

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

PEOPLE OF THE STATE OF ILLINOIS,)	
)	
Complainant,)	
)	No.
v.)	
)	
STEWART SPREADING, INC., an)	
Illinois Corporation,)	
)	
Respondent.)	

NOTICE OF ELECTRONIC FILING

TO: SEE ATTACHED SERVICE LIST

PLEASE TAKE NOTICE that today, February 25, 2011, I have filed with the Office of the Clerk of the Illinois Pollution Control Board by electronic filing the following Complaint a true and correct copy of which is attached and hereby served upon you.

Pursuant to 35 Ill. Adm. Code 103.204(f), I am required to state that failure to file an answer to this Complaint within 60 days may have severe consequences. Failure to answer will mean that all allegations in the Complaint will be taken as if admitted for purposes of this proceeding. If you have any questions about this procedure, you should contact the hearing officer assigned to this proceeding, the Clerk's Office or an attorney.

NOTIFICATION

YOU ARE HEREBY NOTIFIED that financing may be available through the Illinois Environmental Facilities Financing Act (20 ILCS 3515/1 *et seq.*) to correct the alleged pollution.

PEOPLE OF THE STATE OF ILLINOIS,
by LISA MADIGAN, Attorney General
of the State of Illinois

BY: *Krystyna Bednarczyk*
 Krystyna Bednarczyk
 Assistant Attorney General
 Environmental Bureau
 69 W. Washington St., Suite 1800
 Chicago, Illinois 60602
 (312) 814-1511

Date: February 25, 2011

THIS FILING IS SUBMITTED ON RECYCLED PAPER
SERVICE LIST

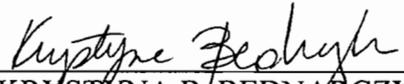
Stewart Spreading, Inc.
c/o Robert P. Pilmer
215 Hillcrest Avenue, Suite C
Yorkville, Illinois 60560

Stewart Spreading, Inc.
3870 North State Route 71
Sheridan, IL 60551

CERTIFICATE OF SERVICE

I, Krystyna Bednarczyk, an Assistant Attorney General, do certify that a true and correct copy of the Complaint and Notice of Filing were sent by certified mail with return receipt requested to the persons listed on the Notice of Filing on February 25, 2011.

BY:


KRYSTYNA B. BEDNARCZYK

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

PEOPLE OF THE STATE OF ILLINOIS,)	
)	PCB 2011-
Complainant,)	
)	(Enforcement-Air/Water)
v.)	
)	
STEWART SPREADING, INC., an)	
Illinois Corporation,)	
)	
Respondent.)	

COMPLAINT FOR INJUNCTIVE RELIEF AND CIVIL PENALTIES

Complainant, PEOPLE OF THE STATE OF ILLINOIS, by LISA MADIGAN, Attorney General of the State of Illinois, on her own motion and at the request of the Illinois Environmental Protection Agency, complains of the Respondent, STEWART SPREADING, INC., an Illinois corporation, as follows:

COUNT I

AIR POLLUTION

1. This Count is brought on behalf of the People of the State of Illinois, by LISA MADIGAN, Attorney General of the State of Illinois, on her own motion and at the request of the Illinois Environmental Protection Agency ("Illinois EPA"), pursuant to Section 31 of the Illinois Environmental Protection Act ("Act"), 415 ILCS 5/31 (2010).

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 (2010), and charged, *inter alia*, with the duty of enforcing the Act.

3. At all times relevant to this Complaint, Respondent Stewart Spreading, Inc. (“SSI”) was and is an Illinois corporation in good standing registered with the Illinois Secretary of State.

4. SSI is located at 3870 North State, Route 71 in Sheridan, Kendall County, Illinois.

5. At all times relevant to this Complaint, SSI, a full service residuals management company, performed the application of bulk sewage sludge generated by wastewater treatment plants (“WWTP”) to farm fields, also known as a process of biosolid recycling and beneficial reuse.

