



By: /s/ Kevin D. Barnai  
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Illinois Secretary of State, that does business under the assumed name SMITHFIELD HOG PRODUCTION.

4. At all times relevant to the Complaint, Murphy-Brown was and is the owner and operator of the Mt. Erie concentrated animal feeding operation (“Mt. Erie CAFO”) located at 2059 County Road 2400 E., Mt. Erie, Wayne County, Illinois.

5. The Mt. Erie CAFO is a farrow-to-wean swine operation with a capacity of 1,900 head of swine weighing 55 pounds or more. The Mt. Erie CAFO is adjacent to five other farrow-to-wean swine operations owned and operated by Murphy-Brown. In all, the six CAFOs (collectively, the “Murphy-Brown Complex”) confine - at a maximum capacity - approximately 16,000 head of swine weighing 55 pounds or more.

6. Murphy-Brown has a third-party spread agreement for manure for a field adjacent to the Mt. Erie CAFO’s northern border (“S31B”). S31B is bordered to the north by an unnamed waterway that is a tributary to Moutray Slough (“Unnamed Tributary”). Moutray Slough splits into two branches, flowing north and south, which flow into the Little Wabash River.

7. On April 15, 16 and 20, 2021 (“April 2021 Inspections”), Illinois EPA conducted inspections of the Mt. Erie CAFO and S31B after the Illinois EPA received a complaint from a conservation police officer regarding the presence of red water in Moutray Slough.

8. On April 15, 2021, Illinois EPA observed Moutray Slough to be red in color, with a purple cast associated with sulfur-fixing bacteria found in livestock waste.

9. On April 15, 2021, Illinois EPA observed that the S31B had tractor implement tracks containing pools of livestock waste.

10. On April 15, 2021, Illinois EPA observed livestock waste pooled near a field ditch in S31B that is the headwaters of the Unnamed Tributary.

11. On April 15, 2021, Illinois EPA observed an injection tool in the S31B that had been used near the field ditch, and an earthen dam that had been placed in the field ditch.

12. On April 15, 2021, Illinois EPA took samples of water from the field ditch, the Unnamed Tributary, and Moutray Slough. The samples were dark in color and smelled strongly of livestock waste.

13. On April 16, 2021, Illinois EPA further inspected S31B and met with Respondent's representatives to discuss conditions at S31B.

14. On April 16, 2021, Respondent's representative advised Illinois EPA that Respondent had land applied livestock waste on April 14, 2021.

15. On April 16, 2022, Illinois EPA observed that livestock waste had been applied within ten (10) to fifteen (15) feet of standing water in field ditches and the Unnamed Tributary.

16. Section 12(a) of the Act, 415 ILCS 5/12(a) (2022), provides as follows:

No person shall:

- (a) Cause or threaten or allow the discharge of any contaminants into the environment in any State so as to cause or tend to cause water pollution in Illinois, either alone or in combination with matter from other sources, or so as to violate regulations or standards adopted by the Pollution Control Board under this Act.

17. Section 3.315 of the Act, 415 ILCS 5/3.315 (2022), provides the following definition:

“Person” is any individual, partnership, co-partnership, firm, company, limited liability company, corporation, association, joint stock company, trust, estate, political subdivision, state agency, or any other legal entity, or their legal representative, agent or assigns.

18. Murphy-Brown, a limited liability company, is a “person” as that term is defined in Section 3.315 of the Act, 415 ILCS 5/3.315 (2022).

19. Section 3.165 of the Act, 415 ILCS 5/3.165 (2022), contains the following definition:

“Contaminant” is any solid, liquid, or gaseous matter, any odor or any form of energy, from whatever source.

20. Livestock waste is a “contaminant” as that term is defined in Section 3.165 of the Act, 415 ILCS 5/3.165 (2022).

21. Section 3.545 of the Act, 415 ILCS 5/3.545 (2022), contains the following definition:

“Water pollution” is such alteration of the physical, thermal, chemical, biological, or radioactive properties of any waters of the State, or such discharge of any contaminant into any waters of the State, as will or is likely to create a nuisance or render such water harmful or detrimental or injurious to public health, safety or welfare, or to domestic, commercial, industrial, agricultural, recreational, or other legitimate uses, or to livestock, wild animals, birds, fish, or other aquatic life.

22. Section 3.550 of the Act, 415 ILCS 5/3.550 (2022), contains the following definition:

“Waters” means all accumulations of water, surface and underground, natural, and artificial, public and private, or parts thereof, which are wholly or partially within, flow through, or border upon this State.

23. The Unnamed Tributary, Moutray Slough, and the Little Wabash River are “waters” as that term is defined in Section 3.550 of the Act, 415 ILCS 5/3.550 (2022).

