

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

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

Complainant,)

v.)

KRAFT FOODS GLOBAL, INC., a)
Delaware corporation,)

Respondent.)

PCB No.
(Enforcement - Water)

NOTICE OF FILING

TO: Kraft Foods Global, Inc.
c/o CT Corporation, Registered Agent
208 S. LaSalle St., Suite
Chicago, Illinois 60604

(VIA ELECTRONIC FILING)

PLEASE TAKE NOTICE that today, June 5, 2007, I have filed with the Office of the Clerk of the Illinois Pollution Control Board by electronic filing the following Complaint a true and correct copy of which is attached and hereby served upon you.

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

NOTIFICATION

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

THIS FILING IS SUBMITTED ON RECYCLED PAPER

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

BY:



STEPHEN J. SYLVESTER

Assistant Attorney General

Environmental Bureau

69 W. Washington St., Suite 1800

Chicago, Illinois 60602

(312) 814-2087

Date: June 5, 2007

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by LISA MADIGAN, Attorney General)
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COMPLAINT

Complainant, People of the State of Illinois, by LISA MADIGAN, Attorney General of the State of Illinois, on her own motion and at the request of the Illinois Environmental Protection Agency, complains of Respondent, KRAFT FOODS GLOBAL, INC., a Delaware corporation, as follows:

COUNT I
WATER POLLUTION

1. This Count is brought on behalf of the PEOPLE OF THE STATE OF ILLINOIS, by LISA MADIGAN, Attorney General of the State of Illinois, on her own motion and at the request of the Illinois Environmental Protection Agency ("Illinois EPA"), pursuant to Section 31 of the Illinois Environmental Protection Act ("Act"), 415 ILCS 5/31 (2004).

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 (2004), and 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 Pollutant Discharge Elimination System ("NPDES") permit program under the Federal Clean Water Act ("CWA"), 33 U.S.C. § 1342(b)(7) (2007).

3. At all times relevant to this Complaint, Respondent, Kraft Foods Global, Inc. ("Kraft"), was and is a Delaware corporation authorized to transact business in Illinois.

4. At all times relevant to this Complaint, Kraft owned and operated a food processing and production facility ("Facility"), located at 1555 West Ogden Avenue, Naperville, DuPage County, Illinois ("Site").

5. As part of its food processing and production at the Site, Kraft discharges process wastewater across the Site to a pretreatment lagoon, located on the southwest corner of the Site. At all times relevant to this complaint, Kraft's process wastewater lines ran over and/or through the storm sewers at the Site, which discharge to the West Branch of the DuPage River.

6. On June 6, 2005 and continuing through June 7, 2005, one of Kraft's process wastewater lines ruptured at the Site. Kraft discharged approximately two hundred fifty (250) gallons of its process wastewater, containing cooked wheat water and sugar water, onto the ground at the Site. Kraft's process wastewater migrated to a ditch tributary to a storm sewer that runs along Jefferson Avenue ("Jefferson storm sewer") and flowed through the Jefferson storm sewer and into the West Branch of the DuPage River.

7. On at least June 23, 2005, or a date better known to Kraft, Kraft's process wastewater pipe, which ran across and through the storm sewer near the employee parking lot ("western storm sewer") at the Site, had a large horizontal corroded hole on the bottom of it.

8. From at least June 23, 2005 through June 24, 2005, on dates better known to Kraft, Kraft discharged its process wastewater containing a thick brown substance via its process wastewater pipe, which entered the western storm sewer at the Site through the large horizontal corroded hole on the bottom of the process wastewater pipe, and thereupon into the Jefferson storm sewer and into the West Branch of the DuPage River.

9. On June 24, 2005, the Illinois EPA inspected the Site. At that time, process wastewater, which had been discharged from Kraft's Facility, containing a hot thick brown substance was present in the West Branch of the DuPage River. The western storm sewer at the Site had an observable flow of Kraft's process wastewater containing a thick brown substance with a temperature of one hundred and fourteen (114) degrees Fahrenheit.

