

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

PEOPLE OF THE STATE OF ILLINOIS, by LISA)	
MADIGAN, Attorney General of the State of Illinois,)	
)	
Complainant,)	
)	
v.)	PCB No.
)	(Enforcement-Water)
GREENVILLE LIVESTOCK, INC.,)	
An Illinois Corporation)	
)	
Respondent,)	

NOTICE OF FILING

TO: See attached service list (VIA ELECTRONIC FILING)

PLEASE TAKE NOTICE that I have today filed with the Office of the Clerk of the Illinois Pollution Control Board by electronic filing the following Complaint, a copy of which is attached and hereby served upon you. **You may be required to answer the charges of the Complaint at a hearing before the Board, at a date set by the Board.**

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 violations.

Respectfully submitted,

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

By: 

RACHEL MEDINA
Assistant Attorney General
Environmental Bureau
Illinois Attorney General's Office
500 South Second Street
Springfield, Illinois 62701
(217) 782-9031

Date: March 17, 2017

THIS FILING IS SUBMITTED ON RECYCLED PAPER

Service List

For the Respondent

Claire A. Manning
Brown, Hay & Stephens, LLC
205 South Fifth Street, Suite 700
P.O. Box 2459
Springfield, IL 62705-2459

David A. Oldfield, Agent
Greenville Livestock, Inc.
303 South 7th Street
Vandalia, IL 62471

CERTIFICATE OF SERVICE

I, Rachel Medina, an Assistant Attorney General, certify that on the 17th day of March 2017, I caused to be served by Certified U.S. Mail the foregoing Notice of Filing and Complaint to the parties named on the attached Service List, by depositing same in postage prepaid envelopes with the United States Postal Service in Springfield, Illinois.



Rachel Medina
Assistant Attorney General
Environmental Bureau
Illinois Attorney General's Office
500 south Second Street
Springfield, Illinois 62701
(217) 782-9031

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

PEOPLE OF THE STATE OF ILLINOIS,)	
)	
Complainant,)	
)	PCB No.
v.)	
)	
GREENVILLE LIVESTOCK, INC., an)	
Illinois corporation,)	
)	
Respondent.)	

COMPLAINT

Complainant, PEOPLE OF THE STATE OF ILLINOIS, by LISA MADIGAN, Attorney General of the State of Illinois, complains of Respondent, GREENVILLE LIVESTOCK, INC., as follows:

COUNT I
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.

3. The Illinois Pollution Control Board ("Board") is an independent board created by the Illinois General Assembly in Section 5 of the Act, 415 ILCS 5/5 (2014), and charged, *inter alia*, with the duty of promulgating standards and regulations under the Act.

4. This Count is brought after providing Respondent, Greenville Livestock, Inc., with notice and the opportunity for a meeting with the Illinois EPA, pursuant to Section 31 of the Act, 415 ILCS 5/31 (2014).

5. Respondent is an active Illinois corporation and owns and operates a Concentrated Animal Feeding Operation ("CAFO") located at 25815 Hugo Road, Centralia, Illinois (the "facility").

6. On October 20, 2009, the Illinois EPA issued Respondent National Pollutant Discharge Elimination System ("NPDES") General Permit No. ILA010061 for its CAFO.

7. On March 19, 2013, the Illinois EPA conducted a CAFO inspection of the facility. A rain event had occurred the previous evening.

8. At the time of the Illinois EPA inspection, the facility had 1,300 head of beef cattle on open earthen feedlots.

9. At the time of the Illinois EPA inspection, the facility's livestock waste containment system consisted of a holding pond, with an estimated capacity of 2,240,021 cubic feet, six settling basins, and associated piping.

10. Stormwater runoff flows through the facility to Prairie Creek, which runs adjacent to the facility.

11. At the time of the March 19, 2013 inspection, there was a feedlot area to the southeast of the facility's office ("Feedlot #1") that was in use but not tributary to the facility's livestock waste containment system.

12. Based on the state of Feedlot #1 at the time of the March 19, 2013 inspection, a precipitation event at the facility would cause runoff to escape Feedlot #1 without draining to the facility's livestock waste containment system.