24. Beginning on or before April 14, 2021, and on dates better known to Respondent, Respondent caused, threatened, or allowed the discharge of livestock waste from S31B to the Unnamed Tributary.

25. The discharge of livestock waste into the Unnamed Tributary did, or was likely to, create a nuisance or render the Unnamed Tributary harmful or detrimental or injurious to public health, safety or welfare, or to domestic, commercial, industrial, agricultural, recreational, or other

legitimate uses, or to livestock, wild animals, birds, fish, or other aquatic life, and therefore is “water pollution,” as that term is defined in Section 3.545 of the Act, 415 ILCS 5/3.545 (2022).

26. By causing, threatening, or allowing livestock waste to be discharged from S31B to the Unnamed Tributary, Respondent caused, threatened, or allowed the discharge of a contaminant into the environment so as to cause or tend to cause water pollution in Illinois, and thereby violated Section 12(a) of the Act, 415 ILCS 5/12(a) (2022).

**PRAYER FOR RELIEF**

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an order in favor of the Complainant and against the Respondent MURPHY-BROWN LLC, d/b/a SMITHFIELD HOG PRODUCTION, for the following relief:

A. Authorizing a hearing in this matter at which time the Respondent will be required to answer the allegations herein;

B. Finding that the Respondent has violated Section 12(a) of the Act, 415 ILCS 5/12(a) (2022);

C. Ordering the Respondent to cease and desist from any further violations of Section 12(a) of the Act, 415 ILCS 5/12(a) (2022);

D. Assessing against the Respondent a civil penalty not to exceed Fifty Thousand Dollars (\$50,000.00) for each violation of Section 12(a) of the Act, 415 ILCS 5/12(a) (2022), with an additional penalty not to exceed Ten Thousand Dollars (\$10,000.00) for each day of each violation, pursuant to Section 42(a) of the Act, 415 ILCS 5/42(a) (2022);

E. Awarding to the Complainant its costs, including expert witness, consultant, and attorney fees, expended in pursuit of this action, pursuant to Section 42(f) of the Act, 415 ILCS 5/42(f) (2022); and

F. Ordering such other and further relief as the Board deems appropriate and just.

**COUNT II**  
**WATER POLLUTION HAZARD**

1-23. Complainant re-alleges and incorporates by reference herein paragraphs 1 through 23 of Count I as paragraphs 1 through 23 of this Count II.

24. Section 12(d) of the Act, 415 ILCS 5/12(d) (2022), provides as follows:

No person shall:

(d) Deposit any contaminants upon the land in such place and manner so as to create a water pollution hazard.

25. Beginning on or before on April 14, 2021, and on dates better known to Respondent, Respondent deposited livestock waste upon S31B, such that said wastes flowed into the Unnamed Tributary.

26. By depositing livestock waste upon S31B, Respondent deposited contaminants upon the land in such a place and manner so as to create a water pollution hazard, and thereby violated Section 12(d) of the Act, 415 ILCS 5/12(d) (2022).

**PRAYER FOR RELIEF**

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an order in favor of the Complainant and against the Respondent MURPHY-BROWN LLC, d/b/a SMITHFIELD HOG PRODUCTION, for the following relief:

A. Authorizing a hearing in this matter at which time the Respondent will be required to answer the allegations herein;

B. Finding that the Respondent has violated Section 12(d) of the Act, 415 ILCS 5/12(d) (2022);

C. Ordering the Respondent to cease and desist from any further violations of Section of Section 12(d) of the Act, 415 ILCS 5/12(d) (2022);

D. Assessing against the Respondent a civil penalty not to exceed Fifty Thousand Dollars (\$50,000.00) for each violation of Section 12(d) of the Act, 415 ILCS 5/12(d) (2022), with an additional penalty not to exceed Ten Thousand Dollars (\$10,000.00) for each day of each violation, pursuant to Section 42(a) of the Act, 415 ILCS 5/42(a) (2022);

E. Awarding to the Complainant its costs, including expert witness, consultant, and attorney fees, expended in pursuit of this action, pursuant to Section 42(f) of the Act, 415 ILCS 5/42(f) (2022); and

F. Ordering such other and further relief as the Board deems appropriate and just.

**COUNT III**  
**UNPERMITTED DISCHARGE OF LIVESTOCK WASTE**

1-23. Complainant re-alleges and incorporates by reference herein paragraphs 1 through 23 of Count I as paragraphs 1 through 25 of this Count III.