10. On June 28, 2005, the Illinois EPA again inspected the Site. At that time, Kraft informed the Illinois EPA inspector that the process wastewater containing a hot thick brown substance that it had discharged originated from its flavor kitchen clean-up, and contained caramel, corn syrup, liquid sugar, and salt water. Kraft also informed the Illinois EPA inspector that the discharge contained wheat water, wheat, and sugar water from two floor drains.

11. On October 13, 2005, Kraft's south lift station at the Site was leaking process wastewater containing cooked wheat water from a hole in a ductile iron reducer pipe, located approximately two feet south of the lift station, and discharging the process wastewater to another storm sewer line at the eastern portion of the Site ("Jaguar storm sewer"). The Jaguar storm sewer line discharges into the Jefferson sewer line and thereupon to the West Branch of the DuPage River.

12. On October 14, 2005, the Illinois EPA inspected the Site. At that time, there was another leak that was caused by a failed gasket on the process wastewater pipe, located just north of the south lift station. A valve pit near the south lift station contained a brownish liquid, which appeared to be rising. Additionally, in the Jaguar storm sewer at the Site, there was a brown liquid that had a sewage type odor, which was being discharged to the Jefferson storm sewer and to the West Branch of the DuPage River.

13. Samples of the liquid in the valve pit near the south lift station and the Jaguar

storm sewer line at the Site contained deoxygenating wastes in the form of five day biochemical oxygen demand ("BOD₅") and total suspended solids ("TSS").

14. On October 18, 2005, the Illinois EPA inspected the Site. At that time, Kraft informed the Illinois EPA inspector that it had discovered an additional leak north of the south lift station in the process wastewater line. Also, there was still a flow of slightly colored liquid that had a sewage type odor in the Jaguar storm sewer.

15. Section 12(a) of the Act, 415 ILCS 5/12(a)(2004), provides as follows:

No person shall:

- a. Cause or threaten or allow the discharge of any contaminant 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.

16. Section 3.315 of the Act, 415 ILCS 5/3.315 (2004), 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.

17. Respondent Kraft, a corporation, is a "person" as that term is defined in Section 3.315 of the Act, 415 ILCS 5/3.315 (2004).

18. Section 3.165 of the Act, 415 ILCS 5/3.165 (2004), provides the following definition:

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

19. Process wastewater from Kraft's Facility, containing wheat, cooked wheat water, sugar water, a hot thick brown substance containing caramel, corn syrup, liquid sugar, and salt

water, BOD₅ and TSS are "contaminants" as that term is defined in Section 3.165 of the Act, 415 ILCS 5/3.165 (2004).

20. Section 3.550 of the Act, 415 ILCS 5/3.550 (2004), 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.

21. The West Branch of the DuPage River is a "water" of the State of Illinois as that term is defined in Section 3.550 of the Act, 415 ILCS 5/3.550 (2004).

22. Section 3.545 of the Act, 415 ILCS 5/3.545 (2004), provides the following definition:

"Water Pollution" is such alteration of the physical, thermal, chemical, biological or radioactive properties of any waters of the State, or such discharge of any contaminant into any waters of the State, as will or is likely to create a nuisance of 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.

23. Kraft caused, threatened and/or allowed process wastewater containing wheat, cooked wheat water, sugar water, a hot thick brown substance containing caramel, corn syrup, liquid sugar, and salt water, BOD₅ and TSS to be discharged into a ditch tributary to the Jefferson storm sewer, into the western storm sewer, and into the Jaguar storm sewer and thereupon into West Branch of the DuPage River. Such process wastewater containing wheat, cooked wheat water, sugar water, a hot thick brown substance containing caramel, corn syrup, liquid sugar, and salt water, BOD₅ and TSS altered, or threatened to alter, the physical, thermal, chemical, or radioactive properties of the West Branch of the DuPage River, or was likely to render, the West Branch of the DuPage River harmful, detrimental or injurious to wild animals, birds, fish, and other aquatic life; or created, or was likely to create, a nuisance.

