

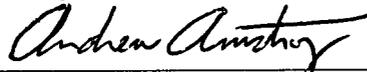
MATTHEW J. DUNN, Chief
Environmental Enforcement/
Asbestos Litigation Division

BY:



JOHN J. KIM
Chief Legal Counsel

BY:



ANDREW ARMSTRONG, Chief
Assistant Attorney General
Environmental Bureau

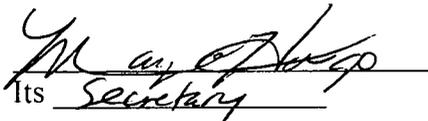
DATE:

8/22/07

DATE:

09/01/2017

RESPONDENT
GREENVILLE LIVESTOCK, INC.


Its Secretary

DATE:

8-14-17

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

PEOPLE OF THE STATE OF ILLINOIS,)
)
 Complainant,)
)
 -vs-) PCB No. 17-056
)
 GREENVILLE LIVESTOCK, INC., an)
 Illinois corporation,)
)
 Respondent.)

MOTION FOR RELIEF FROM HEARING REQUIREMENT

NOW COMES Complainant, PEOPLE OF THE STATE OF ILLINOIS, by LISA MADIGAN, Attorney General of the State of Illinois, and requests relief from the requirement of a hearing in this matter. In support thereof, the Complainant states as follows:

1. Filed contemporaneously with this Motion is a Stipulation and Proposal for Settlement executed between Complainant and Respondent Greenville Livestock, Inc.
2. Section 31(c)(2) of the Illinois Environmental Protection Act ("Act"), 415 ILCS 5/31(c)(2) (2014), provides as follows:

Notwithstanding the provisions of subdivision (1) of this subsection (c), whenever a complaint has been filed on behalf of the Agency or by the People of the State of Illinois, the parties may file with the Board a stipulation and proposal for settlement accompanied by a request for relief from the requirement of a hearing pursuant to subdivision (1). Unless the Board, in its discretion, concludes that a hearing will be held, the Board shall cause notice of the stipulation, proposal and request for relief to be published and sent in the same manner as is required for hearing pursuant to subdivision (1) of this subsection. The notice shall include a statement that any person may file a written demand for hearing within 21 days after receiving the notice. If any person files a timely written demand for hearing, the Board shall deny the request for relief from a hearing and shall hold a hearing in accordance with the provisions of subdivision (1).

3. No hearing is scheduled in this matter.

4. The Complainant, PEOPLE OF THE STATE OF ILLINOIS, hereby requests relief from the requirement of a hearing pursuant to Section 31(c)(2) of the Act, 415 ILCS 5/31(c)(2) (2014).

Respectfully submitted,

PEOPLE OF THE STATE OF ILLINOIS,

Complainant,

By: s/Rachel R. Medina

Rachel R. Medina, #6297171
Assistant Attorney General
500 South Second Street
Springfield, Illinois 62706
(217) 782-9031
rmedina@atg.state.il.us
ebs@atg.state.il.us

Dated: September 7, 2017

CERTIFICATE OF SERVICE

I hereby certify that I did on September 7, 2017, send by the United States Mail, with postage thereon fully prepaid, by depositing in a United States Post Office Box in Springfield, Illinois or via electronic mail as indicated, a true and correct copy of the document entitled Notice of Filing, Stipulation and Proposal for Settlement and Motion for Relief from Hearing Requirement to:

Claire A. Manning
Brown, Hay & Stephens
205 South 5th Street
Springfield, IL 62705-2457
cmanning@bhslaw.com

David A. Oldfield, Agent
Greenville Livestock, Inc.
303 South 7th Street
Vandalia, IL 62471

Carol Webb
Hearing Officer
Illinois Pollution Control Board
1021 North Grand Avenue East
P.O. Box 19274
Springfield, Illinois 62794-9274
Carol.Webb@illinois.gov

s/Theresa M. Flinn

Theresa M. Flinn
Administrative Secretary
Environmental Bureau

Under penalties as provided by law pursuant to Section 1-109 of the Code of Civil Procedure, the undersigned certifies that the statements set forth in this Certificate of Service are true and correct, except as to matters therein stated to be on information and belief and as to such matters the undersigned certifies as aforesaid that he verily believes the same to be true.

s/Theresa M. Flinn

Theresa M. Flinn
Administrative Secretary
Environmental Bureau