13. At the time of the March 19, 2013 inspection, there was a feedlot ("Feedlot #2") located in the northern part of the facility, on the east side of a gravel drive.

14. At the time of the March 19, 2013 inspection, Feedlot #2 was surrounded by a large vegetated berm.

15. At the time of the March 19, 2013 inspection, all runoff from Feedlot #2 drained to a riser pipe that drained to the waste containment system.

16. At the time of the March 19, 2013 inspection, there was liquid that was dark in color, similar to the color of livestock waste, in a ditch that is located on the west side of the gravel drive northwest of Feedlot #2, and that discharges to Prairie Creek ("Ditch").

17. At the time of the March 19, 2013 inspection, discolored liquid was flowing into the Ditch from a waterway on the edge of a crop field to the north of Feedlot #2 ("Waterway").

18. At the time of the March 19, 2013 inspection, there was an irrigation boom directly over the Waterway and adjacent fields. Ice buildup located under the boom indicated overnight livestock waste application activities had occurred.

19. During the March 19, 2013 inspection, the facility manager indicated to the Illinois EPA inspectors that the facility had applied livestock waste to the Waterway and surrounding soils during the previous evening due to concern about lagoon overflow.

20. During the March 19, 2013 inspection, the facility manager indicated to the Illinois EPA inspectors that the facility had not moved the irrigation boom to the center of the application field because, at the time, the field's soil was too saturated.

21. During the March 19, 2013 inspection, a sample of liquid ("Sample B") was collected from the Waterway at the point just prior to its entering the Ditch.

22. The liquid collected as Sample B was dark in color and had a livestock waste odor.

23. A laboratory analysis by the Illinois EPA yielded the following results for Sample B:

<u>Parameter</u>	<u>Concentration</u>	<u>Units</u>
pH	7.6	----
Total Suspended Solids	73	mg/l
Phosphorus	8.15	mg/l
Total Ammonia - N	9.86	mg/l
Nitrate & Nitrite	4.01	mg/l
Biochemical Oxygen Demand	25.9	mg/l

24. During the March 19, 2013 inspection, a sample of liquid ("Sample C") was collected from the Ditch at the point just prior to its entering Prairie Creek.

25. The liquid collected as Sample C was dark in color and had a livestock odor.

26. A laboratory analysis by the Illinois EPA yielded the following results for Sample C:

<u>Parameter</u>	<u>Concentration</u>	<u>Units</u>
pH	7.9	----
Total Suspended Solids	651	mg/l
Phosphorus	5.26	mg/l
Total Ammonia - N	6.65	mg/l
Nitrate & Nitrite	3.83	mg/l
Biochemical Oxygen Demand	20.8	mg/l

27. At the time of the March 19, 2013 inspection, there was a facility feedlot area located on the south side of Hugo Road ("Feedlot #3").

28. At the time of the March 19, 2013 inspection, runoff from Feedlot #3 partially drained to the facility's livestock waste containment system and partially discharged to a drainage ditch to the west of the feedlot ("Drainage Ditch"), due to the topography of the feedlot and lack of berming at the southwest corner of the feedlot.

29. During the March 19, 2013 inspection, a sample of liquid ("Sample GLI-S") was collected from the Drainage Ditch.

30. A laboratory analysis by the Illinois EPA yielded the following results for Sample GLI-S:

<u>Parameter</u>	<u>Concentration</u>	<u>Units</u>
pH	8.1	----
Total Suspended Solids	29	mg/l
Phosphorus	0.557	mg/l
Total Ammonia - N	0.14	mg/l
Nitrate & Nitrite	1.08	mg/l
Biochemical Oxygen Demand	2.7	mg/l

31. At the time of the March 19, 2013 inspection, there was a feedlot directly west of Feedlot #3 ("Feedlot #4").

32. At the time of the March 19, 2013 inspection, runoff from Feedlot #4 would be able to escape from the northeast corner of the feedlot without reporting to the facility's livestock waste containment system, due to lack of berming and the topography of the feedlot.

33. At the time of the March 19, 2013 inspection, the facility's main feedlot area ("Feedlots #7-15") was located in the southeastern part of the facility.

