

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

PEOPLE OF THE STATE OF ILLINOIS,	)	
	)	
Complainant,	)	
	)	
v.	)	PCB No. 26-
	)	(Enforcement - Water)
PARAGON PORK, INC.,	)	
an Illinois corporation, and	)	
KINTZLE CONSTRUCTION., INC.	)	
an Iowa corporation,	)	
	)	
Respondents.	)	

NOTICE OF FILING

TO: Persons on 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 Complaint, a true and correct copy of which is attached hereto 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.

Respectfully submitted,

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

By: /s/ Jason Clark
Jason Clark
Assistant Attorney General
Environmental Bureau
Illinois Attorney General's Office
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Date: October 30, 2025

Service List

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CERTIFICATE OF SERVICE

I, Jason Clark, an Assistant Attorney General, certify that on the 30th day of October, 2025, I caused to be served the foregoing Notice of Filing and Complaint on the parties named on the attached Service List, by electronic mail and certified mail with return receipt by placing envelope with pre-paid postage office located at 115 S. LaSalle, Chicago, IL 60606.

/s/ Jason Clark
Jason Clark
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BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

PEOPLE OF THE STATE OF ILLINOIS,	)	
by KWAME RAOUL, Attorney	)	
General of the State of Illinois,	)	
	)	
Complainant,	)	
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v.	)	PCB No. 26
	)	(Enforcement - Water)
PARAGON PORK, INC.,	)	
an Illinois corporation, and	)	
KINTZLE CONSTRUCTION, INC.,	)	
an Iowa corporation,	)	
	)	
Respondents.	)	

COMPLAINT

Complainant, PEOPLE OF THE STATE OF ILLINOIS, by KWAME RAOUL, Attorney General of the State of Illinois (“Complainant”), on his own motion and at the request of the Illinois Environmental Protection Agency, complains of Respondents, PARAGON PORK, INC., an Illinois corporation, and KINTZLE CONSTRUCTION, INC., an Iowa corporation (collectively, “Respondents”), as follows:

COUNTS I, II, III, IV, V, VI, VII, VIII; Claims against Paragon Pork, Inc.

COUNT I
WATER POLLUTION AS TO PARAGON

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 and at the request of the Illinois Environmental Protection Agency (“Illinois EPA”), against Paragon Pork, Inc., an Illinois corporation, pursuant to Section 31 of the Illinois Environmental Protection Act (“Act”), 415 ILCS 5/31 (2024).

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 (2024), and is charged, *inter alia*, with the duty of enforcing the Act. The Illinois EPA is further charged with the duty to abate violations of the National Pollution Discharge Elimination System (“NPDES”) permit program under the Federal Clean Water Act (“CWA”), 33 U.S.C. § 1342(b)(7).

3. At all times relevant to this Complaint, Paragon Pork, Inc. (“Paragon”) was and is an Illinois corporation registered and in good standing with the Illinois Secretary of State’s Office.

4. At all times relevant to this Complaint, Paragon owned and operated, and continues to own and operate, a farrow-to-wean swine operation, with capacity of approximately 5,000 head of swine each weighing 55 pounds or more, located at 101 South Stone Hill Road in Chana, Ogle County, Illinois (the “Facility”). Paragon owns the fields that border the Facility to the south and are located north of Illinois Route 64 and on the east and west side of South Stone Hill Road (“Paragon’s Fields”). Paragon is the owner of and responsible for all livestock waste generated at the facility, (“Paragon’s Livestock Waste”).

5. Stormwater runoff at the Facility flows southwest via unnamed tributaries for approximately 1.5 miles to Honey Creek, which is a tributary to the Kyte River, which is a tributary to the Rock River.

6. At all times relevant to this Complaint, Kintzle Construction, Inc. (“Kintzle”) was and is an Iowa corporation qualified to transact business in the State of Illinois. Kintzle is registered with the Illinois Secretary of State’s Office and is in good standing.

7. At all times relevant to this Complaint, Kintzle operated, and continues to operate, a livestock waste land application business that contracts with facilities in Illinois, Iowa, and

Wisconsin. Kintzle's livestock waste land application business is located at 10227 Lone Pine Road in Epworth, Iowa.

8. Paragon contracted with Kintzle to conduct the land application of Paragon's Livestock Waste from the Facility onto Paragon's Fields. Paragon directed Kintzle as to what livestock waste was to be land applied and which of Paragon Fields Kintzle was allowed to use for that land application.

9. Beginning on or about November 4, 2020, and continuing until November 5, 2020, or on dates better known to Respondents, Kintzle land applied 5,758,000 gallons of Paragon's Livestock Waste from the Facility to 231 acres of Paragon's Fields at an average rate of 24,928 gallons per acre.

10. On November 5, 2020, Illinois Department of Natural Resources ("IDNR") received a complaint of a fish kill event in a small stream near Chana, Illinois (the "Fish Kill").

11. On November 6, 2020, IDNR staff investigated Honey Creek and its tributaries. IDNR first investigated Honey Creek upstream and downstream at the South Chana Road bridge, which is southwest of the Facility. At that location in Honey Creek, there were dead fish, as well as cloudy, discolored water.

12. On November 6, 2020, IDNR then investigated the junction of the main stem of Honey Creek and a small tributary stream that enters from the east, which is downstream from the Facility. At this location, there were dead fish and very cloudy, discolored water coming from the east tributary branch. IDNR staff, wearing waders, proceeded up the east tributary branch for approximately 60 yards where there was more discolored water and dead fish. IDNR staff proceeded by foot approximately 30 yards up the main stem of Honey Creek from the tributary junction and there was clear water and no dead or live fish.

13. On November 6, 2020, IDNR investigated the South Stone Hill Road culvert over the east branch tributary to Honey Creek (“Stone Hill Road Culvert”). At this location, there were dead fish, as well as a large pool of discolored water with an obvious manure odor downstream of the Stone Hill Road Culvert on the tributary stream to Honey Creek. At the upstream side of the Stone Hill Road Culvert, there was a concrete flow control structure that had two subsurface drain tile outlets with water flowing from it. Also, there were dead fish at the edges of the concrete flow control structure and within the road culvert.

14. On November 6, 2020, IDNR investigated the Illinois Route 64 culvert that crosses over the waterway that feeds the northern tributary tile at the South Stone Hill Road concrete flow control structure. At the Illinois Route 64 culvert, there was a large pool of black colored water with a strong manure odor.

15. On November 6, 2020, IDNR investigated downstream of the South Chana Road bridge along an agricultural field edge that borders Honey Creek. At multiple locations in the stream, there were dead fish, live fish in physical distress near the surface, and discolored water.

16. IDNR determined that the upper limit of the fish kill was located immediately downstream of the Stone Hill Road Culvert. The lower limit of the fish kill was located at an agricultural culvert that crosses Honey Creek. The total length of the fish kill was approximately 1.59 miles of stream.

17. On November 6, 2020, IDNR estimated 1,447 fish had been killed, however, this is an underestimation as the stream bottom in the fish kill stations contained a volume of leaf and grass litter which made the deceased fish difficult to find and document. Fish species identified in the kill were: creek chub, central stone roller, blacknose dace, and golden shiner.

18. On November 6, 7, and 10, 2020, Illinois EPA conducted inspections of the Facility in response to IDNR's investigation of the Fish Kill ("November 2020 Inspection").

19. As part of the November 2020 Inspection, Illinois EPA made surface water observations, collected surface water samples, interviewed Facility representatives, and reviewed available records.

20. During the November 2020 Inspection, Illinois EPA collected water samples from four locations: the unnamed tributary to Honey Creek at its crossing with Illinois Route 64 ("Station C-1"); the unnamed tributary to Honey Creek at its crossing with Stone Hill Road at the Stone Hill Road Culvert ("Station C-2"); Honey Creek at its crossing with Chana Road ("Station C-3"); and Honey Creek at its crossing with Rocky Hollow Road ("Station C-4").

21. During the Illinois EPA inspection on November 6, 2020, at Station C-1, which is directly south of Paragon's Fields at the Facility in the unnamed tributary to Honey Creek, there was a pool of liquid that was turbid, dark-colored, and had a livestock waste odor. On November 6, 2020, the water samples collected at Station C-1 measured 0.3 milligrams per liter ("mg/L") for dissolved oxygen ("DO") and 880 mg/L for ammonia nitrogen.

22. During the Illinois EPA inspection on November 6, 2020, at Station C-2, which is approximately 0.45 miles downstream of Station C-1 at the Stone Hill Road Culvert, there is a concrete flow control structure on the east side of Stone Hill Road with two subsurface drain tile outlets. At Station C-2, there was also active flow from both outlets, and the northern outlet came from the direction of Station C-1. At the Station C-2 location, there was a pool on the west side of the road where a relatively clear flow of water was flowing over a stagnant subsurface pool. On November 6, 2020, the water samples collected at Station C-2 measured 0.9 mg/L for DO and 46.6 mg/L for ammonia nitrogen.

23. During the Illinois EPA inspection on November 6, 2020, at Station C-3, which is approximately 1.45 miles downstream of Station C-1, the leading edge of the slug of impacted surface water was between Honey Creek at Chana Road and Honey Creek at Rocky Hollow Road. On November 6, 2020, the water samples collected at Station C-3 measured 8.2 mg/L for DO and 18.8 mg/L for ammonia nitrogen.

24. During the Illinois EPA inspection on November 6, 2020, at Station C-4, which is approximately 3.05 miles downstream of Station C-1, the water samples collected measured 9.1 mg/L for DO and 8.44 mg/L for ammonia nitrogen.

25. During the Illinois EPA inspection on November 7, 2020, there was minor pooling of Paragon's Livestock Waste on the field surface approximately 100 feet west of Station C-1. There was also a stagnant pool of turbid, dark brown, odorous liquid through the entire length of the concrete culvert under Illinois Route 64 and on toward the south for approximately 100 feet. The pool overflowed to a storm drain and subsurface drainage system, which drains toward Station C-2.

26. During the Illinois EPA inspection on November 7, 2020, at Station C-2, there was active, clear flow from the two subsurface drain tile outlets on the east side of Stone Hill Road and a pool on the west side of Stone Hill Road. Across the top of the pool on the west side of Stone Hill Road, there was an active, clear flow to a depth of approximately 6 inches. Below the layer of active flow, there was a layer of turbid, brown liquid.

27. During the Illinois EPA inspection on November 7, 2020, at Station C-3, there was clear flow with no unusual odor, but there was one pocket of dense foam on the stream surface caught in the stream vegetation.

28. During the Illinois EPA inspection on November 7, 2020, at Station C-4, there was clear flow and no unusual odor, but there were two pockets of foam on the stream surface caught in the stream vegetation.

29. During the Illinois EPA inspection on November 10, 2020, at Station C-1, the liquid level in the pool had dropped several inches, but there was no improvement in the quality of the liquid when compared to the previous inspections on November 6 and 7, 2020.

30. During the Illinois EPA inspection on November 10, 2020, at Station C-2, there was lower turbidity and lighter color in the subsurface pool on the west side of the road when compared to the previous inspections on November 6 and 7, 2020. There were two dead fish floating at the surface along the northern bank of the tributary.