6. At all times relevant to this Complaint, SSI spread bulk sewage sludge it had acquired from the Springbrook WWTP in Naperville, Illinois, and deposited it at a farm field located at the west half of the west half of the northwest quarter of Section 26 in Oswego Township, Kendall County, Illinois (“Site”).

7. The Site is located east of Douglas Road on Collins Road in Oswego, Kendall County, Illinois. Occupied homes are located adjacent to the east and west property lines of the Site. A pond is located on an adjacent parcel of land, directly west of the Site. That pond is fed by intermittent streams flowing in a westerly direction across the Site and past the pond toward Morgan Creek. In addition, drainage ditches are located along Collins Road, which forms the southern border of the Site. These ditches divert water to the farm field. Aided by gravity, water flows from the drainage ditches across the farm field in a northerly direction to the intermittent streams before exiting the Site along its west property line and feeding into Morgan Creek.

8. On December 23, 2009, Illinois EPA received a citizen complaint of excessive odors emanating from bulk sewage sludge deposits at the Site. The complaint also alleged that

the bulk sewage sludge deposits were located in the vicinity of a drainage ditch located between the Site and an occupied home.

9. On December 23, 2009, the Kendall County Health Department inspected the Site and noted the presence of human waste odors. At the time of the Kendall County inspection, sludge residue was strewn along Collins Road from trucks entering and exiting the farm field.

10. On December 24, 2009, Illinois EPA inspected the Site and noted the manure-like smell at the Site, which increased when it began to rain. At the time of the December 24, 2009 inspection, the odor was also present inside the citizen complainant's home, located approximately 30 feet from the Site's west property line. At that time, no run-off was observed as the site was covered in snow and ice.

11. On December 29, 2009, Illinois EPA again inspected the Site. At that time, the bulk sewage sludge deposits had not been hauled away nor land applied. The stockpiled bulk sewage sludge deposits were still present at the Site, and odors were emanating from them.

12. At all times relevant to this Complaint, the Site was not permitted by Illinois EPA for applications of bulk sewage sludge deposits during periods of ice and snow cover.

13. Beginning on or about January 11, 2010, the bulk sewage sludge deposits were hauled from the Site back to the Springbrook WWTP, in Naperville, Illinois, which had generated the sludge. All sludge had been transported from the Site by January 13, 2010.

14. Section 9(a) of the Act, 415 ILCS 5/9(a) (2010), provides as follows:

No person shall:

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

15. Section 3.315 of the Act, 415 ILCS 5/3.315 (2010), provides as follows:

“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.

16. Respondent SSI is a “person,” as that term is defined in Section 3.315 of the Act, 415 ILCS 3.315 (2010).

17. Section 3.165 of the Act, 415 ILCS 3.165 (2010), provides as follows:

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

18. Bulk sewage sludge composed of domestic waste, and odors, are each a “contaminant,” as that term is defined in Section 3.165 of the Act, 415 ILCS 3.165 (2010).

19. Section 3.115 of the Act, 415 ILCS 5/3.115 (2010), provides as follows:

“AIR POLLUTION” is the presence in the atmosphere of one or more contaminants in sufficient quantities and of such characteristics and duration as to be injurious to human, plant or animal life, to health or to property, or to unreasonably interfere with the enjoyment of life or property.

20. By failing to properly land apply and incorporate bulk sewage sludge at the Site, foul odors of domestic waste were created and released into the environment, causing, threatening or allowing air pollution.

21. By causing, threatening or allowing air pollution, Respondent violated Section 9(a) of the Act, 415 ILCS 5/9(a) (2010).