24. Section 12(f) of the Act, 415 ILCS 5/12(f) (2022), provides as follows:

No person shall:

- (f) Cause, threaten or allow the discharge of any contaminant into the waters of the State, as defined herein, including but not limited to, waters to any sewage works, or into any well or from any point source within the State, without an NPDES permit for point source discharges issued by the Agency under Section 39(b) of this Act, or in violation of any term or condition imposed by such permit, or in violation of any NPDES permit filing requirement established under Section 39(b), or in violation of any regulations adopted by the Board or of any order adopted by the Board with respect to the NPDES program.

25. Section 502.101(a) of the Board's Agriculture Related Pollution Regulations, 35

Ill. Adm. Code 502.101(a), provides as follows:

- (a) A Concentrated Animal Feeding Operation (CAFO) is a point source. Any discharge of pollutants into waters of the United States from a CAFO is prohibited unless authorized by an NPDES permit

or unless the discharge is an agricultural stormwater discharge as described in Section 502.102(b). No person shall cause or allow a discharge from a CAFO in violation of federal or State law, including but not limited to the Clean Water Act (CWA) (33 USC 1251), the Act or Board regulations.

26. Section 1362(14) of the CWA, 33 U.S.C.A. § 1362(14), provides the following definition:

The term “point source” means any discernible, confined and discrete conveyance, including but not limited to any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation, or vessel or other floating craft, from which pollutants are or may be discharged. This term does not include agricultural stormwater discharges and return flows from irrigated agriculture.

27. Section 501.238 of the Board’s Agriculture Related Pollution Regulations, 35 Ill. Adm. Code 501.238, provides the following definition of a “Concentrated Animal Feeding Operation”:

An Animal Feeding Operation (AFO) that is defined as a Large CAFO pursuant to 35 Ill. Adm. Code 502.103 or as a medium CAFO pursuant to 35 Ill. Adm. Code 502.104, or that is designated as a CAFO pursuant to 35 Ill. Adm. Code 502.106.

28. Section 501.225 of the Board’s Agriculture Related Pollution Regulations, 35 Ill. Adm. Code 501.225, provides the following definition of an “Animal Feeding Operation”:

- (a) A lot or facility (other than an aquatic animal production facility) where the following conditions are met:
  - (1) Animals have been, are or will be stabled or confined and fed or maintained for a total of 45 days or more in any 12-month period, and
  - (2) Crops, vegetation, forage growth or post-harvest residues that are grown in place are not sustained in the normal growing season over any portion of the lot or facility.
- (b) Two or more animal feeding operations under common ownership are deemed to be a single animal feeding operation if they are adjacent to each other or if they utilize a common area or system for the disposal of wastes.

29. The Mt. Erie CAFO, where animals are stabled or confined and fed and maintained for a total of 45 days or more in a 12-month period, is an “Animal Feeding Operation,” as that term is defined in Section 501.225 of the Board’s Agriculture Related Pollution Regulations, 35 Ill. Adm. Code 501.225.

30. The Murphy-Brown Complex, consisting of two or more adjacent animal feeding operations under common ownership where animals are stabled or confined and fed and maintained for a total of 45 days or more in a 12-month period, is an “Animal Feeding Operation,” as that term is defined in Section 501.225 of the Board’s Agriculture Related Pollution Regulations, 35 Ill. Adm. Code 501.225.

31. Section 502.103 of the Board’s Agriculture Related Pollution Regulations, 35 Ill. Adm. Code 502.103, provides the following definition of a “Large CAFO”:

An Animal Feeding Operation is defined as a Large CAFO if at least the numbers of animals specified in any of the following categories are stabled or confined:

Number of Animals	Kind of Animals
	* * *
2,500	Swine, each weighing 55 pounds or more
10,000	Swine, each weighing less than 55 pounds
	* * *

32. The Murphy-Brown Complex, where approximately 9,000 head of swine weighing 55 pounds or more are stabled or confined, is a “Large CAFO” as that term is defined in Section 502.103 of the Board’s Agriculture Related Pollution Regulations, 35 Ill. Adm. Code 502.103.

33. As a Large CAFO, the Murphy-Brown Complex is a “Concentrated Animal Feeding Operation,” as term is defined in Section 501.238 of the Board’s Agriculture Related Pollution Regulations, 35 Ill. Adm. Code 501.238.

34. As a Concentrated Animal Feeding Operation, the Murphy-Brown Complex is a point source as the term is defined in Section 1362(14) of the CWA, 33 U.S.C. § 1362(14), and Section 502.101(a) of the Board's Agriculture Related Pollution Regulations, 35 Ill. Adm. Code 502.101(a).

35. Beginning on or before April 14, 2021, and on dates better known to Respondent, Respondent caused, threatened, or allowed livestock waste to be discharged from the Murphy-Brown Complex's S31B into the Unnamed Tributary.