24. On June 6, 2005 through June 7, 2005, on dates better known to Kraft, Kraft caused or allowed the discharge of process wastewater containing cooked wheat water and sugar water into a ditch tributary to Jefferson storm sewer and thereupon into West Branch of the DuPage River.

25. On June 23 through June 24, 2005, on dates better known to Kraft, Kraft caused or allowed the discharge of process wastewater in the form of a hot thick brown substance containing caramel, corn syrup, liquid sugar, and salt water, into the western storm sewer at the Site which flowed to the Jefferson storm sewer and thereupon into West Branch of the DuPage River.

26. On October 13, 2005, Kraft caused or allowed the discharge of process wastewater containing cooked wheat water into the Jaguar storm sewer, and flowed or threatened to flow to the West Branch of the DuPage River.

27. On October 14, 2005, Kraft caused or allowed the discharge of process wastewater containing at least BOD₅ and TSS into the Jaguar storm sewer and thereupon to the Jefferson storm sewer at the Site and flowed to the West Branch of the DuPage River.

28. By its actions and omissions, Kraft caused, threatened, or allowed water pollution, and thereby violated Section 12(a) of the Act, 415 ILCS 5/12(a) (2004).

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an order against Respondent, KRAFT FOODS GLOBAL, INC. on this Count I:

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

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

(2004);

3. Ordering the Respondent to cease and desist from any further violations of Section 12(a) of the Act, 415 ILCS 5/12(a) (2004);

4. Assessing against Respondent a civil penalty of Fifty Thousand Dollars (\$50,000.00) for each and every violation of Section 12(a) of the Act, with an additional penalty of Ten Thousand Dollars (\$10,000.00) for each day of violation;

5. Ordering Respondent to pay all costs, pursuant to Section 42(f) of the Act, 415 ILCS 5/42(f) (2004), including attorney, expert witness, and consultant fees expended by the State in its pursuit of this action; and

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

COUNT II

VIOLATION OF THE GENERAL USE WATER QUALITY STANDARDS

1.-27. Complainant realleges and incorporates by reference herein paragraphs 1 through 27 of Count I as paragraphs 1 through 27 of this Count II.

28. Kraft's discharges at the Site are subject to the Act and the rules and regulations promulgated by the Illinois Pollution Control Board ("Board") and the Illinois EPA. The Board's regulations for water pollution are found in Title 35, Subtitle C, Chapter I of the Illinois Administrative Code ("Board Water Pollution Regulations").

29. Part 304, Subpart A, of the Board Water Pollution Regulations, 35 Ill. Adm. Code Part 304, Subpart A, establishes general effluent standards for waters of the State.

30. Section 304.105 of the Board Water Pollution Regulations, 35 Ill. Adm. Code 304.105, provides, in pertinent part, as follows:

In addition to the other requirements of this Part, no effluent shall, alone or in combination with other sources, cause a violation of any applicable water quality standard. . . .

31. Section 304.106 of the Board Water Pollution Regulations, 35 Ill. Adm. Code

304.106, provides, in pertinent part, as follows:

Offensive Discharges

In addition to the other requirements of this Part, no effluent shall contain settleable solids, floating debris, visible oil, grease, scum or sludge solids. Color, odor and turbidity must be reduced to below obvious levels.

32. Part 302, Subpart B, of the Board Water Pollution Regulations, 35 Ill. Adm. Code

Part 302, Subpart B, establishes general use water quality standards for non-specified waters of the State of Illinois.

33. Section 302.203 of the Board 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

34. Section 301.275 of the Board Water Pollution Regulations, 35 Ill. Adm. Code

301.275, defines "effluent," in pertinent part, as follows:

"Effluent" means any wastewater discharged directly or indirectly, to the waters of the State or to any storm sewer. . .