31. Following the November 2020 Inspection, Illinois EPA determined that the land application of Paragon's Livestock Waste on Paragon's Fields at the Facility, which began on or about November 4, 2020, and continuing until November 5, 2020, or on dates better known to Respondents, resulted in a dry weather discharge of Paragon's Livestock Waste from Paragon's Fields at the Facility into the unnamed tributaries to Honey Creek. The discharge of Paragon's Livestock Waste flowed south from Paragon's Fields at the Facility to Station C-1 and then through subsurface drainage to Station C-2. At Station C-2, Paragon's Livestock Waste flowed west into the unnamed tributary to Honey Creek. Subsequently, Paragon's Livestock Waste continued to flow downstream through the unnamed tributary to Honey Creek, into Honey Creek, and further west downstream from Stations C-3 to C-4.

32. Section 12(a) of the Act, 415 ILCS 5/12(a) (2024), 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;

* * *

33. Section 3.315 of the Act, 415 ILCS 5/3.315 (2024), 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.

34. Paragon, an Illinois corporation, is a “person” as that term is defined in Section 3.315 of the Act, 415 ILCS 5/3.315 (2024).

35. Section 3.165 of the Act, 415 ILCS 5/3.165 (2024), contains the following definition:

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

36. Livestock waste is a “contaminant” as that term is defined in Section 3.165 of the Act, 415 ILCS 5/3.165 (2024).

37. Section 3.545 of the Act, 415 ILCS 5/3.545 (2024), contains the following definition:

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

38. Section 3.550 of the Act, 415 ILCS 5/3.550 (2024), contains the following definition:

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

39. The unnamed tributaries to Honey Creek and Honey Creek are “waters” as that term is defined in Section 3.550 of the Act, 415 ILCS 5/3.550 (2024).

40. Beginning on or about November 4, 2020, and continuing until November 5, 2020, or on dates better known to Paragon, Paragon caused, threatened, or allowed Paragon’s Livestock Waste to be discharged from Paragon’s Fields at the Facility to the unnamed tributaries to Honey Creek.

41. The discharge of Paragon’s Livestock Waste into the unnamed tributaries to Honey Creek did, or was likely to, create a nuisance or rendered 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 was “water pollution,” as that term is defined in Section 3.545 of the Act, 415 ILCS 5/3.545 (2024).

42. By causing, threatening, or allowing Paragon’s Livestock Waste to be discharged from Paragon’s Fields at the Facility into the unnamed tributaries to Honey Creek and into Honey Creek, Paragon caused, threatened, or allowed the discharge of a contaminant into the environment so as to cause or tend to cause water pollution in Illinois, and thereby violated Section 12(a) of the Act, 415 ILCS 5/12(a) (2024).

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an Order against Respondent, PARAGON PORK, INC., an Illinois corporation, with respect to Count I:

1. Authorizing a hearing in this matter at which time Paragon will be required to answer the allegations herein;
2. Finding that Paragon has violated Section 12(a) of the Act, 415 ILCS 5/12(a) (2024);
3. Ordering Paragon to cease and desist from any future violations of Section 12(a) of the Act, 415 ILCS 5/12(a) (2024);
4. Assessing against Paragon, pursuant to Section 42(a) of the Act, 415 ILCS 5/42(a) (2024), a civil penalty of Fifty Thousand Dollars (\$50,000.00) for each violation of Section 12(a), 415 ILCS 5/12(a) (2024) and that occurred prior to June 16, 2025, and an additional Ten Thousand Dollars (\$10,000.00) for each day of each violation that continued;
5. Taxing all costs in this action, including, but not limited to, attorney, expert witness, and consultant fees against Paragon; and
6. Granting other such relief as the Board deems appropriate and just.

COUNT II
WATER POLLUTION HAZARD AS TO PARAGON

1-40. Complainant re-alleges and incorporates by reference herein paragraphs 1 through 31 and 33 through 41 of Count I as paragraphs 1 through 40 of this Count II.

41. Section 12(d) of the Act, 415 ILCS 5/12(d) (2024), 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.

42. Beginning on or about November 4, 2020, and continuing until November 5, 2020, or on dates better known to Paragon, Paragon, through its contract with Kintzle, deposited

Paragon's Livestock Waste upon Paragon's Fields at the Facility, such that Paragon's Livestock Wastes flowed from Paragon's Fields and into the unnamed tributaries to Honey Creek and continued into Honey Creek so as to create a water pollution hazard.

43. By depositing Paragon's Livestock Waste upon Paragon's Fields at the Facility, Paragon deposited contaminants upon the land in such a place and manner so as to create a water pollution hazard, and thereby violated Section 12(d) of the Act, 415 ILCS 5/12(d) (2024).

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an Order against Respondent, PARAGON PORK, INC., an Illinois corporation, with respect to Count II:

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

2. Finding that Paragon has violated Section 12(d) of the Act, 415 ILCS 5/12(d) (2024);

3. Ordering Paragon to cease and desist from any future violations of Section 12(d) of the Act, 415 ILCS 5/12(d) (2024);

4. Assessing against Paragon, pursuant to Section 42(a) of the Act, 415 ILCS 5/42(a) (2024), a civil penalty of Fifty Thousand Dollars (\$50,000.00) for each violation of Section 12(d) of the Act, 415 ILCS 5/12(d) (2024) that occurred prior to June 16, 2025, and an additional Ten Thousand Dollars (\$10,000.00) for each day of each violation that continued;

5. Taxing all costs in this action, including, but not limited to, attorney, expert witness, and consultant fees against Paragon; and

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

COUNT III
DISCHARGE OF CONTAMINANTS WITHOUT AN NPDES PERMIT AS TO
PARAGON

1-40. Complainant re-alleges and incorporates by reference herein paragraphs 1 through 31 and 33 through 41 of Count I as paragraphs 1 through 40 of this Count III.

41. As of the date of the filing of this Complaint, the Facility does not have a National Pollutant Discharge Elimination System (“NPDES”) Permit.

42. Section 12(f) of the Act, 415 ILCS 5/12(f) (2024), provides as follows:

No person shall:

* * *

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

* * *

43. Section 309.102(a) of the Illinois Pollution Control Board’s (“Board”) Water Pollution 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.

* * *

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

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

- (a) A Concentrated Animal Feeding Operation (CAFO) is a point source. Any discharge of pollutants into waters of the United States from a CAFO is prohibited unless authorized by an NPDES permit or unless the discharge is an agricultural stormwater discharge as described in Section 502.102(b). A person must not cause or allow a discharge from a CAFO in violation of federal or State law, including but not limited to the Clean Water Act (CWA) (33 USC 1251), the Act or Board regulations.

* * *

45. Section 502.102(b) of the Board's Agriculture Related Pollution Regulations, 35

Ill. Adm. Code 502.102(b), provides as follows:

* * *

- (b) Where livestock waste has been land applied in accordance with site specific nutrient management practices that ensure appropriate agricultural utilization of the nutrients in the livestock waste and in compliance with Section 502.510 for permitted CAFOs and Section 502.510(b) for unpermitted Large CAFOs, a precipitation-related discharge of livestock waste from land application areas of an unpermitted large CAFO or a permitted CAFO, is an agricultural stormwater discharge.

* * *

46. Section 301.240 of the Board's Water Pollution Regulations, 35 Ill. Adm. Code

301.240, provides as follows:

"CWA" means the Federal Water Pollution Control Act, as amended (33 U.S.C. 1251 *et seq.*, Public Law 92-500 enacted by Congress October 18, 1972 as amended by the "Clean Water Act", Public Law 95-217, enacted December 12, 1977, as amended).

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

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

48. Section 501.225 of the Board’s Agriculture Related Pollution Regulations, 35 Ill.

Adm. Code 501.225, provides the following definition of an “Animal Feeding Operation”:

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

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

50. Section 502.103 of the Board’s Agriculture Related Pollution Regulations, 35 Ill.

Adm. Code 502.103, provides the following definition of a “Large CAFO”:

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

Number of Animals	Kind of Animals
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*	*	*
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2,500

Swine, each weighing 55 pounds or more

* * *

51. The Facility, where approximately 5,000 head of swine each weighing 55 pounds or more are stabled or confined, is a “Large CAFO” as that term is defined in Section 502.103 of the Board’s Agriculture Related Pollution Regulations, 35 Ill. Adm. Code 502.103.

52. The Facility operates without a permit and is therefore an unpermitted Large CAFO where livestock waste that has been land applied must comply with Section 502.510(b) of the Board’s Agriculture Related Pollution Regulations, 35 Ill. Adm. Code 502.510(b), as required in Section 502.102(b) of the Board’s Agriculture Related Pollution Regulations, 35 Ill. Adm. Code 502.102(b).

53. As a concentrated animal feeding operation, the Facility is a “point source” as that term is defined in Section 1362(14) of the CWA, 33 U.S.C. § 1362(14), and Section 502.101(a) of the Board’s Agriculture Related Pollution Regulations, 35 Ill. Adm. Code 502.101(a).

54. Beginning on or about November 4, 2020, and continuing until November 5, 2020, or on dates better known to Paragon, Paragon caused, threatened, or allowed Paragon’s Livestock Waste to be discharged from Paragon’s Fields at the Facility into the unnamed tributaries to Honey Creek and into Honey Creek.

55. Paragon’s Livestock Waste that Paragon caused, threatened, or allowed to be discharged into the unnamed tributaries to Honey Creek and into Honey Creek was not a precipitation-related discharge of livestock waste from land application areas of an unpermitted Large CAFO and therefore was not an agricultural stormwater discharge as described in Section 502.102(b) of the Board’s Agriculture Related Pollution Regulations, 35 Ill. Adm. Code 502.102(b).

56. By causing, threatening, or allowing the discharge of contaminants from a point source to waters of the State without a NPDES permit, Paragon violated Section 309.102(a) of the Board's Water Pollution Regulations, 35 Ill. Adm. Code 309.102(a).

57. By causing, threatening, or allowing the discharge of contaminants from a CAFO to waters of the State without a NPDES permit, Paragon violated Section 502.101(a) of the Board's Agriculture Related Pollution Regulations, 35 Ill. Adm. Code 502.101(a), and thereby violated Section 12(f) of the Act, 415 ILCS 5/12(f) (2024).

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an Order against Respondent, PARAGON PORK, INC., an Illinois corporation, with respect to Count III:

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

2. Finding that Paragon has violated Section 12(f) of the Act, 415 ILCS 5/12(f) (2024), and Sections 309.102(a) and 502.101(a) of the Board's Regulations, 35 Ill. Adm. Code 309.102(a) and 502.101(a);

3. Ordering Paragon to cease and desist from any future violations of Section 12(f) of the Act, 415 ILCS 5/12(f) (2024), and Sections 309.102(a) and 502.101(a) of the Board's Regulations, 35 Ill. Adm. Code 309.102(a) and 502.101(a);

4. Assessing against Paragon, pursuant to Section 42(b)(1) of the Act, 415 ILCS 5/42(b)(1) (2024), a civil penalty of Ten Thousand Dollars (\$10,000.00) for each day during which the violations of Section 12(f) of the Act, 415 ILCS 5/12(f) (2024) and Sections 309.102(a) and 502.101(a) of the Board's Regulations, 35 Ill. Adm. Code 309.102(a) and 502.101(a) continued;

5. Taxing all costs in this action, including, but not limited to, attorney, expert witness, and consultant fees against Paragon; and

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

COUNT IV
OFFENSIVE CONDITIONS AS TO PARAGON

1-41. Complainant re-alleges and incorporates by reference herein paragraphs 1 through 41 of Count I as paragraphs 1 through 41 of this Count IV.

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

Offensive Conditions.