34. At the time of the March 19, 2013 inspection, there was runoff escaping Feedlot #9 without reporting to the facility's livestock waste containment system.

35. At the time of the March 19, 2013 inspection, there were manure solids and staining on the ground adjacent to the main feedlot area.

36. At the time of the March 19, 2013 inspection, there was runoff escaping the main feedlot area through an entrance gate on the north side of the main feedlot area.

37. At the time of the March 19, 2013 inspection, there was runoff escaping the main feedlot area through an entrance gate on the south side of the main feedlot area.

38. At the time of the March 19, 2013 inspection, there was spilled feed and ground staining near a feeder at the entrance gate on the north side of the main feedlot area.

39. At the time of the March 19, 2013 inspection, there was spilled feed and ground staining near a feeder at the entrance gate on the south side of the main feedlot area.

40. Based on the state of the main feedlot area at the time of the March 19, 2013 inspection, a precipitation event at the facility would cause contaminated stormwater to escape the feeders at the entrance gates without reporting to the facility's livestock waste containment system.

41. Based on the state of the main feedlot area at the time of the March 19, 2013 inspection, a precipitation event at the facility would cause runoff to escape from the southeast corner of Feedlot #7 without reporting to the facility's livestock waste containment system.

42. Based on the state of the main feedlot area at the time of the March 19, 2013 inspection, a precipitation event at the facility would cause runoff to escape from the northeast corner of Feedlot #13 without reporting to the facility's livestock waste containment system.

43. Section 12(a) of the Act, 415 ILCS 5/12(a) (2014), 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.

44. 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.

45. 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.

46. 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.

47. 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.

48. Respondent is a “person” as that term is defined by Section 3.315 of the Act, 415 ILCS 5/3.315 (2014).

49. The material discharged from Respondent’s feedlots, stored in Respondent’s livestock waste-handling facilities, and applied utilizing an irrigation boom is “livestock waste”

as that term was defined at the time of the March 19, 2013 inspection in Section 501.295¹ of the Board regulations, 35 Ill. Adm. Code 501.295, as follows:

Livestock excreta and associated feed losses, bedding, wash waters, sprinkling waters from livestock cooling, precipitation polluted by falling on or flowing onto an animal feeding operation and other materials polluted by livestock.

50. The livestock waste discharged by Respondent at the facility is a “contaminant” as that term is defined by Section 3.165 of the Act, 415 ILCS 5/3.165 (2014).

51. Prairie Creek, the Waterway, the Ditch, and the Drainage Ditch are “waters” of the State as that term is defined by Section 3.550 of the Act, 415 ILCS 5/3.550 (2014).

52. Respondent failed to ensure that all of the livestock waste in each of the feedlots at the facility was collected by the facility’s livestock waste containment system.

53. By failing to ensure that all of the livestock waste in each of the feedlots at the facility was collected by the facility’s livestock waste containment system, Respondent caused, threatened, or allowed the discharge of livestock waste to waters of the State.

54. By causing, threatening, or allowing the discharge of contaminants from feedlots at the facility to waters of the State so as to cause or tend to cause water pollution, Respondent violated Section 12(a) of the Act, 415 ILCS 5/12(a) (2014).

55. Respondent conducted its livestock waste application procedures at the facility in a manner so as to cause the discharge of livestock waste to waters of the State.

¹ On August 11, 2014, Section 501.295 of the Board’s regulation, 35 Ill. Adm. Code 501.295, was amended to provide the following definition of “livestock waste”:

Manure, litter, process wastewater, overflow from watering systems, wash waters, sprinkling waters from livestock cooling, precipitation polluted by falling on or flowing onto an Animal Feeding Operation and other materials polluted by livestock, including but not limited to soils and sludges removed from livestock waste storage structures. Livestock waste does not include agricultural stormwater discharge.

