

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

PEOPLE OF THE STATE OF ILLINOIS,)	
by KWAME RAOUL, Attorney General)	
of the State of Illinois,)	
)	
Complainant,)	
)	
v.)	PCB No. 2023-
)	(Enforcement-Water)
TENNIS DAIRY FARM, LLP,)	
an Illinois limited liability partnership,)	
)	
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, copy 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,
KWAME RAOUL, Attorney General
of the State of Illinois

By: /s/Kevin D. Barnai
Kevin D. Barnai, #6329422
Assistant Attorney General
Environmental Bureau
Illinois Attorney General's Office
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Date: June 7, 2023

Service List

For the Respondent

Tennis Dairy Farms, LLP
c/o Louis Michael Tennis, Registered Agent
3907 N. 1400 Boulevard
Browns, IL 62818-0000
(via certified mail)

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

PEOPLE OF THE STATE OF ILLINOIS,)
by KWAME RAOUL, Attorney General)
of the State of Illinois,)
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Complainant)
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TENNIS DAIRY FARMS, LLP,)
an Illinois limited liability partnership,)
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Respondent.)

PCB No.
(Enforcement – Water)

COMPLAINT

Complainant, PEOPLE OF THE STATE OF ILLINOIS, by KWAME RAOUL, Attorney General of the State of Illinois, complains of the Respondent, TENNIS DAIRY FARMS, LLP, an Illinois limited liability partnership, as follows:

COUNT I
WATER POLLUTION

1. This Count is brought on behalf of the PEOPLE OF THE STATE OF ILLINOIS by KWAME RAOUL, Attorney General of the State of Illinois, on his own motion, pursuant to the terms and provisions of Section 31 of the Illinois Environmental Protection Act (“Act”), 415 ILCS 5/31 (2020), against Respondent TENNIS DAIRY FARMS, LLP.

2. The Illinois Environmental Protection Agency (“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 (2020), 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 (2020), and charged, *inter alia*, with the duty of promulgating standards and regulations under the Act.

4. At all times relevant to this Complaint, Tennis Dairy has been an Illinois limited liability partnership in good standing.

5. Tennis Dairy operates an Animal Feeding Operation (“AFO”) located at 3907 N 1400 Boulevard, Browns, Wabash County, Illinois 62818, which houses approximately 325 dairy cows on 350 acres of land (the “Site”).

6. The Site has a livestock waste containment system, consisting of a 3-stage holding pond with a recirculating alley flush system, for the manure generated onsite.

7. On March 26, 2020, Illinois EPA conducted an inspection of the Site.

8. During the March 26, 2020 inspection, Illinois EPA observed that the pipe from the 3-stage holding pond to the flush tank (“Abandoned Pipe”) had been disconnected and left in the berm and a temporary pipe had been installed to connect the 3-stage holding pond to the flush tank.

9. On March 26, 2020, Illinois EPA observed that rainfall had raised the wastewater level in the holding pond to the level of the Abandoned Pipe, allowing wastewater and manure to flow through the pipe to the ground (“Release”).

10. Illinois EPA estimated that the manure-laden wastewater discharge was approximately 6,600 gallons.

11. The manure-laden wastewater discharge flowed overland to an unnamed tributary to Bonpas Creek (“Tributary”). Bonpas Creek is a tributary to the Wabash River.

12. Illinois EPA observed the Tributary downstream from the Site had a dark color, turbidity, and a slight smell of livestock waste.

13. Section 12(a) of the Act, 415 ILCS 5/12(a) (2020), 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.

14. Section 3.315 of the Act, 415 ILCS 5/3.315 (2020), 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.

15. Respondent, a limited liability partnership, is a “person” as that term is defined in Section 3.315 of the Act, 415 ILCS 5/3.315 (2020).

16. Section 3.165 of the Act, 415 ILCS 5/3.165 (2020), provides the following definition:

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

17. The manure-laden wastewater is a “contaminant,” as that term is defined in Section 3.165 of the Act, 415 ILCS 5/3.165 (2020).

18. Section 3.545 of the Act, 415 ILCS 5/3.545 (2020), 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.

19. Section 3.550 of the Act, 415 ILCS 5/3.550 (2020), 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.

20. The Tributary is a “water” as that term is defined in Section 3.550 of the Act, 415 ILCS 5/3.550 (2020).

21. The discharge of manure-laden wastewater into the Tributary caused the alteration of the physical and chemical properties of the water so as to create a nuisance and 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, and therefore is “water pollution” as that term is defined in Section 3.545 of the Act, 415 ILCS 5/3.545 (2020).

22. On or before March 26, 2020, Respondent caused, threatened, or allowed the discharge of manure-laden wastewater into the Tributary, causing or tending to cause water pollution, and thereby violated Section 12(a) of the Act, 415 ILCS 5/12(a) (2020).

