

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

PEOPLE OF THE STATE OF ILLINOIS,))	
Complainant,))	
v.))	PCB No.
CRANBROOK FARMS, LLC, an))	(Enforcement – Water)
Illinois limited liability company,))	
Respondent.))	

NOTICE OF FILING

To: See Attached Service List

PLEASE TAKE NOTICE that on November 22, 2016, I electronically filed with the Clerk of the Pollution Control Board of the State of Illinois, Complaint for Injunctive and Other Relief, a copy of which is attached hereto and herewith served upon you.

Respectfully submitted,

PEOPLE OF THE STATE OF ILLINOIS,

LISA MADIGAN, Attorney General of the State of Illinois,

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

BY: /s/Rachel Medina
Rachel Medina
Assistant Attorney General
Attorney Reg. No. 6297171
500 South Second Street
Springfield, Illinois 62706
(217) 782-9031
dsamuels@atg.state.il.us
ebs@atg.state.il.us

Dated: November 22, 2016

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

PEOPLE OF THE STATE OF ILLINOIS,)	
)	
Complainant,)	
)	
v.)	PCB No.
)	
CRANBROOK FARMS, LLC, an)	
Illinois limited liability company,)	
)	
Respondent.)	

COMPLAINT FOR INJUNCTIVE AND OTHER RELIEF

Complainant, PEOPLE OF THE STATE OF ILLINOIS, by LISA MADIGAN, Attorney General of the State of Illinois, complain of Respondent, CRANBROOK FARMS, LLC, as follows:

COUNT I
CAUSING OR THREATENING WATER POLLUTION

1. This Count is brought by the Attorney General on her own motion and at the request of the Illinois Environmental Protection Agency ("Illinois EPA"), pursuant to the terms and provisions of Section 31 of the Illinois Environmental Protection Act ("Act"), 415 ILCS 5/31 (2014).

2. The Illinois EPA is an agency of the State of Illinois created by the Illinois General Assembly in Section 4 of the Act, 415 ILCS 5/4 (2014), and charged, *inter alia*, with the duty of enforcing the Act in proceedings before the Illinois Pollution Control Board ("Board").

3. This Complaint is brought pursuant to Section 31 of the Act, 415 ILCS 5/31 (2014), after providing Respondent, Cranbrook Farms, LLC, with notice and the opportunity for a meeting with the Illinois EPA.

4. Respondent, Cranbrook Farms, LLC (“Respondent Cranbrook”), is an Illinois limited liability company. Respondent Cranbrook owns and operates a swine wean-to-finish facility located at 21334 Illinois Highway 78, Annawan, Henry County, Illinois. The legal description of this facility is SW ¼, Section 15, T17N – R5E (Alba Township). The facility is known as Cranbrook – South Farm (the “South Farm” or “facility”).

5. The South Farm consists of six active swine confinement buildings, with a total capacity of 6,000 finishing pigs, and two anaerobic livestock waste storage lagoons, North Lagoon and South Lagoon. One of the confinement buildings is equipped with an eight-foot deep pit and misting system for livestock waste management. This pit is now the primary livestock waste storage structure for the facility. The other five confinement buildings are equipped with shallow pit pull-plug systems, which, until November 2014, could be emptied into either of the two lagoons. Both of the lagoons are built in sand.

6. According to the facility’s 2012-2015 Nutrient Management Plan, the facility generates approximately 8 million gallons of liquid livestock waste per year.

7. Storm water drains from the southwest half of the facility through a series of unnamed tributaries toward the west and northwest. Storm water drains from the northeast half of the facility through a series of unnamed tributaries toward the northeast and north. All of the unnamed tributaries eventually reach the Green River, which flows west for approximately 25 miles to its confluence with the Rock River at a location approximately 1.5 miles west of Green Rock, Illinois. The Rock River continues to flow west for approximately 12 miles to its confluence with the Mississippi River at a location just west of Moline, Illinois.