35. Section 301.425 of the Board Water Pollution Regulations, 35 Ill. Adm. Code

301.425, defines "wastewater" as follows:

"Wastewater" means sewage, industrial waste or other waste, or any combination of these, whether treated or untreated, plus any admixed land runoff.

36. Kraft's discharge at the Site from its Facility was "wastewater" as that term is defined in Section 301.425 of the Board Water Pollution Regulations, 35 Ill. Adm. Code 301.425.

37. Kraft's discharge at the Site from its Facility into the western storm sewer, the Jaguar storm sewer, the Jefferson storm sewer, and the West Branch of the DuPage River was "effluent" as that term is defined in Section 301.275 of the Board Water Pollution Regulations, 35 Ill. Adm. Code 301.275.

38. On at least June 23 through June 24, 2005, on dates better known to Kraft, Kraft caused or allowed the discharge of its process wastewater in the form of a hot thick brown substance containing caramel, corn syrup, liquid sugar, and salt water, into the western storm sewer and flowed to the Jefferson storm sewer, and thereupon into the West Branch of the DuPage River, and caused the waters of the West Branch of the DuPage River, to contain sludge, sludge solids, and obvious and visible color and turbidity that was not of natural origin.

39. Kraft, by its actions alleged herein, caused or allowed offensive discharges and offensive conditions in the waters of the West Branch of the DuPage River, in violation of Sections 302.203, and 304.106 of the Board Water Pollution regulations, 35 Ill. Adm. Code 302.203, and 304.106.

40. By discharging an effluent that caused violations of water quality standards Kraft violated Section 304.105 of the Board Water Pollution Regulations, 35 Ill. Adm. Code 304.105.

41. By causing or allowing the discharge of contaminants into the waters of the West Branch of the DuPage River in violation of Board regulations, Kraft violated Section 12(a) of the Act, 415 ILCS 5/12(a) (2004).

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an order against Respondent, KRAFT FOODS GLOBAL, INC. on this Count II:

1. Authorizing a hearing in this matter at which time the Respondent will be required to answer the allegations herein;
2. Finding that Respondent has violated Section 12(a) of the Act, 415 ILCS 5/12(a) (2004), and Sections 302.203, 304.105, and 304.106 the Board Water Pollution regulations, 35 Ill. Adm. Code 302.203, 304.105, and 304.106;
3. Ordering the Respondent to cease and desist from any further violations of Section 12(a) of the Act, 415 ILCS 5/12(a) (2004), and Sections 302.203, 304.105, and 304.106 the Board Water Pollution regulations, 35 Ill. Adm. Code 302.203, 304.105, and 304.106;
4. Assessing against Respondent a civil penalty of Fifty Thousand Dollars (\$50,000.00) for each and every violation of Section 12(a) of the Act and Sections 302.203, 304.105, and 304.106 of the Board Water Pollution regulations, with an additional penalty of Ten Thousand Dollars (\$10,000.00) for each day of violation;
5. Ordering Respondent to pay all costs, pursuant to Section 42(f) of the Act, 415 ILCS 5/42(f) (2004), including attorney, expert witness, and consultant fees expended by the State in its pursuit of this action; and
6. Granting such other relief as the Board deems appropriate and just.

COUNT III
WATER POLLUTION HAZARD

1.-22. Complainant realleges and incorporates by reference herein paragraphs 1 through 14 and paragraphs 16 through 23 of Count I as paragraphs 1 through 22 of this Count III.

23. Section 12(d) of the Act, 415 ILCS 5/12(d) (2004), provides as follows:

No person shall:

* * *

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

24. From at least June 6, 2005, through at least June 7, 2005, on dates better known to Kraft, Kraft caused or allowed the discharge onto the ground at the Site, approximately two hundred fifty (250) gallons of its process wastewater containing cooked wheat water and sugar water.

25. Kraft's process wastewater containing cooked wheat water and sugar water migrated to a ditch tributary to the Jefferson storm sewer, flowed through the Jefferson storm sewer and into the West Branch of the DuPage River.