PRAYER FOR RELIEF

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an order against the Respondent, TENNIS DAIRY FARMS, LLP, an Illinois limited liability partnership, on this Count I, as follows:

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) (2020);

C. Ordering Respondent to cease and desist from further violations of Section 12(a) of the Act, 415 ILCS 5/12(a) (2020);

D. Assessing against Respondent, pursuant to Section 42(a) of the Act, 415 ILCS 5/42(a) (2020), a civil penalty of Fifty Thousand Dollars (\$50,000.00) for each violation of Section 12(a) of the Act, 415 ILCS 5/12(a) (2020), and an additional Ten Thousand Dollars (\$10,000.00) for each day of each violation;

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

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

COUNT II
WATER POLLUTION HAZARD

1-21. Complainant re-alleges and incorporates by reference herein paragraphs 1 through 21 of Count I as paragraphs 1 through 21 of this Count II.

22. Section 12(d) of the Act, 415 ILCS 5/12(d) (2020), 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.

23. On or before March 26, 2020, Respondent caused or allowed the discharge of manure-laden wastewater through the Release upon land adjacent to the Tributary so as to create a water pollution hazard.

24. By causing or allowing the release of contaminants upon the land in such a place and manner so as to create a water pollution hazard, Respondent has violated Section 12(d) of the Act, 415 ILCS 5/12(d) (2020).

PRAYER FOR RELIEF

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an order against the Respondent, TENNIS DAIRY FARMS, LLP, an Illinois limited liability partnership, on this Count II, as follows:

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) (2020);

C. Ordering Respondent to cease and desist from further violations of Section 12(d) of the Act, 415 ILCS 5/12(d) (2020);

D. Assessing against Respondent, pursuant to Section 42(a) of the Act, 415 ILCS 5/42(a) (2020), a civil penalty of Fifty Thousand Dollars (\$50,000.00) for each violation of Section 12(d) of the Act, 415 ILCS 5/12(a) (2020), and an additional Ten Thousand Dollars (\$10,000.00) for each day of each violation;

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

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

COUNT III
OFFENSIVE CONDITIONS

1-21. Complainant re-alleges and incorporates by reference herein paragraphs 1 through 21 of Count I as paragraphs 1 through 21 of this Count III.

22. Section 302.203 of the Board's Water Pollution Regulations, 35 Ill. Adm. Code 302.203, provides 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. The allowed mixing provisions of Section 302.102 shall not be used to comply with the provisions of this Section.

23. 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.

24. 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.

25. The manure-laden wastewater is "effluent," as that term is defined in Section 301.275 of the Board's Water Pollution Regulations, 35 Ill. Adm. Code 301.275.

26. On or before March 26, 2020, Respondent caused or allowed the discharge of manure-laden wastewater resulting in sludge or bottom deposits, odor, and color or turbidity of other than natural origin in the Tributary, in violation of the water quality standard in Section 302.203 of the Board's Water Pollution Regulations, 35 Ill. Adm. Code 302.203.

27. By violating the water quality standard in Section 302.203 of the Board's Water Pollution Regulations, Respondent thereby violated Section 304.105 of the Board's Water Pollution Regulations, 35 Ill. Adm. Code 304.105.

28. 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) (2020).

PRAYER FOR RELIEF

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an order against the Respondent, TENNIS DAIRY FARMS, LLP, an Illinois limited liability partnership, on this Count III, as follows:

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) (2020), and Sections 302.203 and 304.105 of the Board's Regulations, 35 Ill. Adm. Code 302.203 and 304.105;

C. Ordering Respondent to cease and desist from further violations of Section 12(a) of the Act, 415 ILCS 5/12(a) (2020), and Sections 302.203 and 304.105 of the Board's Regulations, 35 Ill. Adm. Code 302.203 and 304.105;

D. Assessing against Respondent, pursuant to Section 42(a) of the Act, 415 ILCS 5/42(a) (2020), a civil penalty of Fifty Thousand Dollars (\$50,000.00) for each violation of Section 12(a) of the Act, 415 ILCS 5/12(a) (2020), and Sections 302.203 and 304.105 of the Board's Regulations, 35 Ill. Adm. Code 302.203 and 304.105, and an additional Ten Thousand Dollars (\$10,000.00) for each day of each violation;

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

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

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/ Andrew Armstrong
ANDREW B. ARMSTRONG, Chief
Environmental Bureau
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CERTIFICATE OF SERVICE

I, Kevin D. Barnai, an Assistant Attorney General, certify that on the 7th of June, 2023, I caused to be served by U.S. Certified 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 located at 500 South Second Street, Springfield, Illinois 62706.

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