8. On November 20, 2009, March 13, 2012, September 15, 2014, and August 19, 2015, the Illinois EPA conducted inspections at the South Farm.

9. At the time of the November 20, 2009 inspection, both South Farm lagoons contained livestock waste, but Cranbrook was not removing waste from either lagoon. General practice in the livestock production industry is to routinely remove the waste from storage lagoons, and apply it to crop land, in order to relieve the lagoons of their waste content so that they can receive more waste without surpassing their capacity.

10. Because Respondent Cranbrook did not remove waste from its lagoons and yet the lagoons maintained capacity, the Illinois EPA inspectors concluded that waste in the South Farm lagoons was escaping through the lagoons' sandy bottoms and sides to local soil and, at a minimum, threatening groundwater, if not entering the groundwater.

11. At the time of the March 13, 2012 inspection, both lagoons were in use, and facility representatives reported that they had never removed waste from either lagoon.

12. The liquid in the facility's South Lagoon was green in color, and the berms around the lagoon had trees and thick vegetation.

13. The facility's North Lagoon had larger dimensions than were reported in 2009, and it had an unsecure secondary berm made of sand.

14. Neither the North Lagoon nor South Lagoon had freeboard markers. Freeboard markers are used to identify the level of the liquid in a lagoon, and thereby prevent overflow, by measuring the depth and comparing it to the height of the perimeter.

15. At the time of the September 15, 2014 inspection, the South Lagoon was not receiving waste.

16. At the time of the September 15, 2014 inspection, the North Lagoon was receiving waste from the confinement buildings.

17. At the time of the September 15, 2014 inspection, facility representatives told the Illinois EPA inspectors that waste had never been removed from the North Lagoon.

18. The South Farm North Lagoon has an approximate capacity of 4.5 million gallons, and its approximate wastewater loading rate is 2.3 million gallons per year. The wastewater loading rate is determined by combining the average addition of waste to the lagoon with the average addition of water from precipitation to the lagoon, on yearly bases. Based on the number of swine from which waste is being added to the lagoon, as well as an engineering design factor to account for additional water entering the waste system, it is estimated that 1.6 million gallons of waste are added to the lagoon yearly. Based on the precipitation-capturing area of the lagoon and available weather data for precipitation in the geographical area of South Farm, it is estimated that 0.67 million gallons of water from precipitation are added to the lagoon yearly.

19. Considering the sand foundation of the lagoons, the continual deposition of swine manure and precipitation into the lagoons, and the lack of mechanical removal of manure from the lagoons, the inspectors concluded that waste was escaping from the lagoons into the soil and groundwater.

20. At the time of the August 19, 2015 inspection, the condition of the facility's South Lagoon had not changed significantly from previous inspections.

21. At the time of the August 19, 2015 inspection, a facility representative told the Illinois EPA inspectors that the drain lines from the confinement building to the North Lagoon were cut on November 14, 2014, thereby physically preventing any livestock waste from being added to the North Lagoon from the confinement buildings. The facility representative further

stated that Respondent Cranbrook has used the eight-foot deep pit to store all livestock waste generated at the facility since Respondent Cranbrook cut the drain lines.

22. At the time of the August 19, 2015 inspection, Respondent Cranbrook had yet to remove any wastewater from the North Lagoon, and the freeboard level appeared to be the same as it was during the previous inspection.

23. At the time of the August 19, 2015 inspection, there was a low area along the lagoon berm at the northeast corner of the North Lagoon. There was dead vegetation and livestock waste residue in this location and along a path to the northeast into a low wooded area (the "low wooded area"). This overflow to the low wooded area existed as a threat of discharge to surface waters via the unnamed tributaries to the north of the facility.

24. At the time of the August 19, 2015 inspection, the depth to the bottom of the North Lagoon near the southern edge was 2.5 feet. There were approximately five to six inches of liquid before the sludge layer at the bottom of the lagoon.