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

43. Beginning on or before November 6, 2020, or on dates better known to Respondents, at the unnamed tributary to Honey Creek, directly south of Paragon's Fields at the Facility, there was a pool of liquid that was turbid, dark-colored and had a livestock waste odor. On November 7, 2020, in that same location, there was a stagnant pool of liquid that was turbid, dark brown, and had a livestock waste odor throughout the entire length of the concrete culvert under Illinois Route 64 and on toward the south for approximately 100 feet.

44. Along the unnamed tributary to Honey Creek at its crossing with Stone Hill Road, there is a concrete flow control structure on the east side of Stone Hill Road with two subsurface drain tile outlets. Beginning on or before November 5, 2020, and continuing until November 7, 2020, or on dates better known to Paragon, there was active, clear flow from the two subsurface drain tile outlets on the east side of the road and a pool on the west side of the road. Beneath the layer of active flow, there was a layer of turbid, brown liquid, and two dead fish at this location.

45. By causing or allowing the discharge of Paragon's Livestock Waste into a water of the State, resulting in the water's unnatural color, odor, and turbidity, Paragon caused offensive conditions in violation of Section 302.203 of the Board's Water Pollution Regulations, 35 Ill. Adm. Code 302.203.

46. By violating Section 302.203 of the Board's Water Pollution Regulations, 35 Ill. Adm. Code 302.203, Paragon thereby violated Section 12(a) of the Act, 415 ILCS 5/12(a) (2024).

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an Order against Respondent, PARAGON PORK, INC., an Illinois corporation, with respect to Count IV:

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

2. Finding that Paragon has violated Section 12(a) of the Act, 415 ILCS 5/12(a) (2024) and Section 302.203 of the Board's Water Pollution Regulations, 35 Ill. Adm. Code 302.203;

3. Ordering Paragon to cease and desist from any future violations of Section 12(a) of the Act, 415 ILCS 5/12(a) (2024) and Section 302.203 of the Board's Water Pollution Regulations, 35 Ill. Adm. Code 302.203;

4. Assessing against Paragon, pursuant to Section 42(a) of the Act, 415 ILCS 5/42(a) (2024), 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) (2024) and Section 302.203 of the Board's Water Pollution Regulations, 35 Ill. Adm. Code 302.203 that occurred prior to June 16, 2025, and an additional Ten Thousand Dollars (\$10,000.00) for each day of each violation that continued;

5. Taxing all costs in this action, including, but not limited to, attorney, expert witness, and consultant fees against Paragon; and

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

COUNT V
DISSOLVED OXYGEN AND AMMONIA NITROGEN WATER QUALITY STANDARD
VIOLATIONS AS TO PARAGON

1-41. Complainant re-alleges and incorporates by reference herein paragraphs 1 through 41 of Count I as paragraphs 1 through 41 of this Count V.

42. During the November 2020 Inspection, Illinois EPA collected water samples from four locations: the unnamed tributary to Honey Creek at its crossing with Illinois Route 64 (“Station C-1”); the unnamed tributary to Honey Creek at its crossing with Stone Hill Road (“Station C-2”); Honey Creek at its crossing with Chana Road (“Station C-3”); and Honey Creek at its crossing with Rocky Hollow Road (“Station C-4”).

43. Section 302.206(b)(2)(A) of the Board’s Water Pollution Regulations, 35 Ill. Adm. Code 302.206(b)(2)(A), provides, in pertinent part, as follows:

General use waters must maintain dissolved oxygen concentrations at or above the values contained in subsections (a), (b) and (c) of this Section.

* * *

- b) Except in those waters identified in Appendix D of this Part, the dissolved oxygen concentration in the main body of all streams, in the water above the thermocline of thermally stratified lakes and reservoirs, and in the entire water column of unstratified lakes and reservoirs must not be less than the following:

* * *

- 2) During the period of August through February,

- A) 3.5 mg/L at any time;

* * *

44. DO is the quantity of oxygen present in water. Water bodies obtain oxygen from the surrounding atmosphere and from aquatic plants. All aquatic animals need DO to breathe.

Assessing DO is crucial for evaluating water quality since it serves as a direct indicator of the water's ability to sustain aquatic life.¹

45. On November 6, 2020, Illinois EPA collected water samples which measured at 0.3 mg/L for DO at Station C-1 and 0.9 mg/L for DO at Station C-2, less than the DO requirement of 3.5 mg/L for the period of August through February pursuant to Section 302.206(b)(2)(A) of the Board's Water Pollution Regulations, 35 Ill. Adm. Code 302.206(b)(2)(A).

46. By allowing the release of Paragon's Livestock Waste into an unnamed tributary of Honey Creek causing total DO to be less than 3.5 mg/L, Paragon violated the water quality standard for DO in violation of Section 302.206(b)(2)(A) of the Board's Water Pollution Regulations, 35 Ill. Adm. Code 302.206(b)(2)(A).

47. Ammonia nitrogen is a measure for the amount of ammonia, a toxic pollutant often found in landfill leachate and in waste products, such as sewage, manure and other liquid organic waste products. Toxic concentrations of ammonia in humans may cause loss of equilibrium, convulsions, coma and death. Ammonia levels in excess of the recommended limits may harm or even kill aquatic life.²

48. Section 302.212(a) of the Board's Water Pollution Regulations, 35 Ill. Adm. Code 302.212(a), provides as follows:

(a) Total ammonia nitrogen (as N) must in no case exceed 15 mg/L.

* * *

¹ United States Environmental Protection Agency, *Indicators: Dissolved Oxygen*, EPA.GOV, <https://www.epa.gov/national-aquatic-resource-surveys/indicators-dissolved-oxygen> (last updated September 8, 2023).

² United States Environmental Protection Agency, *Ammonia*, EPA.GOV, <https://www.epa.gov/caddis-vol2/ammonia> (last updated February 29, 2024).

49. On November 6, 2020, Illinois EPA collected water samples at Stations C-1, C-2, and C-3, which measured ammonia nitrogen at 880 mg/L, 46.6 mg/L and 18.8 mg/L, respectively.

50. On November 6, 2020, Illinois EPA collected water samples at Stations C-1, C-2, and C3, which exceeded the ammonia nitrogen water quality standard of 15 mg/L as required by Section 302.212(a) of the Board's Water Pollution Regulations, 35 Ill. Adm. Code 302.212(a).

51. By allowing the release of Paragon's Livestock Waste into an unnamed tributary to Honey Creek and into Honey Creek causing total ammonia nitrogen to exceed 15 mg/L, Paragon violated Section 302.212(a) of the Board's Water Pollution Regulations, 35 Ill. Adm. Code 302.212(a).

52. Sections 302.212(b)(1) and (c)(1) of the Board's Water Pollution Regulations, 35 Ill. Adm. Code 302.212(b)(1) and (c)(1), provide as follows:

* * *

(b) The total ammonia nitrogen (as N) acute, chronic, and sub-chronic standards are determined by the equations given in subsections (b)(1) and (b)(2) of this Section. Attainment of each standard must be determined by subsection (c) and (d) of this Section in mg/L.

(1) The acute standard (AS) is calculated using the following equation:

$$AS = \frac{0.411}{1 + 10^{7.204 - pH}} + \frac{58.4}{1 + 10^{pH - 7.204}}$$

* * *

(c) Attainment of the Total Ammonia Nitrogen Water Quality Standards

(1) The acute standard of total ammonia nitrogen (in mg/L) must not exceed at any time except in those waters for which the Agency has approved a ZID pursuant to Section 302.102.

* * *

BOARD NOTE: Acute and chronic standard concentrations for total ammonia nitrogen (in mg/L) for different combinations of pH and temperature are shown in Appendix C.

53. Section 302.APPENDIX C of the Board's Water Pollution Regulations, 35 Ill. Adm. Code 302.APPENDIX C, provides in pertinent part as follows:

Maximum total ammonia nitrogen concentrations allowable for certain combinations of pH and temperature

Section 302.TABLE A pH-Dependent Values of the AS (Acute Standard)

<u>pH</u>	<u>Acute Standard (mg/L)</u>		
	*	*	*
8.0	8.41		
	*	*	*

54. On November 6, 2020, Illinois EPA collected a water sample from Station C-4 with a pH level of 8.0. Pursuant to the calculation for the acute standard of total ammonia nitrogen set forth in Section 302.212(b)(1) of the Board's Water Pollution Regulations, 35 Ill. Adm. Code 302.212(b)(1) and Section 302.APPENDIX C of the Board's Water Pollution Regulations, 35 Ill. Adm. Code 302.APPENDIX C, the maximum total ammonia nitrogen concentrations allowable for waters with a pH of 8.0 is 8.41 mg/L.

55. On November 6, 2020, Illinois EPA collected a water sample at Station C-4 which measured 8.44 mg/L of ammonia nitrogen, which is above the maximum total ammonia nitrogen concentration allowable of 8.41 mg/L for water with a pH of 8.0 pursuant to Section 302.212(b)(1) of the Board's Water Pollution Regulations, 35 Ill. Adm. Code 302.212(b)(1).

56. By allowing the release of Paragon's Livestock Waste into an unnamed tributary to Honey Creek and into Honey Creek causing total ammonia nitrogen to exceed the acute standard for water quality of 8.41 mg/L when water has a pH of 8.0, Paragon violated Section 302.212(c)(1) of the Board's Water Pollution Regulations, 35 Ill. Adm. Code 302.212(c)(1).

57. By violating Sections 302.206(b)(2)(A), 302.212(a), and 302.212(c)(1) of the Board's Water Pollution Regulations, 35 Ill. Adm. Code 302.206(b)(2)(A), 302.212(a), and 302.212(c)(1), Paragon thereby violated Section 12(a) of the Act, 415 ILCS 5/12(a) (2024).

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an Order against Respondent, PARAGON PORK, INC., an Illinois corporation, with respect to Count V:

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

2. Finding that Paragon has violated Section 12(a) of the Act, 415 ILCS 5/12(a) (2024) and Sections 302.206(b)(2)(A), 302.212(a), and 302.212(c)(1) of the Board's Water Pollution Regulations, 35 Ill. Adm. Code 302.206(b)(2)(A), 302.212(a), and 302.212(c)(1);

3. Ordering Paragon to cease and desist from any future violations of Section 12(a) of the Act, 415 ILCS 5/12(a) (2024) and Sections 302.206(b)(2)(A), 302.212(a), and 302.212(c)(1) of the Board's Water Pollution Regulations, 35 Ill. Adm. Code 302.206(b)(2)(A) and 302.212(a) and 302.212(c)(1);

4. Assessing against Paragon, pursuant to Section 42(a) of the Act, 415 ILCS 5/42(a) (2024), 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) (2024) and Sections 302.206(b)(2)(A), 302.212(a), and 302.212(c)(1) of the Board's Water Pollution Regulations, 35 Ill. Adm. Code 302.206(b)(2)(A) and 302.212(a) and 302.212(c)(1) that occurred prior to June 16, 2025, and an additional Ten Thousand Dollars (\$10,000.00) for each day of each violation that continued;

5. Taxing all costs in this action, including, but not limited to, attorney, expert witness, and consultant fees against Paragon; and

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

COUNT VI
LIVESTOCK WASTE HANDLING VIOLATIONS AS TO PARAGON

1-65. Complainant re-alleges and incorporates by reference herein paragraphs 1 through 41 of Count I, paragraph 42 of Count II, paragraphs 48 and 49 of Count III, paragraphs 42 through 46 of Count IV, and paragraphs 42 through 57 of Count V as paragraphs 1 through 65 of this Count VI.