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an order in favor of Complainant and against Respondent, STEWART SPREADING, INC., with respect to this Count I:

1. Authorizing a hearing in this matter at which time Respondent will be required to answer the allegations herein;
2. Finding that Respondent has violated Section 9(a) of the Act, 415 ILCS 5/9(a) (2010);
3. Ordering Respondent to cease and desist from any further violations of Section 9(a) of the Act, 415 ILCS 5/9(a) (2010);
4. Assessing against the Respondent, pursuant to Section 42(a) of the Act, 415 ILCS 5/42(a) (2010), a civil penalty of Fifty Thousand Dollars (\$50,000.00) for each and every violation of Section 9(a) of the Act, 415 ILCS 5/9(a) (2010), with an additional civil penalty of Ten Thousand Dollars (\$10,000.00) for each day of violation;
5. Ordering Respondent to pay all costs including attorney, expert witnesses and consultant fees expended by the State in its pursuit of this action; and
6. Granting such other relief as the Board deems appropriate and just.

COUNT II

WATER POLLUTION

1-17. Plaintiff realleges and incorporates by reference herein paragraphs 1 through 13 and 15 through 18 of Count I as paragraphs 1 through 17 of this Count II.

18. Section 12(a) of the Act, 415 ILCS 5/12(a) (2010), 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.

19. Section 3.550 of the Act, 415 ILCS 5/3.550 (2010), provides as follows:

“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.

20. Section 3.545 of the Act, 415 ILCS 5/3.545 (2010), provides as follows:

“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 waters 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.

21. The pond, ditches, intermittent streams, and Morgan Creek are each a “water” of the State as that term is defined in Section 3.550 of the Act, 415 ILCS 5/3.550 (2010).

22. By failing to properly land apply and incorporate bulk sewage sludge at the Site during ice and snow conditions, SSI threatened the discharge of contaminants from the Site into drainage ditches, on-site intermittent streams, the adjacent pond and nearby Morgan Creek, each of which is a water of the State, so as to render such waters harmful or injurious to public health.

23. By causing, threatening, or allowing the discharge of contaminants into waters of the State, Respondent SSI caused, threatened or allowed water pollution in Illinois, in violation of Section 12(a) of the Act, 415 ILCS 5/12(a) (2010).

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an order in favor of Complainant and against Respondent, STEWART SPREADING INC., with respect to this Count II:

1. Authorizing a hearing in this matter at which time Respondent will be required to answer the allegations herein;
2. Finding that Respondent has violated Section 12(a) of the Act, 415 ILCS 5/12(a) (2010);
3. Ordering Respondent to cease and desist from any further violations of Section 12(a) of the Act, 415 ILCS 5/12(a) (2010);
4. Assessing against the Respondent, pursuant to Section 42(a) of the Act, 415 ILCS 5/42(a) (2010), a civil penalty of Fifty Thousand Dollars (\$50,000.00) for each and every violation of the Act, with an additional civil penalty of Ten Thousand Dollars (\$10,000.00) for each day of violation;
5. Ordering Respondent to pay all costs including attorney, expert witnesses and consultant fees expended by the State in its pursuit of this action; and
6. Granting such other relief as the Board deems appropriate and just.

COUNT III

STOCKPILE OF SEWAGE SLUDGE WITHOUT A LAND APPLICATION PERMIT

1-20. Plaintiff realleges and incorporates by reference herein paragraphs 1 through 13 and 15 through 18 of Count I and paragraphs 19 through 21 of Count II as paragraphs 1 through 20 of this Count III.

21. Section 12(b) of the Act, 415 ILCS 5/12(b) (2010), provides as follows:

No person shall:

- (b) Construct, install, or operate any equipment, site, vessel, or aircraft capable of causing or contributing to water pollution, or designed to prevent water pollution, of any type designated by Board regulations, without a permit granted by the Agency, or in violation of any conditions imposed by such permit.

22. At all times relevant to this Complaint, Respondent's activities at the Site were and are regulated under Illinois EPA Land Application Permit # 2007-SC-5031. Land application of sludge during ice and snow conditions is not permitted under the Permit.

23. At all times relevant to this Complaint, Respondent's activities at the Site constituted the operation of a facility capable of causing or contributing to water pollution.