36. By causing, threatening, or allowing the discharge of contaminants from a CAFO to waters of the State without a valid NPDES permit, Respondent violated Section 502.101(a) of the Board's Agriculture Related Pollution Regulations, 35 Ill. Adm. Code 502.101(a), and thereby violated Section 12(f) of the Act, 415 ILCS 5/12(f) (2022).

37. Violations of the pertinent environmental statutes and regulations will continue unless and until this Court grants equitable relief in the form of preliminary and, after trial, permanent injunctive relief.

#### **PRAYER FOR RELIEF**

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an order in favor of the Complainant and against the Respondent MURPHY-BROWN LLC, d/b/a SMITHFIELD HOG PRODUCTION, for the following relief:

A. Authorizing a hearing in this matter at which time the Respondent will be required to answer the allegations herein;

B. Finding that the Respondent violated Section 12(f) of the Act, 415 ILCS 5/12(f) (2022), and Section 502.101(a) of the Board's Agriculture Related Pollution Regulations, 35 Ill. Adm. Code 502.101(a);

C. Ordering the Respondent to cease and desist from any further violations of Section 12(f) of the Act, 415 ILCS 5/12(a) and (f) (2022), and Section 502.101(a) of the Board's Agriculture Related Pollution Regulations, 35 Ill. Adm. Code 502.101(a);

D. Assessing against the Respondent a civil penalty of \$10,000.00 for each day of violation of Section 12(f) of the Act, 415 ILCS 5/12(f) (2022), and Section 502.101(a) of the Board's Agriculture Related Pollution Regulations, 35 Ill. Adm. Code 502.101, pursuant to Section 42(b)(1) of the Act, 415 ILCS 5/42(b)(1) (2022);

E. Awarding to the Complainant its costs, including expert witness, consultant, and attorney fees, expended in pursuit of this action, pursuant to Section 42(f) of the Act, 415 ILCS 5/42(f) (2022); and

F. Ordering such other and further relief as the Board deems appropriate and just.

**COUNT IV**  
**OFFENSIVE CONDITIONS**

1-23. Complainant re-alleges and incorporates by reference herein paragraphs 1 through 23 of Count I as paragraphs 1 through 23 of this Count IV.

24. Section 302.203 of the Board's Water Pollution Regulations, 35 Ill. Adm. Code 302.203, provides in pertinent part as follows:

Offensive Conditions.

Waters of the State shall be free from sludge or bottom deposits, floating debris, visible oil, odor, plant or algal growth, color or turbidity of other than natural origin . . .

25. Section 304.105 of the Board's Water Pollution Regulations, 35 Ill. Adm. Code 304.105, provides, in pertinent part, as follows:

In addition to the other requirements of this Part, no effluent shall, alone or in combination with other sources, cause a violation of any applicable water quality standard.

26. Section 301.275 of the Board's Water Pollution Regulations, 35 Ill. Adm. Code 301.275, provides, in pertinent part, the following definition:

“Effluent” means any wastewater discharged, directly or indirectly, to the waters of the State or to any storm sewer, and the runoff from land used for the disposition of wastewater and sludges, but does not otherwise include nonpoint source discharges.

27. Livestock waste is an “effluent,” as that term is defined in Section 301.275 of the Board's Water Pollution Regulations, 35 Ill. Adm. Code 301.275.

28. Beginning on or before April 14, 2021, and on dates better known to Respondent, Respondent caused or allowed the discharge of livestock waste that caused unnatural odor, color, and turbidity within the Unnamed Tributary and Moutray Slough.

29. By causing or allowing the discharge of an effluent into a water of the State resulting in unnatural odor, color, and turbidity, Respondent caused offensive conditions in violation of Section 302.203 of the Board's Water Pollution Regulations, 35 Ill. Adm. Code 302.203, and thereby violated Section 304.105 of the Board's Water Pollution Regulations, 35 Ill. Adm. Code 304.105.

30. By violating Sections 302.203 and 304.105 of the Board's Water Pollution Regulations, 35 Ill. Adm. Code 302.203 and 304.105, Respondent thereby violated Section 12(a) of the Act, 415 ILCS 5/12(a) (2022).