56. By causing, threatening, or allowing the discharge of contaminants from the facility to waters of the State as a result of its livestock waste application procedures so as to cause or tend to cause water pollution, Respondent 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 requests that the Board enter an order against Respondent, GREENVILLE LIVESTOCK, INC.:

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

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

C. Ordering Respondent to cease and desist from any further violations of Section 12(a) of the Act, 415 ILCS 5/12(a) (2014);

D. Pursuant to Section 42(a) of the Act, 415 ILCS 5/42(a) (2014), imposing upon Respondent for violating a provision of the Act a civil penalty not to exceed fifty thousand dollars (\$50,000) per violation, and an additional penalty not to exceed ten thousand dollars (\$10,000) for each day during which each violation continues;

E. Pursuant to Section 42(f) of the Act, 415 ILCS 5/42(f) (2014), 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

1-52. Complainant adopts and incorporates by reference herein paragraphs 1 through 52 of Count I as paragraphs 1 through 52 of this Count II.

53. Section 12(d) of the Act, 415 ILCS 5/12(d) (2014), 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.

54. By failing to contain all feedlot runoff in the facility's livestock waste containment system and thereby subjecting the waste to precipitation and stormwater flow in proximity to waters of the State, Respondent deposited livestock waste upon the land in such place and manner so as to create a water pollution hazard.

55. By failing to contain feedlot runoff so as to create a water pollution hazard, Respondent violated Section 12(d) of the Act, 415 ILCS 5/12(d) (2014).

56. By operating livestock waste application equipment in such a manner so as to discharge the livestock waste over a waterway and onto saturated soils, Respondent deposited livestock waste upon the land in such place and manner so as to create a water pollution hazard.

57. By operating livestock waste application equipment in such as manner so as to create a water pollution hazard, Respondent 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 requests that the Board enter an order against Respondent, GREENVILLE LIVESTOCK, INC.:

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

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

C. Ordering Respondent to cease and desist from any further violations of Section 12(d) of the Act, 415 ILCS 5/12(d) (2014);

D. Pursuant to Section 42(a) of the Act, 415 ILCS 5/42(a) (2014), imposing upon Respondent for violating a provision of the Act a civil penalty not to exceed fifty thousand dollars (\$50,000) per violation, and an additional penalty not to exceed ten thousand dollars (\$10,000) for each day during which each violation continues;

E. Pursuant to Section 42(f) of the Act, 415 ILCS 5/42(f) (2014), awarding to Complainant its costs and reasonable attorney's fees; and

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

COUNT III
OFFENSIVE CONDITIONS

1–52. Complainant adopts and incorporates by reference herein paragraphs 1 through 52 of Count I as paragraphs 1 through 52 of this Count III.

53. Section 302.203 of the Board regulations, 35 Ill. Adm. Code 302.203, provides, in pertinent part, as follows:

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.

* * *

54. Respondent caused or allowed livestock waste to be discharged from its feedlots and from its land application field into the Waterway, the Ditch, and the Drainage Ditch, each of which drains to Prairie Creek.

55. Samples of the discharge taken from each of the three areas—the Waterway, the Ditch, and the Drainage Ditch—had an odor of livestock waste and appeared dark in color, consistent with water containing livestock waste.

56. By causing or allowing livestock waste to be discharged to waters of the State, such that the water had an odor of livestock waste and appeared dark in color, consistent with water containing livestock waste, Respondent violated Section 302.203 of the Board regulations, 35 Ill. Adm. Code 302.203, and thereby 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 requests that the Board enter an order against Respondent, GREENVILLE LIVESTOCK, INC.:

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

B. Finding that Respondent has violated Section 302.203 of the Board regulations, 35 Ill. Adm. Code 302.203, and Section 12(a) of the Act, 415 ILCS 5/12(a) (2014);

C. Ordering Respondent to cease and desist from any further violations of Section 302.203 of the Board regulations, 35 Ill. Adm. Code 302.203, and Section 12(a) of the Act, 415 ILCS 5/12(a) (2014);

D. Pursuant to Section 42(a) of the Act, 415 ILCS 5/42(a) (2014), imposing upon Respondent for violating a provision of the Act and an associated regulation a civil penalty not to exceed fifty thousand dollars (\$50,000) per violation, and an additional penalty not to exceed ten thousand dollars (\$10,000) for each day during which each violation continues;

E. Pursuant to Section 42(f) of the Act, 415 ILCS 5/42(f) (2014), awarding to Complainant its costs and reasonable attorney's fees; and

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

COUNT IV
VIOLATIONS RELATED TO INADEQUATE LIVESTOCK MANAGEMENT
FACILITIES

1–52. Complainant adopts and incorporates by reference herein paragraphs 1 through 52 of Count I as paragraphs 1 through 52 of this Count IV.