24. By applying sewage sludge at the Site during a period of ice and snow and failing to properly contain the sludge deposits, SSI maintained operations of the Site that were capable of causing or contributing to water pollution without obtaining a proper permit from Illinois EPA, and in violation of Permit # 2007-SC-5031.

25. By applying sewage sludge to the Site in a manner that was capable of causing or contributing to water pollution without first obtaining a permit from the Illinois EPA and in violation of its existing permit, SSI violated Section 12(b) of the Act, 415 ILCS 5/12(b) (2010).

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that this Court enter an order in favor of Complainant and against Respondent, STEWART SPREADING INC., with respect to this Count III:

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

2. Finding that Respondent has violated Section 12(b) of the Act, 415 ILCS 5/12(b) (2010);

3. Ordering Respondent to cease and desist from any further violations of Section 12(b) of the Act, 415 ILCS 5/12(b) (2010);

4. Assessing against the Respondent, pursuant to Section 42(a) of the Act, 415 ILCS 5/42(a) (2010), a civil penalty of Fifty Thousand Dollars (\$50,000.00) for each and every

violation of Section 12(b) of the Act, 415 ILCS 5/12(b) (2010), with an additional civil penalty of Ten Thousand Dollars (\$10,000.00) for each day of violation;

5. Ordering Respondent to pay all costs including attorney, expert witnesses and consultant fees expended by the State in its pursuit of this action; and

6. Granting such other relief as the Board deems appropriate and just.

COUNT IV

CREATING A WATER POLLUTION HAZARD

1-20. Plaintiff realleges and incorporates by reference herein paragraphs 1 through 13 and 15 through 18 of Count I and paragraphs 19 through 21 of Count II as paragraphs 1 through 20 of this Count IV.

21. Section 12(d) of the Act, 415 ILCS 5/12(d) (2010), 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.

22. Beginning on or about December 21, 2009, and continuing through at least January 13, 2010, or during a time period better known to the Respondent, SSI stockpiled bulk sewage sludge from a WWTP on the Site.

23. Beginning on or about December 24, 2009, and continuing through at least January 13, 2010, or during a time period better known to the Respondent, the north side of the Site was left unsecured, threatening the runoff of contaminated stormwater into the drainage ditches, intermittent streams, adjacent pond, and nearby Morgan Creek.

24. By stockpiling bulk sewage sludge on the Site in a place and manner that created a water pollution hazard, Respondent violated Section 12(d) of the Act, 415 ILCS 5/12(d) (2010).

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that this Court enter an order in favor of Complainant and against Respondent, STEWART SPREADING INC., with respect to this Count IV:

1. Authorizing a hearing in this matter at which time Respondent will be required to answer the allegations herein;
2. Finding that Respondent has violated Section 12(d) of the Act, 415 ILCS 5/12(d) (2010);
3. Ordering Respondent to cease and desist from any further violations of Section 12(d) of the Act, 415 ILCS 5/12(d) (2010);
4. Assessing against the Respondent, pursuant to Section 42(a) of the Act, 415 ILCS 5/42(a) (2010), a civil penalty of Fifty Thousand Dollars (\$50,000.00) for each and every violation of the Act, with an additional civil penalty of Ten Thousand Dollars (\$10,000.00) for each day of violation;
5. Ordering Respondent to pay all costs including attorney, expert witnesses and consultant fees expended by the State in its pursuit of this action; and
6. Granting such other relief as the Board deems appropriate and just.

COUNT V

FAILURE TO PROPERLY STOCKPILE BULK SEWAGE SLUDGE

1-21. Plaintiff realleges and incorporates by reference herein paragraphs 1 through 13 and 15 through 18 of Count I and paragraphs 18 through 21 of Count II as paragraphs 1 through 21 of this Count V.

22. Section 391.305(a) and (d) of the Illinois Pollution Control Board ("Board") Water Pollution Regulations, 35 Ill. Adm. Code 391.305(a) and (d), provides as follows:

The following items shall be addressed by the applicant [for sludge storage] in the design: (a) the stockpiles are contained and the runoff is controlled . . . (d) sludge storage is isolated from commercial and residential developments.