25. At the time of the August 19, 2015 inspection, the high sludge volume and steady freeboard level in the North Lagoon indicated that the lagoon continued to be permeable.

26. Section 12(a) of the Act, 415 ILCS 5/12(a) (2014), provides the following prohibition:

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.

27. Section 3.165 of the Act, 415 ILCS 5/3.165 (2014), provides the following definition:

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

28. Section 3.315 of the Act, 415 ILCS 5/3.315 (2014), 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.

29. Section 3.545 of the Act, 415 ILCS 5/3.545 (2014), provides 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 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.

30. Section 3.550 of the Act, 415 ILCS 5/3.550 (2014), provides 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.

31. Cranbrook Farms, LLC is a “person” as defined by the Act, 415 ILCS 5/3.315 (2014).

32. The livestock waste stored and discharged by Respondent Cranbrook at the South Farm is a “contaminant” as defined by the Act, 415 ILCS 5/3.165 (2014).

33. The groundwater and surface waters into which South Farm’s livestock waste is being discharged or threatens to discharge is “waters” of the State as defined by the Act, 415 ILCS 5/3.550 (2014).

34. The discharge of livestock waste into groundwater and surface waters at Respondent Cranbrook's facility is "water pollution" as defined by the Act, 415 ILCS 5/3.545 (2014).

35. On January 21, 2010, the Illinois EPA sent Respondent Cranbrook a Non-Compliance Advisory letter, citing livestock waste handling violations and including several recommendations for the management of its facility, in particular with respect to the lagoons and livestock waste system.

36. On July 2, 2012, the Illinois EPA issued a Violation Notice to Respondent Cranbrook for failing to maintain impermeable lagoons. Cranbrook responded with a proposed compliance commitment agreement, which the Illinois EPA rejected by letter on October 4, 2012.

37. On January 9, 2013, the Illinois EPA sent Respondent Cranbrook a letter providing its notice of intent to pursue legal action ("NILPA"). Respondent Cranbrook requested a meeting pursuant to the NIPLA letter, which took place on February 25, 2013.

38. Respondent Cranbrook has caused, allowed, or threatened the discharge of contaminants into the waters of the State so as to cause or tend to cause water pollution in Illinois through the South Farm's livestock waste storage lagoons, which have discharged or threatened to discharge livestock waste into the area groundwater and to surface waters, via the low wooded area.

39. By causing, allowing, or threatening the discharge of contaminants into the waters of the State so as to cause or tend to cause water pollution in Illinois through South Farm livestock waste storage lagoons, which have discharged or threatened to discharge livestock

waste into the area groundwater and to surface waters, Respondent Cranbrook has violated Section 12(a) of the Act, 415 ILCS 5/12(a) (2014).

PRAYER FOR RELIEF

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully request that the Board enter an order against Respondent, CRANBROOK FARMS, LLC:

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

B. Finding that Respondent Cranbrook has violated Section 12(a) of the Act, 415 ILCS 5/12(a) (2014);

C. Ordering Respondent Cranbrook to cease and desist from any further violations of the Act that are the subject of this Complaint;

D. Pursuant to Section 42(a) of the Act, 415 ILCS 5/42(a) (2014), imposing upon Respondent Cranbrook for violating a provision of this Act a civil penalty of fifty thousand dollars (\$50,000), and an additional penalty of ten thousand dollars (\$10,000) for each day during which the violation continues;

E. Awarding to Complainant its costs and reasonable attorney's fees; and

F. Granting such other relief as the Board may deem appropriate.

COUNT II
WATER POLLUTION HAZARD

1-37. Complainant adopts and incorporates by reference herein paragraphs 1 through 37 of Count I as paragraphs 1 through 37 of this Count II.

38. Section 12(d) of the Act, 415 ILCS 5/12(d) (2014), provides:

No person shall:

* * *

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

39. Respondent Cranbrook has deposited livestock waste upon the land in a place and manner such that the waste is allowed to reach the area groundwater and, via the low wooded area, surface waters.