53. Section 501.403(a) of the Board regulations, 35 Ill. Adm. Code 501.403(a), provides, in pertinent part, as follows:

- (a) Existing livestock management facilities and livestock waste-handling facilities shall have adequate diversion dikes, walls or curbs that will prevent excessive outside surface waters from flowing through the animal feeding operation and will direct runoff to an appropriate disposal, holding or storage area.

* * *

54. Section 501.285 of the Board regulations, 35 Ill. Adm. Code 501.285, provides the following definition of “livestock management facility”:

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

55. Section 501.225(a) of the Board regulations, 35 Ill. Adm. Code 501.225(a), provides the following definition of “animal feeding operation”:

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.

56. Respondent’s facility is both an “animal feeding operation” and a “livestock management facility,” as those terms are defined by Sections 501.225(a) and 501.285 of the Board regulations, 35 Ill. Adm. Code 501.225(a) and 501.285, respectively.

57. Respondent's facility includes "livestock waste-handling facilities" as that term is defined in Section 501.300 of the Board regulations, 35 Ill. Adm. Code 501.300, as follows:

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.

58. Respondent failed to ensure that the feedlots at the facility had adequate containment structures to direct all runoff to the facility's livestock waste containment system, and to prevent outside water from flowing through the feedlots and causing runoff to discharge to adjacent land and surface water.

59. By failing to ensure that the feedlots at the facility had adequate containment structures to direct all runoff to the facility's livestock waste containment system, and to prevent outside water from flowing through the feedlots and causing runoff to discharge to adjacent land and surface water, Respondent violated Section 501.403(a) of the Board regulations, 35 Ill. Adm. Code 501.403(a), and thereby 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 requests that the Board enter an order against Respondent, GREENVILLE LIVESTOCK, INC.:

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

B. Finding that Respondent has violated Section 501.403(a) of the Board regulations, 35 Ill. Adm. Code 501.403(a), and Section 12(a) of the Act, 415 ILCS 5/12(a) (2014);

C. Ordering Respondent to cease and desist from any further violations of the Section 501.403(a) of the Board regulations, 35 Ill. Adm. 501.403(a), and Section 12(a) of the Act, 415 ILCS 5/12(a) (2014);

D. Pursuant to Section 42(a) of the Act, 415 ILCS 5/42(a) (2014), imposing upon Respondent for violating a provision of the Act and an associated regulation a civil penalty not to exceed fifty thousand dollars (\$50,000) per violation, and an additional penalty not to exceed ten thousand dollars (\$10,000) for each day during which each violation continues;

E. Pursuant to Section 42(f) of the Act, 415 ILCS 5/42(f) (2014), awarding to Complainant its costs and reasonable attorney's fees; and

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

COUNT V
VIOLATIONS RELATED TO HANDLING AND STORING LIVESTOCK WASTE

1-57. Complainant adopts and incorporates by reference herein paragraphs 1 through 52 of Count I, and paragraphs 53 through 57 of Count IV, as paragraphs 1 through 57 of this Count V.

58. At the time of the March 19, 2013 inspection, Section 501.404(c)(4)(A)² of the Board regulations, 35 Ill. Adm. Code 501.404(c)(4)(A), provided, in pertinent part, as follows:

(4) Liquid Livestock Waste

- (A) Existing livestock management facilities which handle the waste in a liquid form shall have adequate storage capacity in a liquid manure-holding tank, lagoon, holding pond, or

² On August 11, 2014, Section 501.404(c)(4)(A) of the Board regulations, 35 Ill. Adm. Code 501.404(c)(4)(A), was amended to provide as follows:

Existing livestock management facilities that handle the waste in a liquid form shall have adequate storage capacity in a liquid manure-holding tank, lagoon, holding pond, or any combination thereof so as not to cause air or water pollution as defined in the Act or applicable regulations.

