

ILLINOIS POLLUTION CONTROL BOARD
May 17, 2001

PEOPLE OF THE STATE OF ILLINOIS,)
)
Complainant,)
)
v.) PCB 01-111
) (Enforcement –Water)
DAVID LIVINGSTON, individually, and)
BRIAN SIPLEY, individually and d/b/a BCS)
FARMS,)
)
Respondents.)

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

On January 30, 2001, the People of the State of Illinois filed a three-count complaint against David Livingston (Livingston), individually, and Brian Siple (Siple), individually and d/b/a BCS Farms (Siple d/b/a BCS). The complaint alleges respondents caused or allowed water pollution and offensive conditions at the dairy farming operation located at 2614 West McConnell Road, Freeport, Stephenson County, Illinois. These activities were in alleged violation of Section 12(a) of the Environmental Protection Act (Act) (415 ILCS 5/12(a) (1998)) and the Board’s water pollution regulations at 35 Ill. Adm. Code 302.203. The complaint alleges Siple d/b/a BCS caused a violation of livestock waste storage standards involving cattle manure. This activity was in alleged violation of Section 12(d) of the Act (415 ILCS 5/12(d) (1998)) and the Board’s agriculture water pollution regulations at 35 Ill. Adm. Code 501.404(b).

On April 6, 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) (1998)). Pursuant to Section 31(c)(2) of the Act (415 ILCS 5/31(c)(2) (1998)), 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 Freeport Journal-Standard* on April 9, 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 do not admit to the violations alleged by the People, but Livingston agrees to pay a civil penalty of \$2,000 and Siple d/b/a BCS agrees to pay a civil penalty of \$6,500.

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 respondents. The stipulation and settlement agreement is incorporated by reference as though fully set forth herein.
2. Livingston must pay a civil penalty of \$2,000 and Siple d/b/a BCS must pay a civil penalty of \$6,500. Payment must be made within 30 days of the date of this order, that is, on or before June 16, 2001. Such payment must be made by certified check or money order payable to the Illinois Environmental Protection Agency, for deposit in the Environmental Protection Trust Fund. The case number, case name, and respondents' social security numbers must also be included on the certified check or money order and clearly indicate that payment is directed to the Environmental Protection Trust Fund.
3. The check or money order 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:

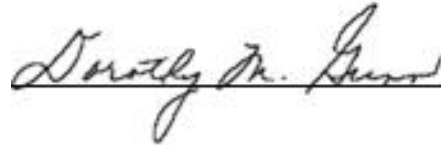
Office of the Attorney General
Christopher Grant
188 West Randolph, 20th Floor
Chicago, Illinois 60601

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 (1998)), 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.

IT IS SO ORDERED.

Section 41 of the Environmental Protection Act (415 ILCS 5/41 (1998)) 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 17th day of May 2001 by a vote of 7-0.

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

Dorothy M. Gunn, Clerk
Illinois Pollution Control Board