#### **PRAYER FOR RELIEF**

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an order in favor of the Complainant and against the Respondent MURPHY-BROWN LLC, d/b/a SMITHFIELD HOG PRODUCTION, for the following relief:

A. Authorizing a hearing in this matter at which time the Respondent will be required to answer the allegations herein;

B. Finding that the Respondent has violated Section 12(a) of the Act, 415 ILCS 5/12(a) (2022), and Sections 302.203 and 304.105 of the Board's Water Pollution Regulations, 35 Ill. Adm. Code 302.203 and 304.105;

C. Ordering the Respondent to cease and desist from any further violations of Section 12(a) of the Act, 415 ILCS 5/12(a) (2022), and Sections 302.203 and 304.105 of the Board's Water Pollution Regulations, 35 Ill. Adm. Code 302.203 and 304.105;

D. Assessing against the Respondent a civil penalty not to exceed Fifty Thousand Dollars (\$50,000.00) for each violation of Section 12(a) of the Act, 415 ILCS 5/12(a) (2022), and Sections 302.203 and 304.105 of the Board's Water Pollution Regulations, 35 Ill. Adm. Code 302.203 and 304.105, with an additional penalty not to exceed Ten Thousand Dollars (\$10,000.00) for each day of each violation, pursuant to Section 42(a) of the Act, 415 ILCS 5/42(a) (2022);

E. Awarding to the Complainant its costs, including expert witness, consultant, and attorney fees, expended in pursuit of this action, pursuant to Section 42(f) of the Act, 415 ILCS 5/42(f) (2022); and

F. Ordering such other and further relief as the Board deems appropriate and just.

**COUNT V**  
**AGRICULTURE RELATED POLLUTION VIOLATIONS**

1-33. Complainant re-alleges and incorporates by reference herein paragraphs 1 through 23 of Count I, paragraphs 30 through 32 of Count III, and paragraphs 26 through 32 of Count IV as paragraphs 1 through 33 of this Count V.

34. Section 501.401(e) of the Board's Agriculture Related Pollution Regulations, 35 Ill. Adm. Code 501.401(e), provides, in pertinent part, as follows:

(e) Any runoff or overflow from a livestock management facility or a livestock waste-handling facility shall not cause a water quality

violation pursuant to the Act or 35 Ill. Adm. Code Subtitle C: Water Pollution.

35. Section 501.285 of the Board's Agriculture Related Pollution Regulations, 35 Ill. Adm. Code 501.285, provides the following definition of a "Livestock Management Facility":

Any animal feeding operation, livestock shelter or on-farm milking and accompanying milk-handling area.

36. The Murphy-Brown Complex, an animal feeding operation, is a "Livestock Management Facility," as that term is defined in Section 501.285 of the Board's Agriculture Related Pollution Regulations, 35 Ill. Adm. Code 501.285.

37. Section 501.300 of the Board's Agriculture Related Pollution Regulations, 35 Ill. Adm. Code 501.300, provides the following definition of a "Livestock Waste-Handling Facility":

Individually or collectively those constructions or devices, except sewers, used for collecting, pumping, treating or disposing of livestock waste or for the recovery of by-products from such livestock waste. Such a facility includes acceptable disposal areas, such as pasture or other suitable agricultural land, which can serve as an adequate filtering device to settle out and assimilate pollutants from livestock waste before the clarified water reaches a stream or other body of surface water or groundwater.

38. The Murphy-Brown Complex, including S31B, which Respondent has used as a disposal area for livestock waste, is a "Livestock Waste-Handling Facility," as that term is defined in Section 501.300 of the Board's Agriculture Related Pollution Regulations, 35 Ill. Adm. Code 501.300.

39. Beginning on or before April 14, 2021, and on dates better known to Respondent, Respondent caused or allowed runoff or overflow from a livestock management facility or a livestock waste-handling facility so as to cause water quality violations in violation of the Act and the Board's Water Pollution Regulations, and thereby violated Section 501.401(e) of the Board's Agriculture Related Pollution Regulations, 35 Ill. Adm. Code 501.401(e).

40. Section 501.405(a) of the Board's Agriculture Related Pollution Regulations, 35

Ill. Adm. Code 501.405(a), provides as follows:

- a) For livestock management facilities and livestock waste-handling facilities that are not required to obtain an NPDES permit, the quantity of livestock waste applied on soils shall not exceed a practical limit as determined by soil type, especially its permeability, the condition (frozen or unfrozen) of the soil, the percent slope of the land, cover mulch, proximity to surface waters and likelihood of reaching groundwater, and other relevant considerations. These livestock waste application guidelines will be adopted pursuant to 35 Ill. Adm. Code 502.305, unless otherwise provided for by Board regulations. Facilities required to obtain an NPDES permit are subject to the requirements in 35 Ill. Adm. Code 502.Subpart F. Unpermitted Large CAFOs claiming an agricultural stormwater exemption must comply with 35 Ill. Adm. Code 502.102 and the practices listed in Section 502.510(b) to qualify for the exemption.