* * *

any combination thereof so as not to cause air or water pollution as defined in the Act or applicable regulations.
* * *

59. Respondent failed to ensure that its holding pond had adequate storage capacity so as to not allow liquid livestock waste to cause or tend to cause water pollution.

60. By failing to ensure that its holding pond had adequate storage capacity so as to not allow liquid livestock waste to cause or tend to cause water pollution, Respondent violated Section 501.404(c)(4)(A) of the Board regulations, 35 Ill. Adm. Code 501.404(c)(4)(A), and thereby 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 requests that the Board enter an order against Respondent, GREENVILLE LIVESTOCK, INC.:

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

B. Finding that Respondent has violated Section 501.404(c)(4)(A) of the Board regulations, 35 Ill. Adm. Code 501.404(c)(4)(A), and Section 12(a) of the Act, 415 ILCS 5/12(a) (2014);

C. Ordering Respondent to cease and desist from any further violations of Section 501.404(c)(4)(A) of the Board regulations, 35 Ill. Adm. Code 501.404(c)(4)(A), and Section 12(a) of the Act, 415 ILCS 5/12(a) (2014);

D. Pursuant to Section 42(a) of the Act, 415 ILCS 5/42(a) (2014), imposing upon Respondent for violating a provision of the Act and an associated regulation a civil penalty not to exceed fifty thousand dollars (\$50,000) per violation, and an additional penalty not to exceed ten thousand dollars (\$10,000) for each day during which each violation continues;

E. Pursuant to Section 42(f) of the Act, 415 ILCS 5/42(f) (2014), awarding to Complainant its costs and reasonable attorney's fees; and

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

COUNT VI
VIOLATIONS RELATED TO FIELD APPLICATION OF LIVESTOCK WASTE

1-57. Complainant adopts and incorporates by reference herein paragraphs 1 through 52 of Count I, and paragraphs 53 through 57 of Count IV, as paragraphs 1 through 57 of this Count VI.

58. At the time of the March 19, 2013 inspection, Section 501.405(a)³ of the Board regulations, 35 Ill. Adm. Code 501.405(a), provided as follows:

- (a) 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.

59. Section 560.203 of the Board regulations, 35 Ill. Adm. Code 560.203, provides as follows:

Livestock waste should not be applied within 200 feet of surface water unless the water is upgrade or there is adequate diking. There should be a

³ On August 11, 2014, Section 501.405(a) of the Board regulations, 35 Ill. Adm. Code 501.405(a) was amended to provide 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.

vegetative strip between the application area and any surface water. Waste should not be applied within 150 feet of any water well. Conservative loading rates should be used in the case of a high water table or shallow earth cover to fractured bedrock. Caution should be exercised in applying wastes, particularly on porous soils, so as not to cause nitrate or bacteria contamination of ground waters. Such shallow ground waters are often the source of private wells in rural areas.

60. Respondent applied livestock waste within 200 feet of the Waterway, a surface water, at the facility.

61. Section 560.207 of the Board regulations, 35 Ill. Adm. Code 560.207, provides as follows:

Livestock waste should not be applied during a rainfall or to a saturated soil. Application should not be made by spraying immediately after a rainfall event. Judgment should be used in planning waste applications in conjunction with weather patterns.

62. Respondent applied livestock waste to saturated soil at the facility.

63. Respondent field-applied livestock waste to land that, at the time, was saturated by precipitation, and within 200 feet of a surface water, causing livestock waste to reach adjacent surface waters, and thus exceeded the practical limit of field-application on that land.