23. Section 391.403(b) and (d) of the Board Water Pollution Regulations, 35 Ill.

Adm. Code 391.403(b) and (d), provides as follows:

b) Sludge application with no immediate incorporation shall not be done closer than 200 feet from any occupied dwelling or 20 feet from the closet edge of traveled portions of a primary and secondary public roads or 10 feet from the closest edge of lesser utilized public roads or outside roadway fence lines.

d) Sludge shall not be applied on land which lies within 150 feet from wells used to supply potable water or other potable water supplies and 200 feet from surface waters or intermittent streams; or within one-fourth of a mile of any potable water supply wells located in consolidated bedrock such as limestone or sinkhole areas unless a 50 foot depth of non-sandy or non-gravelly unconsolidated material exists.

24. Beginning on or about December 24, 2009, and continuing to at least January 13, 2010, or on dates better known to the Respondent, SSI stockpiled and attempted to contain the stockpiles of sewage sludge on the Site by using straw bales on the south, east and west sides of the stockpile, but left the north side exposed and unsecured.

25. At the time of the December 24, 2009, Illinois EPA inspection, sewage sludge debris was strewn across Collins Road as trucks entered and exited the Site.

26. At the time of the December 24, 2009, Illinois EPA inspection, sewage sludge from the road had entered the drainage ditches along Collins Road. From there, as temperatures rose and snow and ice melted, the sewage sludge had the potential to flow across the Site into the intermittent streams that could flow across the property of an occupied dwelling to enter the pond and, eventually, Morgan Creek. The occupied dwelling was located within 200 feet of the sewage sludge deposits.

27. By failing to ensure that the stockpiled bulk sewage sludge was properly contained and runoff controlled, Respondent violated Sections 391.305(a) and (d) of the Board Water Pollution Regulations, 35 Ill. Adm. Code 391.305(a) and (d).

28. By applying sewage sludge to the land and failing to immediately incorporate the sludge at the Site, which is located within 200 feet of surface waters, intermittent streams, and occupied dwellings, Respondent violated Sections 391.403(b) and (d) of the Board Water Pollution Regulations, 35 Ill. Adm. Code 391.403(b) and (d).

29. By violating regulations adopted by the Board, Respondent violated Section 12(a) of the Act, 415 ILCS 5/12(a) (2010).

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that this Court enter an order in favor of Complainant and against Respondent, STEWART SPREADING INC., with respect to this Count V:

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

2. Finding that Respondent has violated Section 12(a) of the Act, 415 ILCS 5/12(a) (2010), and Sections 391.305 (a) and (d) and 391.403(b) and (d) of the Board Water Pollution Regulations, 35 Ill. Adm. Code 391.305 (a) and (d) and 391.403(b) and (d);

3. Ordering Respondent to cease and desist from any further violations of Sections 12(a) of the Act, 415 ILCS 5/12(a) (2010), and Sections 391.305 (a) and (d) and 391.403(b) and (d) of the Board Water Pollution Regulations, 34 Ill. Adm. Code 391.305 (a) and (d) and 391.403(b) and (d);

4. Assessing against the Respondent, pursuant to Section 42(a) of the Act, 415 ILCS 5/42(a) (2010), a civil penalty of Fifty Thousand Dollars (\$50,000.00) for each and every

violation of the Board Water Pollution Regulation, with an additional civil penalty of Ten Thousand Dollars (\$10,000.00) for each day of violation;

5. Ordering Respondent to pay all costs including attorney, expert witnesses and consultant fees expended by the State in its pursuit of this action; and

6. Granting such other relief as the Board deems appropriate and just.

PEOPLE OF THE STATE OF ILLINOIS,
ex rel. LISA MADIGAN, Attorney General
of the State of Illinois

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

By: Rose Marie Cazeau (cw)
ROSEMARIE CAZEAU, Chief
Environmental Bureau North
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