26. By its actions as alleged herein, Kraft created a water pollution hazard, in violation of Section 12(d) of the Act, 415 ILCS 5/12(d) (2004).

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an order against Respondent, KRAFT FOODS GLOBAL, INC. on this Count III:

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

2. Finding that Respondent has violated Section 12(d) of the Act, 415 ILCS 5/12(d) (2004);

3. Ordering the Respondent to cease and desist from any further violations of Section 12(d) of the Act, 415 ILCS 5/12(d) (2004);

4. Assessing against Respondent a civil penalty of Fifty Thousand Dollars (\$50,000.00) for each and every violation of Section 12(d) of the Act, with an additional penalty

of Ten Thousand Dollars (\$10,000.00) for each day of violation;

5. Ordering Respondent to pay all costs, pursuant to Section 42(f) of the Act, 415 ILCS 5/42(f) (2004), including attorney, expert witness, and consultant fees expended by the State in its pursuit of this action; and

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

COUNT IV

DISCHARGING TO WATERS OF THE STATE WITHOUT AN NPDES PERMIT

1.-21. Complainant realleges and incorporates by reference herein paragraphs 1 through 14 and paragraphs 16 through 21 of Count I and paragraph 28 of Count II as paragraphs 1 through 21 of this Count IV.

22. Section 12(f) of the Act, 415 ILCS 5/12(f) (2004), provides, in pertinent part, as follows:

No person shall:

* * * *

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

23. Section 309.102(a) of the Board Water Pollution Regulations, 35 Ill. Adm. Code 309.102(a), provides as follows:

NPDES Permit Required

- 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.

24. Section 301.240 of the Board Water Pollution Regulations, 35 Ill. Adm. Code

301.240, provides the following definition:

“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.)

25. Section 1362(14) of the CWA, 33 U.S.C.A. §1362(14) (2007), provides the following definition:

14) 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.

26. The Jefferson storm sewer outfall at the Site that discharges to the West Branch of the DuPage River is a discernible, confined and discrete conveyance, and therefore constitutes a “point source,” as that term is defined in Section 1362(14) of the CWA, 33 U.S.C.A. §1362(14) (2007).

27. The Illinois EPA has never issued a NPDES permit authorizing the point source discharge alleged herein.

28. On June 6, 2005 through June 7, 2005, on dates better known to Kraft, Kraft caused or allowed the discharge of process wastewater, containing cooked wheat water and sugar water into a ditch tributary to the Jefferson storm sewer and thereupon into West Branch of the DuPage River.

29. On June 23 through June 24, 2005, on dates better known to Kraft, Kraft caused or allowed the discharge of process wastewater in the form of a hot thick brown substance containing caramel, corn syrup, liquid sugar, and salt water into the western storm sewer at the Site flowing to the Jefferson storm sewer and thereupon into West Branch of the DuPage River.

30. On October 14, 2005, Kraft caused or allowed the discharge of process wastewater containing at least BOD₅ and TSS into the Jaguar storm sewer and thereupon to the Jefferson storm sewer at the Site and flowed to the West Branch of the DuPage River.

31. On June 6, 2005 through June 7, 2005, on June 23 through June 24, 2005, and October 14, 2005 on dates better known to Kraft, Kraft caused or allowed the discharge of its process wastewater containing wheat, cooked wheat water, sugar water, a hot thick brown substance containing caramel, corn syrup, liquid sugar, and salt water, BOD₅ and TSS, contaminants, to the West Branch of the DuPage River, waters of the State, without an NPDES permit.

32. By discharging process wastewater containing wheat, cooked wheat water, sugar water, a hot thick brown substance containing caramel, corn syrup, liquid sugar, and salt water, BOD₅ and TSS, contaminants, into West Branch of the DuPage River, waters of the State, without an NPDES permit, Kraft violated Section 12(f) of the Act, 415 ILCS 5/12(f) (2004), and Section 309.102(a) of the Board Water Pollution Regulations, 35 Ill. Adm. Code 309.102(a).