41. Beginning on or before April 14, 2021, and on dates better known to Respondent, Respondent applied livestock waste to S31B so as to exceed the practical limit of the soil, thereby violating Section 501.405(a) of the Board's Agriculture Related Pollution Regulations, 35 Ill. Adm. Code 501.405(a).

42. Section 502.645(b) of the Board's Agriculture Related Pollution Regulations, 35

Ill. Adm. Code 502.645(b), provides, in pertinent part, as follows:

- b) Setbacks from Waters
  - 1) Livestock waste shall not be land applied within 200 feet of surface water, unless the water is upgrade or there is adequate diking, which includes, but is not limited to, diking that prevents runoff from the land application from entering surface waters that are within 200 feet of the land application area.

43. Beginning on or about July 14, 2021, and on dates better known to Respondent, Respondent applied livestock waste to soil within 200 feet of the Unnamed Tributary, thereby

violating Section 502.645(b) of the Board's Agriculture Related Pollution Regulations, 35 Ill. Adm. Code 502.645(b).

44. By violating Sections 501.401(e), 501.405(a) and 502.645(b) of the Board's Agriculture Related Pollution Regulations, 35 Ill. Adm. Code 501.401(e), 501.405(a) and 502.645(b), Respondent thereby violated Section 12(a) of the Act, 415 ILCS 5/12(a) (2022).

**PRAYER FOR RELIEF**

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an order in favor of the Complainant and against the Respondent MURPHY-BROWN LLC, d/b/a SMITHFIELD HOG PRODUCTION, for the following relief:

A. Authorizing a hearing in this matter at which time the Respondent will be required to answer the allegations herein;

B. Finding that the Respondent has violated Section 12(a) of the Act, 415 ILCS 5/12(a) (2022), and Sections 501.401(e), 501.405(a) and 502.645(b) of the Board's Agriculture Related Pollution Regulations, 35 Ill. Adm. Code 501.401(e), 501.405(a) and 502.645(b);

C. Ordering the Respondent to cease and desist from any further violations of Section 12(a) of the Act, 415 ILCS 5/12(a) (2022), and Sections 501.401(e), 501.405(a) and 502.645(b) of the Board's Agriculture Related Pollution Regulations, 35 Ill. Adm. Code 501.401(e), 501.405(a) and 502.645(b);

D. Assessing against the Respondent a civil penalty not to exceed Fifty Thousand Dollars (\$50,000.00) for each violation of Section 12(a) of the Act, 415 ILCS 5/12(a) (2022), and Sections 501.401(e), 501.405(a) and 502.645(b) of the Board's Agriculture Related Pollution Regulations, 35 Ill. Adm. Code 501.401(e), 501.405(a) and 502.645(b), with an additional penalty





4. This agreement is presented to the Board in a Stipulation and Proposal for Settlement filed this same date.

5. All parties agree that a hearing on the Stipulation and Proposal for Settlement is not necessary and respectfully request relief from such a hearing as allowed by Section 31(c)(2) of the Act, 415 ILCS 5/31(c)(2) (2022).

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, hereby requests that the Board grant this motion for relief from the hearing requirement set forth in Section 31(c)(1) of the Act, 415 ILCS 5/31(c)(1) (2022).

Respectfully submitted,

PEOPLE OF THE STATE OF ILLINOIS,  
by KWAME RAOUL, Attorney General  
of the State of Illinois

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

BY: /s/ Kevin D. Barnai  
Kevin D. Barnai  
Assistant Attorney General  
Environmental Bureau

DATED: April 1, 2025

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People of the State of Illinois by Kwame Raoul, Attorney General of the State of Illinois, on his own motion and upon the request of the Illinois EPA, pursuant to Section 31 of the Act, 415 ILCS 5/31 (2022), 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 (2022).

3. At all times relevant to the Complaint, Respondent was and is a Delaware limited liability company corporation that is authorized to transact business in the State of Illinois and does business under the assumed name SMITHFIELD HOG PRODUCTION.

4. At all times relevant to the Complaint, Respondent was and is the owner and operator of the Mt. Erie concentrated animal feeding operation (“Mt. Erie CAFO”) located at 2059 County Road 2400 E., Mt. Erie, Wayne County, Illinois.

5. The Mt. Erie CAFO is a farrow-to-wean swine operation with a capacity of 1,900 head of swine weighing 55 pounds or more. The Mt. Erie CAFO is adjacent to five other farrow-to-wean swine operations owned and operated by Respondent. In all, the six CAFOs (collectively, the “Murphy-Brown Complex”) confine - at a maximum capacity - approximately 16,000 head of swine weighing 55 pounds or more.