64. By field-applying livestock waste to land that, at the time, was saturated by precipitation, and within 200 feet of a surface water, causing livestock waste to reach adjacent surface waters, and thus exceeding the practical limit of field-application on that land, Respondent violated Section 501.405(a) of the Board regulations, 35 Ill. Adm. Code 501.405(a), and thereby 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 requests that the Board enter an order against Respondent, GREENVILLE LIVESTOCK, INC.:

- A. Authorizing a hearing in this matter at which time Respondent will be required to answer the allegations herein;
- B. Finding that Respondent has violated Section 501.405(a) of the Board regulations, 35 Ill. Adm. Code 501.405(a), and Section 12(a) of the Act, 415 ILCS 5/12(a) (2014);
- C. Ordering Respondent to cease and desist from any violations of Section 501.405(a) of the Board regulations, 35 Ill. Adm. Code 501.405(a) (effective August 11, 2014), 502.620(a) of the Board regulations, 35 Ill. Adm. Code 502.620(a) (effective August 11, 2014), 502.645(b)(1) of the Board regulations, 35 Ill. Adm. Code 502.645(b)(1) (effective August 11, 2014), and Section 12(a) of the Act, 415 ILCS 5/12(a) (2014);
- D. Pursuant to Section 42(a) of the Act, 415 ILCS 5/42(a) (2014), imposing upon Respondent for violating a provision of the Act and an associated regulation a civil penalty not to exceed fifty thousand dollars (\$50,000), and an additional penalty not to exceed ten thousand dollars (\$10,000) for each day during which each violation continues;
- E. Pursuant to Section 42(f) of the Act, 415 ILCS 5/42(f) (2014), awarding to Complainant its costs and reasonable attorney's fees; and
- F. Granting such other relief as the Board may deem appropriate.

COUNT VII
NPDES PERMIT VIOLATIONS

1-57. Complainant adopts and incorporates by reference herein paragraphs 1 through 52 of Count I, paragraphs 54 through 55 of Count III, paragraphs 60 and 62 through 63 of Count VI, as paragraphs 1 through 57 of this Count VII.

58. Section 12(f) of the Act, 415 ILCS 5/12(f) (2014), provides, in pertinent part, 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.

* * *

59. Section 309.102(a) of the Board regulations, 35 Ill. Adm. Code 309.102(a), provides as follows:

- (a) Except as in compliance with the provisions of the Act, Board regulations, and the CWA, and the provisions and conditions of the NPDES permit issued to the discharger, the discharge of any contaminant or pollutant by any person into the waters of the State from a point source or into a well shall be unlawful.

60. Special Conditions 3(a) and 3(d) of NPDES General Permit No. ILA010061 issued to Respondent by the Illinois EPA for the facility provide:

SPECIAL CONDITION 3: Discharge Limitations

- a. During the period beginning with the date of the authorization letter and lasting through the expiration date, the permittee is prohibited from discharging livestock wastes (including feedlot runoff) to waters of the State except overflow from livestock waste handling facilities that is caused by 25-year, 24-hour precipitation events, except as prohibited in 3(j) below. The overflow is only allowed under this permit when Special Conditions 3(c), 3(h), 7(b), 7(c), 7(e), 7(i through k) and 7(l) are met for the overflowing structure.

* * *

- d. Livestock waste application areas, such as pasture or other agricultural land, shall be utilized in such a manner that livestock waste shall be assimilated into the land and crops thereby excluding discharge of livestock waste to waters of the State. Agricultural stormwater discharges are allowed from the livestock waste land application areas provided they do not cause a water quality violation pursuant to the Illinois Environmental Protection

Act, Subtitle C: Water Pollution or Subtitle E: Agricultural Related Pollution.

61. Special Conditions 4(c)(i), 4(c)(ii), and 4(c)(vi) of NPDES General Permit No. ILA010061 issued to Respondent by the Illinois EPA for the facility provide, in pertinent part:

SPECIAL CONDITION 4: Nutrient Management Plan

* * *

- c. Livestock wastes shall be applied to land within the following guidelines:
 - i. Livestock wastes shall not be discharged to waters of the State.
 - ii. Livestock waste application shall not be permitted upon land that has been saturated by rainfall within the 24 hour period preceding the time of application.
 - vi. Livestock waste shall not be applied within 100 feet of downgradient open subsurface drainage intakes, agricultural drainage wells, sinkholes, waterways or other conduits to surface waters, unless a 35 foot vegetative buffer exists between the land application area and the waterways, open subsurface drainage intakes, agricultural drainage wells, sinkholes or other conduits to surface water. Livestock waste shall not be applied within 200 feet of surface waters.