40. By depositing livestock waste upon the land in a place and manner so as to create a water pollution hazard, Respondent Cranbrook has violated Section 12(d) of the Act, 415 ILCS 5/12(d) (2014).

PRAYER FOR RELIEF

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully request that the Board enter an order against Respondent, CRANBROOK FARMS, LLC:

- A. Authorizing a hearing in this matter at which time Respondent Cranbrook will be required to answer the allegations herein;
- B. Finding that Respondent Cranbrook has violated Section 12(d) of the Act, 415 ILCS 5/12(d) (2014);
- C. Ordering Respondent Cranbrook to cease and desist from any further violations of the Act that are the subject of this Complaint;
- D. Pursuant to Section 42(a) of the Act, 415 ILCS 5/42(a) (2014), imposing upon Respondent Cranbrook for violating a provision of this Act a civil penalty of fifty thousand dollars (\$50,000), and an additional penalty of ten thousand dollars (\$10,000) for each day during which the violation continues;
- E. Awarding to Complainant its costs and reasonable attorney's fees; and
- F. Granting such other relief as the Board may deem appropriate.

COUNT III
HANDLING AND STORAGE OF LIVESTOCK WASTE

1-37. Complainant adopts and incorporates by reference herein paragraphs 1 through 37 of Count I as paragraphs 1 through 37 of this Count III.

38. Section 501.404(c)(2) of the Board regulations, Subpart C. Operational Rules for All Livestock Management Facilities and Livestock Waste-Handling Facilities, 35 Ill. Adm.

Code 501.404(c)(2), provides:

Holding ponds and lagoons shall be impermeable or so sealed as to prevent groundwater or surface water pollution.

39. Respondent Cranbrook has failed to make impermeable or seal its livestock waste storage lagoons in order to prevent groundwater pollution and surface water pollution.

40. By failing to make impermeable or seal its livestock waste storage lagoons in order to prevent pollution of the area groundwater and surface waters, Respondent Cranbrook has violated Section 12(a) of the Act, 415 ILCS 5/12(a) (2014), and Section 501.404(c)(2) of the Board regulations, 35 Ill. Adm. Code 501.404(c)(2).

PRAYER FOR RELIEF

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully request that the Board enter an order against Respondent, CRANBROOK FARMS, LLC:

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

B. Finding that Respondent Cranbrook has violated Section 12(a) of the Act, 415 ILCS 5/12(a) (2014), and Section 501.404(c)(2) of the Board regulations, 35 Ill. Adm. Code 501.404(c)(2);

C. Ordering Respondent Cranbrook to cease and desist from any further violations of the Act or Board regulations that are the subject of this Complaint;

D. Pursuant to Section 42(a) of the Act, 415 ILCS 5/42(a) (2014), imposing upon Respondent Cranbrook for violating a provision of this Act a civil penalty of fifty thousand dollars (\$50,000), and an additional penalty of ten thousand dollars (\$10,000) for each day during which the violation continues;

E. Awarding to Complainant its costs and reasonable attorney's fees; and

F. Granting such other relief as the Board may deem appropriate.

Respectfully submitted,

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

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

By:



ANDREW B. ARMSTRONG, Chief
Environmental Bureau
Assistant Attorney General

Rachel R. Medina
Assistant Attorney General
(ARDC #6297171)
Environmental Bureau South
Illinois Attorney General's Office
500 South 2nd Street
Springfield, IL 62701
rmedina@atg.state.il.us
ebs@atg.state.il.us

CERTIFICATE OF SERVICE

I hereby certify that I did on November 22, 2016, caused to be served by certified mail, a true and correct copy of the following instruments entitled NOTICE OF FILING and Complaint upon the following:

Cranbrook Farms, LLC
c/o Bradford Hartmann, Owner
1311 Cranbrook Circle
Aurora, IL 60502

/s/ Rachel Medina
Rachel Medina
Assistant Attorney General