

ILLINOIS POLLUTION CONTROL BOARD

June 21, 2001

PEOPLE OF THE STATE OF ILLINOIS,)
)
Complainant,)
)
v.) PCB 97-178
) (Enforcement – Water)
WILLIAM C. BIGGER, JOSEPH G. BIGGER,)
and BIGGER FAMILY, LTD.,)
)
Respondents.)

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

On April 7, 1997, the People of the State of Illinois (People) filed a five-count complaint against William C. Bigger, Joseph G. Bigger and Bigger Family Ltd. (respondents). The complaint alleges that the respondents caused or allowed water pollution, offensive discharges and conditions, ammonia nitrogen standard violations, National Pollutant Discharge Elimination System (NPDES) permit violations, and livestock management facility runoff and discharge violations at three feedlots located southeast of Oquawka, Rozetta Township, Henderson County, Illinois. These activities were in alleged violation of Sections 12(a), (d), and (f) of the Environmental Protection Act (Act) (415 ILCS 5/12(a), (d), (f) (2000)), and the Board's water pollution regulations at 35 Ill. Adm. Code 302.203, 302.212, 309.102(a), and 502.101.

On April 27, 2001, the parties filed a stipulation and proposal for settlement, accompanied by a motion requesting relief from the hearing requirement of Section 31(c)(1) of the Act (415 ILCS 5/31(c)(1) (2000)). Pursuant to Section 31(c)(2) of the Act (415 ILCS 5/31(c)(2) (2000)), the Board caused publication of the required newspaper notice of the stipulation and proposal for settlement and request for relief from the hearing requirement. The notice appeared in the *Oquawka Current* on May 2, 2001. The Board did not receive any requests for hearing. Accordingly, the Board grants a waiver from the hearing requirement.

The stipulation and proposal for settlement sets forth the facts relating to the nature, operations, and circumstances surrounding the allegations in the complaint. Respondents admit the violations alleged by the People and agree to pay a civil penalty of \$5,000.

The Board accepts the stipulation and proposal for settlement filed by the parties in this matter. Respondents must continue 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 findings 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 William C. Bigger, Joseph G. Bigger, and Bigger Family, Ltd. (respondents). The stipulation and settlement agreement is incorporated by reference as though fully set forth herein.
2. Respondents must pay a civil penalty of \$5,000 in four quarterly payments. The first payment must be made within 30 days of the date of this order, that is, on or before July 21, 2001. Such payment must be made by certified check payable to the Illinois Environmental Protection Agency, for deposit in the Environmental Protection Trust Fund. The case number, case name, and William or Joseph Bigger's social security number must also be included on the certified check and clearly indicate that payment is directed to the Environmental Protection Trust Fund.
3. The check must be sent by first class mail to:

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

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

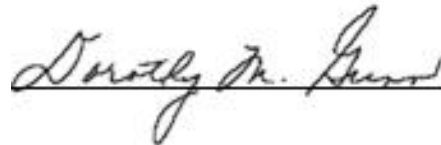
4. Any such penalty not paid within the time prescribed incurs interest at the rate set forth in subsection (a) of Section 1003 of the Illinois Income Tax Act, (35 ILCS 5/1003 (2000)), as now or hereafter amended, from the date payment is due until the date payment is received. Interest does not accrue during the pendency of an appeal during which payment of the penalty has been stayed.
5. Respondents must cease and desist future alleged violations of any federal, State, or local statutes and regulations. Specifically, respondents must comply with the waste management plan developed for the facility and with the facility's NPDES Permit No. IL0072613.
6. As a supplemental environmental project, respondents have worked with the local

USDA Natural Resources and Conservation Service (NRCS) to develop a windbreak design for feedlot 3 and have purchased tree stock for planting in the spring of 2001. Windbreaks will be planted on the north side of the holding pond and the north and west side of the former east lagoon. Respondents must manage the windbreaks so that they will grow as set forth in the NRCS windbreak plan developed for the facility.

IT IS SO ORDERED.

Section 41 of the Environmental Protection Act (415 ILCS 5/41 (2000)) provides for the appeal of final Board orders to the Illinois Appellate Court within 35 days of the date 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 101.520, 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 June 2001 by a vote of 7-0.

A handwritten signature in cursive script that reads "Dorothy M. Gunn". The signature is written in black ink and is positioned above a horizontal line.

Dorothy M. Gunn, Clerk
Illinois Pollution Control Board