6. Respondent has a third-party spread agreement for the land application of manure at an adjacent field to the Mt. Erie CAFO’s northern border (“S31B”). S31B is bordered to the north by an unnamed waterway that is a tributary to Moutray Slough (“Unnamed Tributary”). Moutray Slough splits into two branches, flowing north and south, which flow into the Little Wabash River.

**B. 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) (2022)
- Count II:       WATER POLLUTION HAZARD  
Section 12(d) of the Act, 415 ILCS 5/12(d) (2022)
- Count III:      UNPERMITTED DISCHARGE OF LIVESTOCK WASTE  
Section 12(f) of the Act, 415 ILCS 5/12(f) (2022)
- Count IV:       OFFENSIVE CONDITIONS  
Section 12(a) of the Act, 415 ILCS 5/12(a) (2022);  
Sections 302.203 and 304.105 of the Board's Water Pollution Regulations,  
35 Ill. Adm. Code 302.203 and 304.105
- Count V:        AGRICULTURE RELATED POLLUTION VIOLATIONS  
Section 12(a) of the Act, 415 ILCS 5/12(a) (2022);  
Sections 501.401(e), 501.405(a) and 502.645(b) of the Board's Agriculture  
Related Pollution Regulations, 35 Ill. Adm. Code 501.401(e), 501.405(a)  
and 502.645(b)

**C.    Non-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 above, and this Stipulation shall not be interpreted as including such admission.

**D.    Compliance Activities to Date**

1.        On the morning of April 16, 2021, two earthen dams were constructed to stop the flow and keep the effluent contained in Grove Creek and Moutray Slough.

2.        In the evening of April 16, 2021, a pump was set at the northernmost dam, approximately 2 miles from the entry point, and the water from the creek was land applied throughout the night on a neighboring crop field.

3. On April 17, 2021, a pump was set at the freshwater reservoir to flush the effluent from the creek to the land application pump. Creek flushing continued through April 18, 2021.

4. Samples were collected on April 19, 2021 and the sample was found to be free of ammonia. Respondent intermittently pumped water from the dam for the remainder of April 19, 2021 and collected another sample on April 20, 2021. This sample was also free of ammonia.

5. Respondent flushed the creek with approximately 2,400,000 gallons of freshwater and land applied approximately 3,000,000 gallons.

6. Respondents reviewed its land application operations and has voluntarily removed S31B from Respondent's land application operations.

7. On January 25, 2023, Respondent submitted to Illinois EPA its General NPDES Permit for Concentrated Animal Feeding Operations application including Respondent's Nutrient Management Plan.

## **II. APPLICABILITY**

This Stipulation shall apply to and be binding upon the Parties to the Stipulation. The 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 the 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 (2022).

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

Section 33(c) of the Act, 415 ILCS 5/33(c) (2022), 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. The Complainant alleges human health and the environment were threatened due to an unpermitted discharge of manure to a water of the State that caused water pollution.
2. There is social and economic benefit to the facility.
3. Operation of the Facility was and is suitable for the area in which it is located when operated in compliance with the Act and Board regulations.
4. Obtaining compliance with the Act and Board regulations at the Facility is both technically practicable and economically reasonable.
5. Respondents have subsequently complied with the Act and the Board regulations.

#### **IV. CONSIDERATION OF SECTION 42(h) FACTORS**

Section 42(h) of the Act, 415 ILCS 5/42(h) (2022), 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. On April 15, 2021, Respondent land applied manure at S31B, which resulted in a dry weather discharge of livestock waste from S31B to waters of the State. On April 20, 2021, Respondents informed Illinois EPA that it cleaned up the discharge. As verified by Illinois EPA's follow-up inspection on April 20, 2021, Respondent had addressed the cleanup of the discharge. On January 25, 2023, Illinois EPA received Respondent's General NPDES Permit for Concentrated Animal Feeding Operations application and Nutrient Management Plan. The gravity

of the violations was serious because they resulted in an unpermitted discharge of manure to a water of the State that caused water pollution.

2. Respondent was diligent in attempting to come back into compliance with the Act, Board regulations and applicable federal regulations, once the Illinois EPA notified it of its noncompliance.

3. The civil penalty takes into account any economic benefit realized by the Respondent as a result of avoided or delayed compliance.

4. Complainant has determined, based upon the specific facts of this matter, that a penalty of EIGHTY THOUSAND DOLLARS (\$80,000.00) will serve to deter further violations and aid in future voluntary compliance with the Act and Board regulations.

5. To Complainant's knowledge, Respondent has no previously adjudicated violations of the Act.

6. Self-disclosure is not at issue in this matter.

7. The settlement of this matter does not include a supplemental environmental project.

8. A Compliance Commitment Agreement was not at issue in this matter.

## V. TERMS OF SETTLEMENT

### A. **Penalty Payment**

1. The Respondent shall pay a civil penalty in the sum of EIGHTY THOUSAND DOLLARS (\$80,000.00) within thirty (30) days from the date the Board adopts and accepts this Stipulation.