33. On October 13, 2005, Kraft caused or allowed the discharge of process wastewater containing cooked wheat water, a contaminant, into the Jaguar storm sewer, and discharged, or threatened to discharge, to the West Branch of the DuPage River, waters of the State, without an NPDES permit.

34. By discharging process wastewater containing cooked wheat water, a

contaminant, into the Jaguar storm sewer, and discharging or threatening to discharge to the West Branch of the DuPage River, waters of the State, without an NPDES permit, Kraft violated Section 12(f) of the Act, 415 ILCS 5/12(f) (2004).

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an order against Respondent, KRAFT FOODS GLOBAL, INC. on this Count IV:

1. Authorizing a hearing in this matter at which time the Respondent will be required to answer the allegations herein;
2. Finding that Respondent has violated Section 12(f) of the Act, 415 ILCS 5/12(f) (2004), and Section 309.102(a) of the Board Water Pollution Regulations, 35 Ill. Adm. Code 309.102(a);
3. Ordering the Respondent to cease and desist from any further violations of Section 12(f) of the Act, 415 ILCS 5/12(f) (2004) and Section 309.102(a) of the Board Water Pollution Regulations, 35 Ill. Adm. Code 309.102(a);
4. Assessing against Respondent, pursuant to Section 42(b)(1) of the Act, a civil penalty of Ten Thousand Dollars (\$10,000.00) for each day of violation of Section 12(f) of the Act and Section 309.102(a) of the Board Water Pollution Regulations;
5. Ordering Respondent to pay all costs, pursuant to Section 42(f) of the Act, 415 ILCS 5/42(f) (2004), including attorney, expert witness, and consultant fees expended by the State in its pursuit of this action; and
6. Granting such other relief as the Board deems appropriate and just.

COUNT V

SYSTEMS RELIABILITY VIOLATIONS: FAILURE TO PREVENT MALFUNCTIONS

1. This Count is brought on behalf of the PEOPLE OF THE STATE OF ILLINOIS, *ex rel.* Lisa Madigan, Attorney General of the State of Illinois, on her own motion, pursuant to the terms and provisions of Section 42 of the Act, 415 ILCS 5/42 (2004).

2.-28. Complainant realleges and incorporates by reference herein paragraphs 2 through 27 of Count I and paragraph 28 of Count II as paragraphs 2 through 28 of this Count V.

29. Section 306.102(a) of the Board Water Pollution Regulations, 35 Ill. Adm. Code 306.102(a), provides as follows:

Systems Reliability

- a) Malfunctions: All treatment works and associated facilities shall be so constructed and operated as to minimize violations of applicable standards during such contingencies as flooding, adverse weather, power failure, equipment failure, or maintenance, through such measures as multiple units, holding tanks, duplicate power sources, or such other measures as may be appropriate.

30. At all times relevant to this complaint, process wastewater lines tributary to the treatment works at the Site were obsolete and deteriorated, in that they had become corroded and were leaking, and by continuing to operate the obsolete and deteriorated process wastewater lines, Kraft failed to minimize violations of applicable standards at the Site.

31. By failing to take remedial action to repair its treatment works and associated facilities in a timely manner to avoid causing violations of applicable standards, including the violations as alleged in this complaint, Kraft violated Section 306.102(a) of the Board Water Pollution Regulations, 35 Ill. Adm. Code 306.102(a), thereby violating Section 12(a) of the Act, 415 ILCS 5/12(a) (2004).