66. At all times relevant to this Complaint, no precipitation that qualified as a 25-year, 24-hour storm event occurred at the Facility.

67. Sections 501.401(d) and (e) of the Board's Agriculture Related Pollution Regulations, 35 Ill. Adm. Code 501.401(d) and (e), provide, in pertinent part, as follows:

* * *

- (d) The transportation of livestock wastes must be planned and conducted so as not to cause, threaten, or allow any violation of the Act and applicable regulations.
- (e) Any runoff or overflow from a livestock management facility or a livestock waste handling facility must not cause a water quality violation under the Act or 35 Ill. Adm. Code Subtitle C: Water Pollution.

68. Section 501.285 of the Board Regulations, 35 Ill. Adm. Code 501.285, provides the following definition of a "Livestock Management Facility":

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

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

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

Individually or collectively those constructions or devices, except sewers, used for collecting, pumping, treating, or disposing of livestock waste or for the recovery of by-products from such livestock waste. The 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.

71. The Facility, which contains constructions or devices used for collecting, pumping, treating, or disposing of livestock waste, is a "Livestock Waste-Handling Facility" as that term is defined in Section 501.300 of the Board's Agriculture Related Pollution Regulations, 35 Ill. Adm. Code 501.300.

72. Beginning on or about November 4, 2020, and continuing until November 5, 2020, or on dates better known to Paragon, Paragon did not plan or conduct the transportation of Paragon's Livestock Waste in a manner that prevented a violation of the Act and caused, threatened, or allowed, runoff or overflow from a livestock management facility or a livestock waste-handling facility, so as to cause water quality violations in violation of the Act and the Board's Water Pollution Regulations, and thereby violated Sections 501.401(d) and (e) of the Board's Agriculture Related Pollution Regulations, 35 Ill. Adm. Code 501.401(d) and (e).

73. By violating Sections 501.401(d) and (e) of the Board's Agriculture Related Pollution Regulations, 35 Ill. Adm. Code 501.401(d) and (e), Paragon thereby violated Section 12(a) of the Act, 415 ILCS 5/12(a) (2024).

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an Order against Respondent, PARAGON PORK, INC., an Illinois corporation, with respect to Count VI:

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

2. Finding that Paragon has violated Section 12(a) of the Act, 415 ILCS 5/12(a) (2024) and Sections 501.401(d) and (e) of the Board's Agriculture Related Pollution Regulations, 35 Ill. Adm. Code 501.401(d) and (e);

3. Ordering Paragon to cease and desist from any future violations of Section 12(a) of the Act, 415 ILCS 5/12(a) (2024) and Sections 501.401(d) and (e) of the Board's Agriculture Related Pollution Regulations, 35 Ill. Adm. Code 501.401(d) and (e);

4. Assessing against Paragon , pursuant to Section 42(a) of the Act, 415 ILCS 5/42(a) (2024), 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) (2024) and Sections 501.401(d) and (e) of the Board's Agriculture Related Pollution Regulations, 35 Ill. Adm. Code 501.401(d) and (e) that occurred prior to June 16, 2025, and an additional Ten Thousand Dollars (\$10,000.00) for each day of each violation that continued;

5. Taxing all costs in this action, including, but not limited to, attorney, expert witness, and consultant fees against Paragon; and

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

COUNT VII
PARAGON APPLIED A QUANTITY OF LIVESTOCK WASTE THAT EXCEEDED
PRACTICAL LIMITS DETERMINED BY FIELD CONDITIONS

1-77. Complainant re-alleges and incorporates by reference herein paragraphs 1 through 41 of Count I, paragraph 42 of Count II, paragraphs 41, 44, 45, and 48 through 52 of Count III, paragraphs 42 through 46 of Count IV, paragraphs 42 through 57 of Count V, and paragraphs 66 through 71 of Count VI as paragraphs 1 through 77 of this Count VII.

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

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

- (a) For livestock management facilities and livestock waste handling facilities that are not required to obtain an NPDES permit, the quantity of livestock waste applied on soils must not exceed a practical limit as determined by soil type, especially its permeability, the soil condition (frozen or unfrozen), 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 under 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.

* * *

79. Beginning on or about November 4, 2020, and continuing until November 5, 2020, or a date better known to Paragon, Paragon caused or allowed the application of 5,758,000 gallons of Paragon's Livestock Waste across 231 acres of Paragon's Fields at the Facility, with a rate-control device applying 24,928 gallons per acre.

80. On March 1, 2023, Kintzle sent a letter to Illinois EPA that stated that the fields where Paragon's Livestock Waste was spread were dry, cracked, and had fractures on the surface of the soil. Neither of the Respondents pre-chiseled the field prior to the application of Paragon's Livestock Waste. When the soil is chiseled ahead of time, it loosens and aerates the soil, allowing for better absorption of livestock waste.

81. The quantity of Paragon's Livestock Waste applied to Paragon's Fields at the Facility exceeded the practical limit of soil type, especially its permeability, the condition of the soil, and the soil's proximity to surface water, which resulted in the dry weather discharge of

Paragon's Livestock Waste to waters of the State, Paragon thereby violated Section 501.405(a) of the Board's Agriculture Related Pollution Regulations, 35 Ill. Adm. Code 501.405(a).

82. By violating Section 501.405(a) of the Board's Agriculture Related Pollution Regulations, 35 Ill. Adm. Code 501.405(a), Paragon thereby violated Section 12(a) of the Act, 415 ILCS 5/12(a) (2024).

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an Order against Respondent, PARAGON PORK, INC., an Illinois corporation, with respect to Count VII:

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

2. Finding that Paragon has violated Section 12(a) of the Act, 415 ILCS 5/12(a) (2024) and Section 501.405(a) of the Board's Agriculture Related Pollution Regulations, 35 Ill. Adm. Code 501.405(a);

3. Ordering Paragon to cease and desist from any future violations of Section 12(a) of the Act, 415 ILCS 5/12(a) (2024), and Section 501.405(a) of the Board's Agriculture Related Pollution Regulations, 35 Ill. Adm. Code 501.405(a);

4. Assessing against Paragon, pursuant to Section 42(a) of the Act, 415 ILCS 5/42(a) (2024), 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) (2024) and Section 501.405(a) of the Board's Agriculture Related Pollution Regulations, 35 Ill. Adm. Code 501.405(a) that occurred prior to June 16, 2025, and an additional Ten Thousand Dollars (\$10,000.00) for each day of each violation that continued;

5. Taxing all costs in this action, including, but not limited to, attorney, expert witness, and consultant fees against Paragon; and

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

COUNT VIII
LIVESTOCK WASTE LAND APPLICATION VIOLATIONS AS TO PARAGON

1-80. Complainant re-alleges and incorporates by reference herein paragraphs 1 through 41 of Count I, paragraphs 41, 44, 45, and 48 through 52 of Count III, paragraphs 42 through 46 of Count IV, paragraphs 42 through 57 of Count V, paragraphs 66 through 71 of Count VI, and paragraphs 78 through 81 of Count VII as paragraphs 1 through 80 of this Count VIII.

81. Section 502.102(c) of the Board's Agriculture Related Pollution Regulations, 35 Ill. Adm. Code 502.102(c), provides, as follows:

* * *

- (c) Unpermitted large CAFOs must maintain the documentation specified in Section 502.510(b)(16) either on site or at a nearby office, or otherwise make that documentation readily available to the Agency upon request.

82. Section 502.510(b)(16) of the Board's Agriculture Related Pollution Regulations, 35 Ill. Adm. Code 502.510(b)(16), provides, as follows:

* * *

- (b)(16) Specific records that will be maintained to document the implementation and management of the minimum elements described in subsection (b)(2) through (15); and

* * *

83. Section 502.510(b)(11) of the Board's Agriculture Related Pollution Regulations, 35 Ill. Adm. Code 502.510(b)(11), provides, as follows:

* * *

- (b)(11) Livestock waste must not be applied within the distance from residences provided in Section 502.645(a) and within the areas prohibited from land application by this Part;

* * *

84. Section 502.645(b)(2) of the Board's Agricultural Related Pollution Regulations, 35 Ill. Adm. Code 502.645(b)(2), provides as follows:

* * *

(b) Setbacks from Waters

* * *

- (2) Livestock waste must not be land applied within 100 feet of downgradient open subsurface drainage intakes, agricultural drainage wells, sinkholes, grassed waterways, or other conduits to surface waters unless a 35-foot vegetative buffer exists between the land application area and the grassed waterways, open subsurface drainage intakes, agricultural drainage wells, sinkholes or other conduits to surface water.

85. By causing or allowing the land application of Paragon's Livestock Waste within 100 feet of down gradient grassed waterways, an area prohibited from land application by Section 502.645(b)(2) of the Board's Agriculture Related Pollution Regulations, 35 Ill. Adm. Code 502.645(b)(2), Paragon violated Section 502.510(b)(11) of the Board's Agriculture Related Pollution Regulations, 35 Ill. Adm. Code 502.510(b)(11).

86. Section 502.510(b)(13) of the Board's Agriculture Related Pollution Regulations, 35 Ill. Adm. Code 502.510(b)(13), provides, as follows:

- (b)(13) The plan for the inspecting, monitoring, managing and repairing subsurface drainage systems at the livestock waste application site. Inspecting subsurface drainage systems must include visual inspection before land application to determine failures that may cause discharges and visual inspection during and after land application to identify discharges. For this subsection (b)(13), visual inspection means a person inspecting the tile inlet, tile outlet, and unobstructed land surface to assess the structural ability of the subsurface drainage system;

* * *

87. Paragon failed to visually inspect the subsurface drainage system at the fields where Paragon's Livestock Waste was applied prior to the land application to determine failures that may cause discharges, during, and after the land application to identify discharges, including visual inspection of the tile inlet, tile outlet and unobstructed land surface to assess the structural ability of the subsurface drainage system as required pursuant to Section 502.510(b)(13) of the Board's Agriculture Related Pollution Regulations, 35 Ill. Adm. Code 502.510(b)(13).

88. By failing to visually inspect Paragon's Fields where Paragon's Livestock Waste was land applied before, during, and after application, as evidenced by the discharge of Paragon's Livestock Waste to waters of the State, Paragon violated Section 502.510(b)(13) of the Board's Agriculture Related Pollution Regulations, 35 Ill. Adm. Code 502.510(b)(13).

89. By violating Sections 502.510(b)(11) and (13) of the Board's Agriculture Related Pollution Regulations, 35 Ill. Adm. Code 502.510(b)(11) and (13), Paragon thereby violated Section 12(a) of the Act, 415 ILCS 5/12(a) (2024).

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an Order against Respondent, PARAGON PORK, INC., an Illinois corporation, with respect to Count VIII:

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

2. Finding that Paragon has violated Section 12(a) of the Act, 415 ILCS 5/12(a) (2024) and Sections 502.510(b)(11) and (13) of the Board's Agriculture Related Pollution Regulations, 35 Ill. Adm. Code 502.510(b)(11) and (13);

3. Ordering Paragon to cease and desist from any future violations of Section 12(a) of the Act, 415 ILCS 5/12(a) (2024), and Sections 502.510(b)(11) and (13) of the Board's Agriculture Related Pollution Regulations, 35 Ill. Adm. Code 502.510(b)(11) and (13);

4. Assessing against Paragon, pursuant to Section 42(a) of the Act, 415 ILCS 5/42(a) (2024), 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) (2024), and Sections 502.510(b)(11) and (13) of the Board's Agriculture Related Pollution Regulations, 35 Ill. Adm. Code 502.510(b)(11) and (13) that occurred prior to June 16, 2025, and an additional Ten Thousand Dollars (\$10,000.00) for each day of each violation that continued;

5. Taxing all costs in this action, including, but not limited to, attorney, expert witness, and consultant fees against Paragon; and

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

COUNTS IX, X, XI, XII, XIII, XIV, XV, XVI: Claims against Kintzle Construction, Inc.