### B. **Interest and Default**

1. If the 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  
2520 W. Iles Ave.  
P.O. Box 19276  
Springfield, IL 62794-9276

2. The case 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:

Kevin D. Barnai  
Assistant Attorney General  
Environmental Bureau South  
Illinois Attorney General's Office  
500 South Second St.  
Springfield, Illinois 62701

**D. Future Compliance**

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

2. Respondent shall cooperate fully with the Illinois EPA and take all actions required by the Illinois EPA to provide a full and complete application for purposes of obtaining the General NPDES Permit for Concentrated Animal Feeding Operations. Respondent shall respond to the Illinois EPA's requests for additional documentation regarding the application for the General NPDES Permit for Concentrated Animal Feeding Operations within the timeline specified by the Illinois EPA. Additionally, if Respondent becomes aware of any new information regarding the application, the Respondent shall promptly update, resubmit, or modify the application with the Illinois EPA. Upon issuance of coverage under the General NPDES Permit for Concentrated Animal Feeding Operations or issuance of an individual NPDES permit, the Respondent shall comply with the terms and provisions thereof. If the Agency determines that an NPDES Permit is necessary and issues coverage, the Respondent shall maintain permit coverage for a minimum period of five (5) years provided livestock operations continue. Respondent shall not be required to obtain the General NPDES Permit for Concentrated Animal Feeding Operations if the Illinois EPA notifies Respondent in writing that NPDES coverage for the Facility is unnecessary.

3. Respondent shall keep a copy of its Nutrient Management Plan at the facility office. Respondent shall provide yearly training to its employees on the Nutrient Management Plan.

4. The Illinois EPA, its employees and representatives, and the Attorney General, his employees and representatives, shall have the right of entry into and upon the 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, his employees and representatives, may take photographs, samples, and collect information, as they deem necessary.

5. This Stipulation in no way affects the responsibilities of the 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 the Respondent's payment of the EIGHTY THOUSAND DOLLARS (\$80,000.00) penalty, its commitment to cease and desist as contained in Section V.D.1 above, completion of all activities required hereunder, and upon the Board's approval of this Stipulation, the Complainant releases, waives and discharges the Respondent from any further liability or penalties for the violations of the Act and Board regulations that were the subject matter of the Complaint herein. 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 the 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 the Respondent.

**F. Enforcement of Stipulation**

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

**G. Opportunity For Public Comment**

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.

**H. 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.

**[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]**



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

AGREED:

FOR THE COMPLAINANT:

PEOPLE OF THE STATE OF ILLINOIS,  
by KWAME RAOUL,  
Attorney General of the  
State of Illinois

ILLINOIS ENVIRONMENTAL  
PROTECTION AGENCY

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

James Jennings, Acting Director  
Illinois Environmental Protection Agency

BY:   
RACHEL R. MEDINA  
Chief  
Environmental Bureau  
Assistant Attorney General

BY:   
ANDREW B. ARMSTRONG  
Chief Legal Counsel

DATE: 03/26/2025

DATE: 03/24/2025

FOR THE RESPONDENT:

MURPHY-BROWN LLC, a Delaware limited  
liability company, d/b/a SMITHFIELD HOG  
PRODUCTION

BY:   
Its: President  
DATE: 3-18-25

**CERTIFICATE OF SERVICE**

I, Kevin D. Barnai, Assistant Attorney General, certify that on the 1<sup>st</sup> day of April 2025, I caused to be served by electronic mail and by Certified mail the foregoing Notice of Filing, Complaint, Motion for Relief from Hearing Requirement, and Stipulation and Proposal for Settlement to the parties listed below:

Blake Boxley  
Director of Environmental Health & Safety  
Smithfield Foods  
17999 Highway 65  
Princeton, Missouri 64673  
[bboxley@smithfield.com](mailto:bboxley@smithfield.com)

Darin Waylett  
Associate General Counsel – Environmental  
Smithfield Foods  
200 Commerce Street  
Smithfield, Virginia 23430  
[dwaylett@smithfield.com](mailto:dwaylett@smithfield.com)

/s/ Kevin D. Barnai  
KEVIN D. BARNAI  
Assistant Attorney General  
Environmental Bureau  
Illinois Attorney General's Office  
500 South Second Street  
Springfield, Illinois 62701  
(217) 782-9035  
[Kevin.barnai@ilag.gov](mailto:Kevin.barnai@ilag.gov)