

ILLINOIS POLLUTION CONTROL BOARD
March 1, 2012

PEOPLE OF THE STATE OF ILLINOIS,)	
)	
Complainant,)	
)	
v.)	PCB 12-99
)	(Enforcement - Water)
ALTON IRRIGATION, INC., an Illinois)	
corporation,)	
)	
Respondent.)	

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

On January 3, 2012, the Office of the Attorney General, on behalf of the People of the State of Illinois (People), filed a four-count complaint against Alton Irrigation, Inc., an Illinois corporation (Alton). The complaint concerns the land application of livestock waste that Alton was performing for William DuBois Swine Farm located at 23219 West Nightingale Road, Millbrook Township, Peoria 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 Alton violated Sections 12(a), 12(d), and 42(c) of the Act (415 ILCS 5/12(a), (d), and 42(c) (2010)) and Section 302.203 of the Board's water pollution regulations (35 Ill. Adm. Code 302.203). According to the complaint, Alton violated these provisions by: 1) causing or allowing the discharge of swine waste, a contaminant, from a land application field into waters of the state so as to cause water pollution; 2) depositing contaminants upon the land in such a place and manner so as to create a water pollution hazard; 3) conducting land application activities in such a manner so as to allow a discharge of liquid swine waste that resulted in unnatural color, odor, and turbidity in the waterway and an unnamed tributary to the Spoon River; and 4) causing or allowing the discharge of liquid swine waste from the site into waters of the state so as to cause the death of fish and aquatic life.

On January 3, 2012, the People and Alton 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 Peoria Journal Star* on January 24, 2012. 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 Alton'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. Alton 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) (2010)), which may mitigate or aggravate the civil penalty amount. Alton agrees to pay a civil penalty of \$10,000.00 and \$1,062.22 to the Wildlife and Fish Fund in the State Treasury for the reasonable value of the fish destroyed. The People and Alton 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. Alton must pay a civil penalty of \$10,000.00 and an additional \$1,062.22 to the Wildlife and Fish Fund in the State Treasury no later than April 2, 2012, which is the first business day following the 30th day after the date of this order. Alton must pay the civil penalty by certified check or money payable to the Illinois Environmental Protection Agency for deposit into the Environmental Protection Trust Fund. The remuneration for the reasonable value of fish destroyed shall be made by certified check or money order payable to the Illinois Department of Natural Resources for deposit into the Wildlife and Fish Fund. The case name, case number, and Alton's federal tax identification number must appear on the face of each certified check or money order.
3. Alton 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

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

Rachel R. Medina, AAG
Environmental Bureau

Illinois Attorney General's Office
500 South Second Street
Springfield, Illinois 62706

Alton must send payment to the Wildlife and Fish Fund via first class mail to:

Attn: Legal Office
Illinois Department of Natural Resources
One Natural Resources Way
Springfield, Illinois 62702-1271

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. Alton must cease and desist the application of livestock waste to saturated soils and when precipitation is imminent and apparent. Alton shall apply livestock waste in accordance with 35 Ill. Adm. Code Part 560. Alton shall cease and desist from future violations of the Act and Board Regulations that were subject matter 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 order on March 1, 2012, by a vote of 5-0.



John T. Therriault, Assistant Clerk
Illinois Pollution Control Board