COUNT IX
WATER POLLUTION AS TO KINTZLE

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 and at the request of Illinois EPA, against Kintzle, an Iowa corporation, pursuant to Section 31 of the Act, 415 ILCS 5/31 (2024).

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 (2024), and is charged, *inter alia*, with the duty of enforcing the Act. The Illinois EPA is further charged with the duty to abate violations of the National Pollution Discharge Elimination System ("NPDES") permit program under the Federal Clean Water Act ("CWA"), 33 U.S.C. § 1342(b)(7).

3. At all times relevant to this Complaint, Paragon Pork, Inc. (“Paragon”) was and is an Illinois corporation registered and in good standing with the Illinois Secretary of State’s Office.

4. At all times relevant to this Complaint, Paragon owned and operated, and continues to own and operate, a farrow-to-wean swine operation, with capacity of approximately 5,000 head of swine each weighing 55 pounds or more, located at 101 South Stone Hill Road in Chana, Ogle County, Illinois (the “Facility”). Paragon owns the fields that border the Facility to the south and are located north of Illinois Route 64 and on the east and west side of South Stone Hill Road (“Paragon’s Fields”). Paragon is the owner of and responsible for all livestock waste generated at the facility, (Paragon’s Livestock Waste”).

5. Stormwater runoff at the Facility flows southwest via unnamed tributaries for approximately 1.5 miles to Honey Creek, which is a tributary to the Kyte River, which is a tributary to the Rock River.

6. At all times relevant to this Complaint, Kintzle Construction, Inc. (“Kintzle”) was and is an Iowa corporation qualified to transact business in the State of Illinois. Kintzle is registered with the Illinois Secretary of State’s Office and is in good standing.

7. At all times relevant to this Complaint, Kintzle operated, and continues to operate, a livestock waste land application business that contracts with facilities in Illinois, Iowa, and Wisconsin. Kintzle’s livestock waste land application business is located at 10227 Lone Pine Road in Epworth, Iowa.

8. Paragon contracted with Kintzle to conduct the land application of Paragon’s Livestock Waste from the Facility onto Paragon’s Fields. Paragon directed Kintzle as to what livestock waste was to be land applied and which of Paragon Fields Kintzle was allowed to use for that land application.

9. Beginning on or about November 4, 2020, and continuing until November 5, 2020, or on dates better known to Respondents, Kintzle land applied 5,758,000 gallons of Paragon's Livestock Waste from the Facility to 231 acres of Paragon's Fields at an average rate of 24,928 gallons per acre.

10. On November 5, 2020, Illinois Department of Natural Resources ("IDNR") received a complaint of a fish kill event in a small stream near Chana, Illinois (the "Fish Kill").

11. On November 6, 2020, IDNR staff investigated Honey Creek and its tributaries. IDNR first investigated Honey Creek upstream and downstream at the South Chana Road bridge, which is southwest of the Facility. At that location in Honey Creek, there were dead fish, as well as cloudy, discolored water.

12. On November 6, 2020, IDNR then investigated the junction of the main stem of Honey Creek and a small tributary stream that enters from the east, which is downstream from the Facility. At this location, there were dead fish and very cloudy, discolored water coming from the east tributary branch. IDNR staff, wearing waders, proceeded up the east tributary branch for approximately 60 yards where there was more discolored water and dead fish. IDNR staff proceeded by foot approximately 30 yards up the main stem of Honey Creek from the tributary junction and there was clear water and no dead or live fish.

13. On November 6, 2020, IDNR investigated the South Stone Hill Road culvert over the east branch tributary to Honey Creek ("Stone Hill Road Culvert"). At this location, there were dead fish, as well as a large pool of discolored water with an obvious manure odor downstream of the Stone Hill Road Culvert on the tributary stream to Honey Creek. At the upstream side of the Stone Hill Road Culvert, there was a concrete flow control structure that had two subsurface drain

tile outlets with water flowing from it. Also, there were dead fish at the edges of the concrete flow control structure and within the road culvert.

14. On November 6, 2020, IDNR investigated the Illinois Route 64 culvert that crosses over the waterway that feeds the northern tributary tile at the South Stone Hill Road concrete flow control structure. At the Illinois Route 64 culvert, there was a large pool of black colored water with a strong manure odor.

15. On November 6, 2020, IDNR investigated downstream of the South Chana Road bridge along an agricultural field edge that borders Honey Creek. At multiple locations in the stream, there were dead fish, live fish in physical distress near the surface, and discolored water.

16. IDNR determined that the upper limit of the fish kill was located immediately downstream of the Stone Hill Road Culvert. The lower limit of the fish kill was located at an agricultural culvert that crosses Honey Creek. The total length of the fish kill was approximately 1.59 miles of stream.

17. On November 6, 2020, IDNR estimated 1,447 fish had been killed, however, this is an underestimation as the stream bottom in the fish kill stations contained a volume of leaf and grass litter which made the deceased fish difficult to find and document. Fish species identified in the kill were: creek chub, central stone roller, blacknose dace, and golden shiner.

18. On November 6, 7, and 10, 2020, Illinois EPA conducted inspections of the Facility in response to IDNR's investigation of the Fish Kill ("November 2020 Inspection").

19. As part of the November 2020 Inspection, Illinois EPA made surface water observations, collected surface water samples, interviewed Facility representatives, and reviewed available records.

20. During the November 2020 Inspection, Illinois EPA collected water samples from four locations: the unnamed tributary to Honey Creek at its crossing with Illinois Route 64 (“Station C-1”); the unnamed tributary to Honey Creek at its crossing with Stone Hill Road at the Stone Hill Road Culvert (“Station C-2”); Honey Creek at its crossing with Chana Road (“Station C-3”); and Honey Creek at its crossing with Rocky Hollow Road (“Station C-4”).

21. During the Illinois EPA inspection on November 6, 2020, at Station C-1, which is directly south of Paragon’s Fields at the Facility in the unnamed tributary to Honey Creek, there was a pool of liquid that was turbid, dark-colored, and had a livestock waste odor. On November 6, 2020, the water samples collected at Station C-1 measured 0.3 milligrams per liter (“mg/L”) for dissolved oxygen (“DO”) and 880 mg/L for ammonia nitrogen.

22. During the Illinois EPA inspection on November 6, 2020, at Station C-2, which is approximately 0.45 miles downstream of Station C-1 at the Stone Hill Road Culvert, there is a concrete flow control structure on the east side of Stone Hill Road with two subsurface drain tile outlets. At Station C-2, there was also active flow from both outlets, and the northern outlet came from the direction of Station C-1. At the Station C-2 location, there was a pool on the west side of the road where a relatively clear flow of water was flowing over a stagnant subsurface pool. On November 6, 2020, the water samples collected at Station C-2 measured 0.9 mg/L for DO and 46.6 mg/L for ammonia nitrogen.

23. During the Illinois EPA inspection on November 6, 2020, at Station C-3, which is approximately 1.45 miles downstream of Station C-1, the leading edge of the slug of impacted surface water was between Honey Creek at Chana Road and Honey Creek at Rocky Hollow Road. On November 6, 2020, the water samples collected at Station C-3 measured 8.2 mg/L for DO and 18.8 mg/L for ammonia nitrogen.

24. During the Illinois EPA inspection on November 6, 2020, at Station C-4, which is approximately 3.05 miles downstream of Station C-1, the water samples collected measured 9.1 mg/L for DO and 8.44 mg/L for ammonia nitrogen.

25. During the Illinois EPA inspection on November 7, 2020, there was minor pooling of Paragon's Livestock Waste on the field surface approximately 100 feet west of Station C-1. There was also a stagnant pool of turbid, dark brown, odorous liquid through the entire length of the concrete culvert under Illinois Route 64 and on toward the south for approximately 100 feet. The pool overflowed to a storm drain and subsurface drainage system, which drains toward Station C-2.

26. During the Illinois EPA inspection on November 7, 2020, at Station C-2, there was active, clear flow from the two subsurface drain tile outlets on the east side of Stone Hill Road and a pool on the west side of Stone Hill Road. Across the top of the pool on the west side of Stone Hill Road, there was an active, clear flow to a depth of approximately 6 inches. Below the layer of active flow, there was a layer of turbid, brown liquid.

27. During the Illinois EPA inspection on November 7, 2020, at Station C-3, there was clear flow with no unusual odor, but there was one pocket of dense foam on the stream surface caught in the stream vegetation.

28. During the Illinois EPA inspection on November 7, 2020, at Station C-4, there was clear flow and no unusual odor, but there were two pockets of foam on the stream surface caught in the stream vegetation.

29. During the Illinois EPA inspection on November 10, 2020, at Station C-1, the liquid level in the pool had dropped several inches, but there was no improvement in the quality of the liquid when compared to the previous inspections on November 6 and 7, 2020.

30. During the Illinois EPA inspection on November 10, 2020, at Station C-2, there was lower turbidity and lighter color in the subsurface pool on the west side of the road when compared to the previous inspections on November 6 and 7, 2020. There were two dead fish floating at the surface along the northern bank of the tributary.

31. Following the November 2020 Inspection, Illinois EPA determined that the land application of Paragon's Livestock Waste on Paragon's Fields at the Facility, which began on or about November 4, 2020, and continuing until November 5, 2020, or on dates better known to Respondents, resulted in a dry weather discharge of Paragon's Livestock Waste from Paragon's Fields at the Facility into the unnamed tributaries to Honey Creek. The discharge of Paragon's Livestock Waste flowed south from Paragon's Fields at the Facility to Station C-1 and then through subsurface drainage to Station C-2. At Station C-2, Paragon's Livestock Waste flowed west into the unnamed tributary to Honey Creek. Subsequently, Paragon's Livestock Waste continued to flow downstream through the unnamed tributary to Honey Creek, into Honey Creek, and further west downstream from Stations C-3 to C-4.

32. Section 12(a) of the Act, 415 ILCS 5/12(a) (2024), 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;

* * *

33. Section 3.315 of the Act, 415 ILCS 5/3.315 (2024), 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.

34. Kintzle, an Iowa corporation, is a “person” as that term is defined in Section 3.315 of the Act, 415 ILCS 5/3.315 (2024).

35. Section 3.165 of the Act, 415 ILCS 5/3.165 (2024), contains the following definition:

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

36. Livestock waste is a “contaminant” as that term is defined in Section 3.165 of the Act, 415 ILCS 5/3.165 (2024).

37. Section 3.545 of the Act, 415 ILCS 5/3.545 (2024), contains the following definition:

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

38. Section 3.550 of the Act, 415 ILCS 5/3.550 (2024), contains the following definition:

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

39. The unnamed tributaries to Honey Creek and Honey Creek are “waters” as that term is defined in Section 3.550 of the Act, 415 ILCS 5/3.550 (2024).

