

ILLINOIS POLLUTION CONTROL BOARD
May 21, 1998

PEOPLE OF THE STATE OF ILLINOIS,)
)
Complainant,)
)
v.) PCB 98-129
) (Enforcement - Water)
HEARTLAND PORK ENTERPRISES,)
INC., an Iowa corporation,)
)
Respondent.)

OPINION AND ORDER OF THE BOARD (by C.A. Manning):

This matter comes before the Board upon a one-count complaint filed on April 6, 1998, by the Attorney General of the State of Illinois, on behalf of the Illinois Environmental Protection Agency and the People of the State of Illinois, against Heartland Pork Enterprises, Inc. (respondent), an Iowa corporation, located in Kansas Township, Edgar County, Illinois.

On April 15, 1998, complainant filed a revised complaint accompanied by a motion for leave to file. In support of this motion, complainant states that it "had inadvertently filed an uncorrected version of the pleading" containing factual and pleading errors as well as surplusage. Complainant further stated that respondent was aware that this revised complaint would be filed. The Board granted complainant's motion and accepted the revised complaint. The complaint alleges that respondent violated Section 12(a) of the Environmental Protection Act (Act) (415 ILCS 5/12(a) (1996)) and 35 Ill. Adm. Code 302.203, by causing offensive conditions in receiving waters.

On April 6, 1998, the parties filed a stipulation, settlement agreement, and a joint motion requesting relief from the hearing requirement pursuant to Section 31(c)(2) of the Act. 415 ILCS 5/31(c)(2) (1996). The Board published a notice of the waiver on April 14, 1998. The Board did not receive any objections to the granting of the waiver. Accordingly, the Board grants a waiver from the hearing requirement.

The stipulation sets forth facts relating to the nature, operations, and circumstances surrounding the claimed violations. Respondent neither admits nor denies the alleged violations, but agrees to pay a total civil penalty of \$12,500.

The Board finds the settlement agreement acceptable under 35 Ill. Adm. Code 103.180. This settlement agreement in no way affects respondent's responsibility to comply with any federal, State, or local regulations, including but not limited to, the Act and the Board's regulations.

This opinion constitutes the Board's finding of fact and conclusions of law in this matter.

ORDER

1. The Board hereby accepts the stipulation and settlement agreement executed by the People of the State of Illinois and Heartland Pork Enterprises, Inc., an Iowa corporation, located in Kansas Township, Edgar County, Illinois. The stipulation and settlement agreement are incorporated by reference as though fully set forth herein.
2. Respondent shall pay the sum of \$12,500 within 30 days of the date of this order, on or before June 20, 1998. Such payment shall be made by certified check payable to the Treasurer of the State of Illinois, for deposit into the Illinois Environmental Protection Trust Fund, and shall be sent by first class mail to:

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

The certified check shall clearly indicate on its face respondent's federal employer identification number 421425107, and that payment is directed to the Environmental Protection Trust Fund. A copy of the payment transmittal and check shall be simultaneously submitted to:

Office of the Attorney General
Environmental Bureau
500 South Second Street
Springfield, Illinois 62706

Any such penalty not paid within the time prescribed shall incur interest at the rate set forth in subsection (a) of Section 1003 of the Illinois Income Tax Act, (35 ILCS 5/1003 (1996)), as now or hereafter amended, from the date payment is due until the date payment is received. Interest shall not accrue during the pendency of an appeal during which payment of the penalty has been stayed.

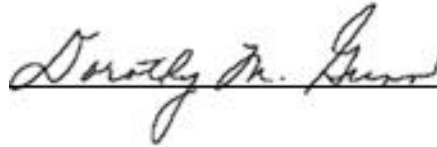
3. Respondent shall cease and desist from the alleged violations.

IT IS SO ORDERED.

Board Member K.M. Hennessey abstained.

Section 41 of the Environmental Protection Act (415 ILCS 5/41 (1996)) provides for the appeal of final Board orders to the Illinois Appellate Court within 35 days of service of this order. Illinois Supreme Court Rule 335 establishes such filing requirements. See 172 Ill. 2d R. 335; see also 35 Ill. Adm. Code 101.246, Motions for Reconsideration.

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, hereby certify that the above opinion and order was adopted on the 21st day of May 1998 by a vote of 6-0.

A handwritten signature in cursive script, reading "Dorothy M. Gunn", is written over a horizontal line.

Dorothy M. Gunn, Clerk
Illinois Pollution Control Board