* * *

62. The livestock waste discharges from the facility are “point source” discharges as defined by Section 1362(14) of the CWA, 33 U.S.C. § 1362(14), as follows:

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.

63. No precipitation that qualified as a 24-hour, 25-year storm event occurred preceding or during the time of the subject discharges.

64. Respondent discharged livestock waste from the facility to waters of the State in violation of Special Condition 3(a) of its NPDES permit.

65. By discharging livestock waste from the facility to waters of the State in violation of Special Condition 3(a) of its NPDES permit, Respondent violated Section 12(f) of the Act, 415 ILCS 5/12(f) (2014), and Section 309.102(a) of the Board regulations, 35 Ill. Adm. Code 309.102(a).

66. Respondent applied livestock waste to land at the facility in a manner such that the waste was not assimilated into the land and crops, causing discharges to waters of the State, and causing the water to have a dark appearance and odor of manure in violation of Special Condition 3(d) of Respondent's NPDES permit.

67. By applying livestock waste to land at the facility in a manner such that the waste was not assimilated into the land and crops, causing discharges to waters of the State, and causing the water to have a dark appearance and odor of manure in violation of Special Condition 3(d) of Respondent's NPDES permit, Respondent violated Section 12(f) of the Act, 415 ILCS 5/12(f) (2014), and Section 309.102(a) of the Board regulations, 35 Ill. Adm. Code 309.102(a).

68. Respondent applied livestock waste to land at the facility in a manner that caused discharges of the waste to waters of the State in violation of Special Condition 4(c)(i) of its NPDES permit.

69. By applying livestock waste to land at the facility in a manner that caused discharges of the waste to waters of the State in violation of Special Condition 4(c)(i) of its NPDES permit, Respondent violated Section 12(f) of the Act, 415 ILCS 5/12(f) (2014), and Section 309.102(a) of the Board regulations, 35 Ill. Adm. Code 309.102(a).

70. Respondent applied livestock waste to land at the facility that was saturated by rainfall within the 24 hour period preceding the time of application in violation of Special Condition 4(c)(ii) of its NPDES permit.

71. By applying livestock waste to land at the facility that was saturated by rainfall within the 24 hour period preceding the time of application in violation of Special Condition 4(c)(ii) of its NPDES permit, Respondent violated Section 12(f) of the Act, 415 ILCS 5/12(f) (2014), and Section 309.102(a) of the Board regulations, 35 Ill. Adm. Code 309.102(a).

72. Respondent applied livestock waste to land at the facility within 200 feet of the Waterway, a surface water, in violation of Special Condition 4(c)(vi) of its NPDES permit.

73. By applying livestock waste to land at the facility within 200 feet of the Waterway, a surface water, in violation of Special Condition 4(c)(vi) of its NPDES permit, Respondent violated Section 12(f) of the Act, 415 ILCS 5/12(f) (2014), and Section 309.102(a) of the Board regulations, 35 Ill. Adm. Code 309.102(a).

PRAYER FOR RELIEF

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an order against Respondent, GREENVILLE LIVESTOCK, INC.:

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

B. Finding that Respondent has violated Section 12(f) of the Act, 415 ILCS 5/12(f) (2014), and Section 309.102(a) of the Board regulations, 35 Ill. Adm. Code 309.102(a);

C. Ordering Respondent to cease and desist from any further violations of Section 12(f) of the Act, 415 ILCS 5/12(f) (2014), and Section 309.102(a) of the Board regulations, 35 Ill. Adm. Code 309.102(a);

D. Pursuant to Section 42(b)(1) of the Act, 415 ILCS 5/42(b)(1) (2014), imposing upon Respondent for violating Section 12(f) of the Act and any NPDES permit or term or condition thereof, and any regulation relating to the NPDES permit program, a civil penalty not to exceed ten thousand dollars (\$10,000) for each day of each violation;

E. Pursuant to Section 42(f) of the Act, 415 ILCS 5/42(f) (2014), 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

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Environmental Enforcement/
Asbestos Litigation Division

By:


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