40. Beginning on or about November 4, 2020, and continuing until November 5, 2020, or on dates better known to Kintzle, Kintzle caused, threatened, or allowed Paragon’s Livestock

Waste to be discharged from Paragon's Fields at the Facility to the unnamed tributaries to Honey Creek.

41. The discharge of Paragon's Livestock Waste into the unnamed tributaries to Honey Creek did, or was 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, and therefore was "water pollution," as that term is defined in Section 3.545 of the Act, 415 ILCS 5/3.545 (2024).

42. By causing, threatening, or allowing Paragon's Livestock Waste to be discharged from Paragon's Fields at the Facility into the unnamed tributaries to Honey Creek and into Honey Creek, Kintzle caused, threatened, or allowed the discharge of a contaminant into the environment so as to cause or tend to cause water pollution in Illinois, and thereby violated Section 12(a) of the Act, 415 ILCS 5/12(a) (2024).

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an Order against Respondent, KINTZLE CONSTRUCTION, INC., an Iowa corporation, with respect to Count IX:

1. Authorizing a hearing in this matter at which time Kintzle will be required to answer the allegations herein;
2. Finding that Kintzle has violated Section 12(a) of the Act, 415 ILCS 5/12(a) (2024);
3. Ordering Kintzle to cease and desist from any future violations of Section 12(a) of the Act, 415 ILCS 5/12(a) (2024);
4. Assessing against Kintzle, pursuant to Section 42(a) of the Act, 415 ILCS 5/42(a) (2024), 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) (2024) that occurred prior to June 16, 2025, and an additional Ten Thousand Dollars (\$10,000.00) for each day of each violation that continued;

5. Taxing all costs in this action, including, but not limited to, attorney, expert witness, and consultant fees against Kintzle; and

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

COUNT X
WATER POLLUTION HAZARD AS TO KINTZLE

1-40. Complainant re-alleges and incorporates by reference herein paragraphs 1 through 31 and 33 through 41 of Count IX as paragraphs 1 through 40 of this Count X.

41. Section 12(d) of the Act, 415 ILCS 5/12(d) (2024), 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.

42. Beginning on or about November 4, 2020, and continuing until November 5, 2020, or on dates better known to Kintzle, Kintzle deposited Paragon's Livestock Waste upon Paragon's Fields at the Facility, such that Paragon's Livestock Wastes flowed over Paragon's Fields into the unnamed tributaries to Honey Creek and continued into Honey Creek.

43. By depositing Paragon's Livestock Waste upon Paragon's Fields at the Facility, Kintzle deposited contaminants upon the land in such a place and manner so as to create a water pollution hazard, and thereby violated Section 12(d) of the Act, 415 ILCS 5/12(d) (2024).

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an Order against Respondent, KINTZLE CONSTRUCTION, INC., an Iowa corporation, with respect to Count X:

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

2. Finding that Kintzle has violated Section 12(d) of the Act, 415 ILCS 5/12(d) (2024);

3. Ordering Kintzle to cease and desist from any future violations of Section 12(d) of the Act, 415 ILCS 5/12(d) (2024);

4. Assessing against Kintzle, pursuant to Section 42(a) of the Act, 415 ILCS 5/42(a) (2024), a civil penalty of Fifty Thousand Dollars (\$50,000.00) for each violation of Section 12(d) of the Act, 415 ILCS 5/12(d) (2024) that occurred prior to June 16, 2025, and an additional Ten Thousand Dollars (\$10,000.00) for each day of each violation that continued;

5. Taxing all costs in this action, including, but not limited to, attorney, expert witness, and consultant fees against Kintzle; and

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

COUNT XI
DISCHARGE OF CONTAMINANTS WITHOUT AN NPDES PERMIT AS TO
KINTZLE

1-40. Complainant re-alleges and incorporates by reference herein paragraphs 1 through 31 and 33 through 41 of Count IX as paragraphs 1 through 40 of this Count XI.

41. As of the date of the filing of this Complaint, the Facility does not have a National Pollutant Discharge Elimination System ("NPDES") Permit.

42. Section 12(f) of the Act, 415 ILCS 5/12(f) (2024), provides as follows:

No person shall:

* * *

(f) Cause, threaten or allow the discharge of any contaminant into the waters of the State, as defined herein, including but

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

* * *

43. Section 309.102(a) of the Illinois Pollution Control Board's ("Board") Water Pollution 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.

* * *

44. Section 502.101(a) of the Board's Agriculture Related Pollution Regulations, 35 Ill. Adm. Code 502.101(a), provides as follows:

- (a) A Concentrated Animal Feeding Operation (CAFO) is a point source. Any discharge of pollutants into waters of the United States from a CAFO is prohibited unless authorized by an NPDES permit or unless the discharge is an agricultural stormwater discharge as described in Section 502.102(b). A person must not cause or allow a discharge from a CAFO in violation of federal or State law, including but not limited to the Clean Water Act (CWA) (33 USC 1251), the Act or Board regulations.

* * *

45. Section 502.102(b) of the Board's Agriculture Related Pollution Regulations, 35 Ill. Adm. Code 502.102(b), provides as follows:

* * *

- (b) Where livestock waste has been land applied in accordance with site

specific nutrient management practices that ensure appropriate agricultural utilization of the nutrients in the livestock waste and in compliance with Section 502.510 for permitted CAFOs and Section 502.510(b) for unpermitted Large CAFOs, a precipitation-related discharge of livestock waste from land application areas of an unpermitted large CAFO or a permitted CAFO, is an agricultural stormwater discharge.

* * *

46. Section 301.240 of the Board's Water Pollution Regulations, 35 Ill. Adm. Code 301.240, provides as follows:

"CWA" means the Federal Water Pollution Control Act, as amended (33 U.S.C. 1251 *et seq.*, Public Law 92-500 enacted by Congress October 18, 1972 as amended by the "Clean Water Act", Public Law 95-217, enacted December 12, 1977, as amended).

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

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

48. Section 501.225 of the Board's Agriculture Related Pollution Regulations, 35 Ill. Adm. Code 501.225, provides the following definition of an "Animal Feeding Operation":

- (a) A lot or facility (other than an aquatic animal production facility) where the following conditions are met:
 - (1) Animals have been, are or will be stabled or confined and fed or maintained for a total of 45 days or more in any 12-month period, and
 - (2) Crops, vegetation, forage growth or post-harvest residues that are grown in place are not sustained in the normal growing season over any portion of the lot or facility.

- (b) Two or more animal feeding operations under common ownership are deemed to be a single animal feeding operation if they are adjacent to each other or if they utilize a common area or system for the disposal of wastes.

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

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

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

Number of Animals	Kind of Animals		
	*	*	*
2,500	Swine, each weighing 55 pounds or more		
	*	*	*

51. The Facility, where approximately 5,000 head of swine each weighing 55 pounds or more are stabled or confined, is a “Large CAFO” as that term is defined in Section 502.103 of the Board’s Agriculture Related Pollution Regulations, 35 Ill. Adm. Code 502.103.

52. The Facility operates without a permit and is therefore an unpermitted Large CAFO where livestock waste that has been land applied must comply with Section 502.510(b) of the Board’s Agriculture Related Pollution Regulations, 35 Ill. Adm. Code 502.510(b), as required in Section 502.102(b) of the Board’s Agriculture Related Pollution Regulations, 35 Ill. Adm. Code 502.102(b).

53. As a concentrated animal feeding operation, the Facility is a “point source” as that term is defined in Section 1362(14) of the CWA, 33 U.S.C. § 1362(14), and Section 502.101(a) of the Board’s Agriculture Related Pollution Regulations, 35 Ill. Adm. Code 502.101(a).

54. Beginning on or about November 4, 2020, and continuing until November 5, 2020, or dates better known to Kintzle, Kintzle caused, threatened, or allowed Paragon’s Livestock Waste to be discharged from Paragon’s Fields at the Facility into the unnamed tributaries to Honey Creek and into Honey Creek.

55. Paragon’s Livestock Waste that Kintzle caused, threatened, or allowed to be discharged into the unnamed tributaries to Honey Creek and into Honey Creek was not a precipitation-related discharge of livestock waste from land application areas of an unpermitted Large CAFO and therefore was not an agricultural stormwater discharge as described in Section 502.102(b) of the Board’s Agriculture Related Pollution Regulations, 35 Ill. Adm. Code 502.102(b).

56. By causing, threatening, or allowing the discharge of contaminants from a point source to waters of the State without a NPDES permit, Kintzle violated Section 309.102(a) of the Board’s Water Pollution Regulations, 35 Ill. Adm. Code 309.102(a).

57. By causing, threatening, or allowing the discharge of contaminants from a CAFO to waters of the State without a NPDES permit, Kintzle violated Section 502.101(a) of the Board’s Agriculture Related Pollution Regulations, 35 Ill. Adm. Code 502.101(a), and thereby violated Section 12(f) of the Act, 415 ILCS 5/12(f) (2024).

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an Order against Respondent, KINTZLE CONSTRUCTION, INC., an Iowa corporation, with respect to Count XI:

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

2. Finding that Kintzle has violated Section 12(f) of the Act, 415 ILCS 5/12(f) (2024), and Sections 309.102(a) and 502.101(a) of the Board's Regulations, 35 Ill. Adm. Code 309.102(a) and 502.101(a);

3. Ordering Kintzle to cease and desist from any future violations of Section 12(f) of the Act, 415 ILCS 5/12(f) (2024), and Sections 309.102(a) and 502.101(a) of the Board's Regulations, 35 Ill. Adm. Code 309.102(a) and 502.101(a);

4. Assessing against Kintzle, pursuant to Section 42(b)(1) of the Act, 415 ILCS 5/42(b)(1) (2024), a civil penalty of Ten Thousand Dollars (\$10,000.00) for each day during which the violations of Section 12(f) of the Act, 415 ILCS 5/12(f) (2024), and Sections 309.102(a) and 502.101(a) of the Board's Regulations, 35 Ill. Adm. Code 309.102(a) and 502.101(a) continued;

5. Taxing all costs in this action, including, but not limited to, attorney, expert witness, and consultant fees against Kintzle; and

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

COUNT XII
OFFENSIVE CONDITIONS AS TO KINTZLE

1-41. Complainant re-alleges and incorporates by reference herein paragraphs 1 through 41 of Count IX and as paragraphs 1 through 41 of this Count XII.

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

Offensive Conditions.

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

43. Beginning on or before November 6, 2020, or on dates better known to Respondents, at the unnamed tributary to Honey Creek, directly south of Paragon's Fields at the Facility, there was a pool of liquid that was turbid, dark-colored and had a livestock waste odor. On November 7, 2020, in that same location, there was a stagnant pool of liquid that was turbid, dark brown, and had a livestock waste odor throughout the entire length of the concrete culvert under Illinois Route 64 and on toward the south for approximately 100 feet.

44. Along the unnamed tributary to Honey Creek at its crossing with Stone Hill Road, there is a concrete flow control structure on the east side of Stone Hill Road with two subsurface drain tile outlets. Beginning on or before November 5, 2020, and continuing until November 7, 2020, or on dates better known to Kintzle, there was active, clear flow from the two subsurface drain tile outlets on the east side of the road and a pool on the west side of the road. Beneath the layer of active flow, there was a layer of turbid, brown liquid, and two dead fish at this location.

45. By causing or allowing the discharge of Paragon's Livestock Waste into a water of the State, resulting in the water's unnatural color, odor, and turbidity, Kintzle caused offensive conditions in violation of Section 302.203 of the Board's Water Pollution Regulations, 35 Ill. Adm. Code 302.203.

46. By violating Section 302.203 of the Board's Water Pollution Regulations, 35 Ill. Adm. Code 302.203, Kintzle thereby violated Section 12(a) of the Act, 415 ILCS 5/12(a) (2024).

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an Order against Respondent, KINTZLE CONSTRUCTION, INC., an Iowa corporation, with respect to Count XII:

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

2. Finding that Kintzle has violated Section 12(a) of the Act, 415 ILCS 5/12(a) (2024) and Section 302.203 of the Board's Water Pollution Regulations, 35 Ill. Adm. Code 302.203;

3. Ordering Kintzle to cease and desist from any future violations of Section 12(a) of the Act, 415 ILCS 5/12(a) (2024) and Section 302.203 of the Board's Water Pollution Regulations, 35 Ill. Adm. Code 302.203;

4. Assessing against Kintzle, pursuant to Section 42(a) of the Act, 415 ILCS 5/42(a) (2024), 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) (2024) and Section 302.203 of the Board's Water Pollution Regulations, 35 Ill. Adm. Code 302.203 that occurred prior to June 16, 2025, and an additional Ten Thousand Dollars (\$10,000.00) for each day of each violation that continued;

5. Taxing all costs in this action, including, but not limited to, attorney, expert witness, and consultant fees against Kintzle; and

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

COUNT XIII
DISSOLVED OXYGEN AND AMMONIA NITROGEN WATER QUALITY STANDARD
VIOLATIONS AS TO KINTZLE

1-41. Complainant re-alleges and incorporates by reference herein paragraphs 1 through 41 of Count IX as paragraphs 1 through 41 of this Count XIII.

42. During the November 2020 Inspection, Illinois EPA collected water samples from four locations: the unnamed tributary to Honey Creek at its crossing with Illinois Route 64 ("Station C-1"); the unnamed tributary to Honey Creek at its crossing with Stone Hill Road ("Station C-2"); Honey Creek at its crossing with Chana Road ("Station C-3"); and Honey Creek at its crossing with Rocky Hollow Road ("Station C-4").

43. Section 302.206(b)(2)(A) of the Board's Water Pollution Regulations, 35 Ill. Adm. Code 302.206(b)(2)(A), provides, in pertinent part, as follows:

General use waters must maintain dissolved oxygen concentrations at or above the values contained in subsections (a), (b) and (c) of this Section.

* * *

- b) Except in those waters identified in Appendix D of this Part, the dissolved oxygen concentration in the main body of all streams, in the water above the thermocline of thermally stratified lakes and reservoirs, and in the entire water column of unstratified lakes and reservoirs must not be less than the following:

* * *

2) During the period of August through February,

B) 3.5 mg/L at any time;

* * *

44. DO is the quantity of oxygen present in water. Water bodies obtain oxygen from the surrounding atmosphere and from aquatic plants. All aquatic animals need DO to breathe. Assessing DO is crucial for evaluating water quality since it serves as a direct indicator of the water's ability to sustain aquatic life.³

45. On November 6, 2020, Illinois EPA collected water samples which measured at 0.3 mg/L for DO at Station C-1 and 0.9 mg/L for DO at Station C-2, less than the DO requirement of 3.5 mg/L for the period of August through February pursuant to Section 302.206(b)(2)(A) of the Board's Water Pollution Regulations, 35 Ill. Adm. Code 302.206(b)(2)(A).

³ United States Environmental Protection Agency, *Indicators: Dissolved Oxygen*, EPA.GOV, <https://www.epa.gov/national-aquatic-resource-surveys/indicators-dissolved-oxygen> (last updated September 8, 2023).

46. By allowing the release of Paragon's Livestock Waste into an unnamed tributary of Honey Creek causing total DO to be less than 3.5 mg/L, Kintzle violated Section 302.206(b)(2)(A) of the Board's Water Pollution Regulations, 35 Ill. Adm. Code 302.206(b)(2)(A).

47. Ammonia nitrogen is a measure for the amount of ammonia, a toxic pollutant often found in landfill leachate and in waste products, such as sewage, manure and other liquid organic waste products. Toxic concentrations of ammonia in humans may cause loss of equilibrium, convulsions, coma and death. Ammonia levels in excess of the recommended limits may harm or even kill aquatic life.⁴

48. Section 302.212(a) of the Board's Water Pollution Regulations, 35 Ill. Adm. Code 302.212(a), provides as follows:

(a) Total ammonia nitrogen (as N) must in no case exceed 15 mg/L.

* * *

49. On November 6, 2020, Illinois EPA collected water samples at Stations C-1, C-2, and C-3, which measured ammonia nitrogen at 880 mg/L, 46.6 mg/L and 18.8 mg/L, respectively.

50. On November 6, 2020, Illinois EPA collected water samples at Stations C-1, C-2, and C3, which exceeded the ammonia nitrogen water quality standard of 15 mg/L as required by Section 302.212(a) of the Board's Water Pollution Regulations, 35 Ill. Adm. Code 302.212(a).

51. By allowing the release of Paragon's Livestock Waste into an unnamed tributary to Honey Creek and into Honey Creek causing total ammonia nitrogen to exceed 15 mg/L, Kintzle violated Section 302.212(a) of the Board's Water Pollution Regulations, 35 Ill. Adm. Code 302.212(a).

⁴ United States Environmental Protection Agency, *Ammonia*, EPA.GOV, <https://www.epa.gov/caddis-vol2/ammonia> (last updated February 29, 2024).

52. Sections 302.212(b)(1) and (c)(1) of the Board's Water Pollution Regulations, 35

Ill. Adm. Code 302.212(b)(1) and (c)(1), provide as follows:

* * *

(b) The total ammonia nitrogen (as N) acute, chronic, and sub-chronic standards are determined by the equations given in subsections (b)(1) and (b)(2) of this Section. Attainment of each standard must be determined by subsection (c) and (d) of this Section in mg/L.

(2) The acute standard (AS) is calculated using the following equation:

$$AS = \frac{0.411}{1 + 10^{7.204 - pH}} + \frac{58.4}{1 + 10^{pH - 7.204}}$$

* * *

(c) Attainment of the Total Ammonia Nitrogen Water Quality Standards

(2) The acute standard of total ammonia nitrogen (in mg/L) must not exceed at any time except in those waters for which the Agency has approved a ZID pursuant to Section 302.102.

* * *

BOARD NOTE: Acute and chronic standard concentrations for total ammonia nitrogen (in mg/L) for different combinations of pH and temperature are shown in Appendix C.

53. Section 302.APPENDIX C of the Board's Water Pollution Regulations, 35 Ill.

Adm. Code 302.APPENDIX C, provides in pertinent part as follows:

Maximum total ammonia nitrogen concentrations allowable for certain combinations of pH and temperature

Section 302.TABLE A pH-Dependent Values of the AS (Acute Standard)

<u>pH</u>	<u>Acute Standard (mg/L)</u>
-----------	------------------------------

* * *

8.0	8.41
-----	------

* * *

54. On November 6, 2020, Illinois EPA collected a water sample from Station C-4 with a pH level of 8.0. Pursuant to the calculation for the acute standard of total ammonia nitrogen set forth in Section 302.212(b)(1) of the Board's Water Pollution Regulations, 35 Ill. Adm. Code 302.212(b)(1) and Section 302.APPENDIX C of the Board's Water Pollution Regulations, 35 Ill. Adm. Code 302.APPENDIX C, the maximum total ammonia nitrogen concentrations allowable for waters with a pH of 8.0 is 8.41 mg/L.

55. On November 6, 2020, Illinois EPA collected a water sample at Station C-4 which measured 8.44 mg/L of ammonia nitrogen, which is above the maximum total ammonia nitrogen concentration allowable of 8.41 mg/L for water with a pH of 8.0 pursuant to Section 302.212(b)(1) of the Board's Water Pollution Regulations, 35 Ill. Adm. Code 302.212(b)(1).

56. By allowing the release of Paragon's Livestock Waste into an unnamed tributary to Honey Creek and into Honey Creek causing total ammonia nitrogen to exceed the acute standard for water quality of 8.41 mg/L when water has a pH of 8.0, Kintzle violated Section 302.212(c)(1) of the Board's Water Pollution Regulations, 35 Ill. Adm. Code 302.212(c)(1).

57. By violating Sections 302.206(b)(2)(A), 302.212(a), and 302.212(c)(1) of the Board's Water Pollution Regulations, 35 Ill. Adm. Code 302.206(b)(2)(A), 302.212(a), and 302.212(c)(1), Kintzle thereby violated Section 12(a) of the Act, 415 ILCS 5/12(a) (2024).

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an Order against Respondent, KINTZLE CONSTRUCTION, INC., an Iowa corporation, with respect to Count XIII:

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

2. Finding that Kintzle has violated Section 12(a) of the Act, 415 ILCS 5/12(a) (2024) and Sections 302.206(b)(2)(A), 302.212(a), and 302.212(c)(1) of the Board's Water Pollution Regulations, 35 Ill. Adm. Code 302.206(b)(2)(A), 302.212(a), and 302.212(c)(1);

3. Ordering Kintzle to cease and desist from any future violations of Section 12(a) of the Act, 415 ILCS 5/12(a) (2024) and Sections 302.206(b)(2)(A), 302.212(a), and 302.212(c)(1) of the Board's Water Pollution Regulations, 35 Ill. Adm. Code 302.206(b)(2)(A) and 302.212(a) and 302.212(c)(1);

4. Assessing against Kintzle, pursuant to Section 42(a) of the Act, 415 ILCS 5/42(a) (2024), 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) (2024) and Sections 302.206(b)(2)(A), 302.212(a), and 302.212(c)(1) of the Board's Water Pollution Regulations, 35 Ill. Adm. Code 302.206(b)(2)(A) and 302.212(a) and 302.212(c)(1) that occurred prior to June 16, 2025, and an additional Ten Thousand Dollars (\$10,000.00) for each day of each violation that continued;

5. Taxing all costs in this action, including, but not limited to, attorney, expert witness, and consultant fees against Kintzle; and

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

COUNT XIV
LIVESTOCK WASTE HANDLING VIOLATIONS AS TO KINTZLE

1-65. Complainant re-alleges and incorporates by reference herein paragraphs 1 through 41 of Count IX, paragraph 42 of Count X, paragraphs 48 and 49 of Count XI, paragraphs 42 through 46 of Count XII, paragraphs 42 through 57 of Count XIII as paragraphs 1 through 65 of this Count XIV.

66. At all times relevant to this Complaint, no precipitation that qualified as a 25-year, 24-hour storm event occurred at the Facility.

67. Sections 501.401(d) and (e) of the Board's Agriculture Related Pollution Regulations, 35 Ill. Adm. Code 501.401(d) and (e), provide, in pertinent part, as follows:

* * *

- (d) The transportation of livestock wastes must be planned and conducted so as not to cause, threaten, or allow any violation of the Act and applicable regulations.
- (e) Any runoff or overflow from a livestock management facility or a livestock waste handling facility must not cause a water quality violation under the Act or 35 Ill. Adm. Code Subtitle C: Water Pollution.

68. Section 501.285 of the Board Regulations, 35 Ill. Adm. Code 501.285, provides the following definition of a "Livestock Management Facility":

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

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

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

Individually or collectively those constructions or devices, except sewers, used for collecting, pumping, treating, or disposing of livestock waste or for the recovery of by-products from such livestock waste. The 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.

71. The Facility, which contains constructions or devices used for collecting, pumping, treating, or disposing of livestock waste, is a "Livestock Waste-Handling Facility" as that term is defined in Section 501.300 of the Board's Agriculture Related Pollution Regulations, 35 Ill. Adm. Code 501.300.

72. Beginning on or about November 4, 2020, and continuing until November 5, 2020, or on dates better known to Kintzle, Kintzle did not plan or conduct the transportation of Paragon's Livestock Waste in a manner that prevented a violation of the Act and caused, threatened, or allowed, runoff or overflow from a livestock management facility or a livestock waste-handling facility, so as to cause water quality violations in violation of the Act and the Board's Water Pollution Regulations, and thereby violated Sections 501.401(d) and (e) of the Board's Agriculture Related Pollution Regulations, 35 Ill. Adm. Code 501.401(d) and (e).

73. By violating Sections 501.401(d) and (e) of the Board's Agriculture Related Pollution Regulations, 35 Ill. Adm. Code 501.401(d) and (e), Kintzle thereby violated Section 12(a) of the Act, 415 ILCS 5/12(a) (2024).

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an Order against Respondent, KINTZLE CONSTRUCTION, INC., an Iowa corporation, with respect to Count XIV:

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

2. Finding that Kintzle has violated Section 12(a) of the Act, 415 ILCS 5/12(a) (2024) and Sections 501.401(d) and (e) of the Board's Agriculture Related Pollution Regulations, 35 Ill. Adm. Code 501.401(d) and (e);

3. Ordering Kintzle to cease and desist from any future violations of Section 12(a) of the Act, 415 ILCS 5/12(a) and (d) (2024) and Sections 501.401(d) and (e) of the Board's Agriculture Related Pollution Regulations, 35 Ill. Adm. Code 501.401(d) and (e);

4. Assessing against Kintzle, pursuant to Section 42(a) of the Act, 415 ILCS 5/42(a) (2024), 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) and (d) (2024) and Sections 501.401(d) and (e) of the Board's Agriculture Related Pollution Regulations, 35 Ill. Adm. Code 501.401(d) and (e) that occurred prior to June 16, 2025, and an additional Ten Thousand Dollars (\$10,000.00) for each day of each violation that continued;

5. Taxing all costs in this action, including, but not limited to, attorney, expert witness, and consultant fees against Kintzle; and

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

COUNT XV
KINTZLE APPLIED A QUANTITY OF LIVESTOCK WASTE THAT EXCEEDED
PRACTICAL LIMITS DETERMINED BY FIELD CONDITIONS

1-77. Complainant re-alleges and incorporates by reference herein paragraphs 1 through 41 of Count IX, paragraph 42 of Count X, paragraphs 41, 44, 45, and 48 through 52 of Count XI, paragraphs 42 through 46 of Count XII, paragraphs 42 through through 57 of Count XIII, paragraphs 66 through 71 of Count XIV as paragraphs 1 through 77 of this Count XV.

78. Section 501.405(a) of the Board's Agriculture Related Pollution Regulations, 35 Ill. Adm. Code 501.405(a), provides, as follows:

- (a) For livestock management facilities and livestock waste handling facilities that are not required to obtain an NPDES permit, the quantity of livestock waste applied on soils must not exceed a practical limit as determined by soil type, especially its permeability, the soil condition (frozen or unfrozen), 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 under 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.

* * *

79. Beginning on or about November 4, 2020, and continuing until November 5, 2020, or a date better known to Kintzle, Kintzle caused or allowed the application of 5,758,000 gallons of Paragon's Livestock Waste across 231 acres of Paragon's Fields at the Facility, with a rate-control device applying 24,928 gallons per acre.

80. On March 1, 2023, Kintzle sent a letter to Illinois EPA that stated that the fields where Paragon's Livestock Waste was spread were dry, cracked, and had fractures on the surface of the soil. Neither of the Respondents pre-chiseled the field prior to the application of Paragon's Livestock Waste. When the soil is chiseled ahead of time, it loosens and aerates the soil, allowing for better absorption of livestock waste.

81. The quantity of Paragon's Livestock Waste applied to Paragon's Fields at the Facility exceeded the practical limit of soil type, especially its permeability, the condition of the soil, and the soil's proximity to surface water, which resulted in the dry weather discharge of Paragon's Livestock Waste to waters of the State, Kintzle thereby violated Section 501.405(a) of the Board's Agriculture Related Pollution Regulations, 35 Ill. Adm. Code 501.405(a).

82. By violating Section 501.405(a) of the Board's Agriculture Related Pollution Regulations, 35 Ill. Adm. Code 501.405(a), Kintzle thereby violated Section 12(a) of the Act, 415 ILCS 5/12(a) (2024).

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an Order against Respondent, KINTZLE CONSTRUCTION, INC., an Iowa corporation, with respect to Count XV:

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

2. Finding that Kintzle has violated Section 12(a) of the Act, 415 ILCS 5/12(a) (2024) and Section 501.405(a) of the Board's Agriculture Related Pollution Regulations, 35 Ill. Adm. Code 501.405(a);

3. Ordering Kintzle to cease and desist from any future violations of Section 12(a) of the Act, 415 ILCS 5/12(a) (2024), and Section 501.405(a) of the Board's Agriculture Related Pollution Regulations, 35 Ill. Adm. Code 501.405(a);

4. Assessing against Kintzle, pursuant to Section 42(a) of the Act, 415 ILCS 5/42(a) (2024), 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) (2024), and Section 501.405(a) of the Board's Agriculture Related Pollution Regulations, 35 Ill. Adm. Code 501.405(a) that occurred prior to June 16, 2025, and an additional Ten Thousand Dollars (\$10,000.00) for each day of each violation that continued;

5. Taxing all costs in this action, including, but not limited to, attorney, expert witness, and consultant fees against Kintzle; and

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

COUNT XVI
LIVESTOCK WASTE LAND APPLICATION VIOLATIONS AS TO KINTZLE

1-80. Complainant re-alleges and incorporates by reference herein paragraphs 1 through 41 of Count IX, paragraphs 41, 44, 45, and 48 through 52 of Count XI, paragraphs 42 through 46 of Count XII, paragraphs 42 through 57 of Count XIII, paragraphs 66 through 71 of Count XIV, and paragraphs 78 through 81 of Count XV, as paragraphs 1 through 80 of this Count XVI.

81. Section 502.102(c) of the Board's Agriculture Related Pollution Regulations, 35 Ill. Adm. Code 502.102(c), provides, as follows:

* * *

- (c) Unpermitted large CAFOs must maintain the documentation specified in Section 502.510(b)(16) either on site or at a nearby office, or otherwise make that documentation readily available to the Agency upon request.

82. Section 502.510(b)(16) of the Board's Agriculture Related Pollution Regulations,

35 Ill. Adm. Code 502.510(b)(16), provides, as follows:

* * *

- (b)(16) Specific records that will be maintained to document the implementation and management of the minimum elements described in subsection (b)(2) through (15); and

* * *

83. Section 502.510(b)(11) of the Board's Agriculture Related Pollution Regulations,

35 Ill. Adm. Code 502.510(b)(11), provides, as follows:

* * *

- (b)(11) Livestock waste must not be applied within the distance from residences provided in Section 502.645(a) and within the areas prohibited from land application by this Part;

* * *

84. Section 502.645(b)(2) of the Board's Agricultural Related Pollution Regulations,

35 Ill. Adm. Code 502.645(b)(2), provides as follows:

* * *

- (b) Setbacks from Waters

* * *

- (2) Livestock waste must not be land applied within 100 feet of downgradient open subsurface drainage intakes, agricultural drainage wells, sinkholes, grassed waterways, or other conduits to surface waters unless a 35-foot vegetative buffer exists between the land application area and the grassed waterways, open subsurface drainage intakes, agricultural drainage wells, sinkholes or other conduits to surface water.

85. By land applying Paragon's Livestock Waste within 100 feet of down gradient grassed waterways, an area prohibited from land application by Section 502.645(b)(2) of the Board's Agriculture Related Pollution Regulations, 35 Ill. Adm. Code 502.645(b)(2), Kintzle violated Section 502.510(b)(11) of the Board's Agriculture Related Pollution Regulations, 35 Ill. Adm. Code 502.510(b)(11).

86. Section 502.510(b)(13) of the Board's Agriculture Related Pollution Regulations, 35 Ill. Adm. Code 502.510(b)(13), provides, as follows:

(b)(13) The plan for the inspecting, monitoring, managing and repairing subsurface drainage systems at the livestock waste application site. Inspecting subsurface drainage systems must include visual inspection before land application to determine failures that may cause discharges and visual inspection during and after land application to identify discharges. For this subsection (b)(13), visual inspection means a person inspecting the tile inlet, tile outlet, and unobstructed land surface to assess the structural ability of the subsurface drainage system;

* * *

87. Kintzle failed to visually inspect the subsurface drainage system at the fields where Paragon's Livestock Waste was applied prior to the land application to determine failures that may cause discharges, during, and after the land application to identify discharges, including visual inspection of the tile inlet, tile outlet and unobstructed land surface to assess the structural ability of the subsurface drainage system as required pursuant to Section 502.510(b)(13) of the Board's Agriculture Related Pollution Regulations, 35 Ill. Adm. Code 502.510(b)(13).

88. By failing to visually inspect Paragon's Fields where Paragon's Livestock Waste was land applied before, during, and after application, as evidenced by the discharge of Paragon's Livestock Waste to waters of the State, Kintzle violated Section 502.510(b)(13) of the Board's Agriculture Related Pollution Regulations, 35 Ill. Adm. Code 502.510(b)(13).

89. By violating Sections 502.510(b)(11) and (13) of the Board's Agriculture Related Pollution Regulations, 35 Ill. Adm. Code 502.510(b)(11) and (13), Kintzle thereby violated Section 12(a) of the Act, 415 ILCS 5/12(a) (2024).

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an Order against Respondent, KINTZLE CONSTRUCTION, INC., an Iowa corporation, with respect to Count XVI:

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

2. Finding that Kintzle has violated Section 12(a) of the Act, 415 ILCS 5/12(a) (2024) and Sections 502.510(b)(11) and (13) of the Board's Agriculture Related Pollution Regulations, 35 Ill. Adm. Code 502.510(b)(11) and (13);

3. Ordering Kintzle to cease and desist from any future violations of Section 12(a) of the Act, 415 ILCS 5/12(a) (2024), and Sections 502.510(b)(11) and (13) of the Board's Agriculture Related Pollution Regulations, 35 Ill. Adm. Code 502.510(b)(11) and (13);

4. Assessing against Kintzle, pursuant to Section 42(a) of the Act, 415 ILCS 5/42(a) (2024), a civil penalty of Fifty Thousand Dollars (\$50,000.00) for each violation of 12(a) of the Act, 415 ILCS 5/12(a) (2024), and Sections 502.510(b)(11) and (13) of the Board's Agriculture Related Pollution Regulations, 35 Ill. Adm. Code 502.510(b)(11) and (13) that occurred prior to June 16, 2025, and an additional Ten Thousand Dollars (\$10,000.00) for each day of each violation that continued;

5. Taxing all costs in this action, including, but not limited to, attorney, expert witness, and consultant fees against Kintzle; and

6. Granting other such 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

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Environmental Enforcement/Asbestos
Litigation Division

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