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully

requests that the Board enter an order against Respondent, KRAFT FOODS GLOBAL, INC. on this Count V:

1. Authorizing a hearing in this matter at which time the Respondent will be required to answer the allegations herein;
2. Finding that Respondent has violated Section 12(a) of the Act, 415 ILCS 5/12(a) (2004), and Section 306.102(a) of the Board Water Pollution Regulations, 35 Ill. Adm. Code 306.102(a);
3. Ordering the Respondent to cease and desist from any further violations of Section 12(a) of the Act, 415 ILCS 5/12(a) (2004), and Section 306.102(a) of the Board Water Pollution Regulations, 35 Ill. Adm. Code 306.102(a);
4. Assessing against Respondent a civil penalty of Fifty Thousand Dollars (\$50,000.00) for each and every violation of Section 12(a) of the Act and Section 306.102(a) of the Board Water Pollution Regulations, with an additional penalty of Ten Thousand Dollars (\$10,000.00) for each day of violation;
5. Ordering Respondent to pay all costs, pursuant to Section 42(f) of the Act, 415 ILCS 5/42(f) (2004), including attorney, expert witness, and consultant fees expended by the State in its pursuit of this action; and
6. Granting such other relief as the Board deems appropriate and just.

COUNT VI
SYSTEMS RELIABILITY VIOLATIONS:
FAILURE TO PREVENTAGE SPILLAGE OF CONTAMINANTS

- 1.-29. Complainant realleges and incorporates by reference herein paragraphs 1 through 28 of Count I and paragraph 28 of Count II as paragraphs 1 through 29 of this Count VI.
30. Section 306.102(b) of the Board Water Pollution Regulations, 35 Ill. Adm. Code

306.102(b), provides as follows:

Systems Reliability

* * *

- b) Spills: All reasonable measures, including where appropriate the provision of catchment areas, relief vessels, or entrapment dikes, shall be taken to prevent any spillage of contaminants from causing water pollution.

31. On June 6, 2005 through June 7, 2005, on at least June 23 through June 24, 2005, and on October 14, 2005, on dates better known to Kraft, Kraft failed to employ entrapment dikes in the western storm sewer, the Jaguar storm sewer, or the Jefferson storm sewer or to take other reasonable measures to prevent any spillage of contaminants from causing water pollution.

32. By failing to employ entrapment dikes in the western storm sewer, the Jaguar storm sewer, or Jefferson storm sewer or to take other reasonable measures to prevent any spillage of contaminants from causing water pollution, Kraft violated Section 306.102(b) of the Board Water Pollution Regulations, 35 Ill. Adm. Code 306.102(b), thereby violating Section 12(a) of the Act, 415 ILCS 5/12(a) (2004).

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an order against Respondent, KRAFT FOODS GLOBAL, INC. on this Count VI:

1. Authorizing a hearing in this matter at which time the Respondent will be required to answer the allegations herein;
2. Finding that Respondent has violated Section 12(a) of the Act, 415 ILCS 5/12(a) (2004), and Section 306.102(b) of the Board Water Pollution Regulations, 35 Ill. Adm. Code 306.102(b);
3. Ordering the Respondent to cease and desist from any further violations of

Section 12(a) of the Act, 415 ILCS 5/12(a) (2004), and Section 306.102(b) of the Board Water Pollution Regulations, 35 Ill. Adm. Code 306.102(b);

4. Assessing against Respondent a civil penalty of Fifty Thousand Dollars (\$50,000.00) for each and every violation of Section 12(a) of the Act and Section 306.102(b) of the Board Water Pollution Regulations, with an additional penalty of Ten Thousand Dollars (\$10,000.00) for each day of violation;

5. Ordering Respondent to pay all costs, pursuant to Section 42(f) of the Act, 415 ILCS 5/42(f) (2004), including attorney, expert witness, and consultant fees expended by the State in its pursuit of this action; and

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

COUNT VII
VIOLATION OF EFFLUENT LIMITATIONS

1. This Count is brought on behalf of the PEOPLE OF THE STATE OF ILLINOIS, *ex rel.* Lisa Madigan, Attorney General of the State of Illinois, on her own motion, pursuant to the terms and provisions of Section 42 of the Act, 415 ILCS 5/42 (2004).

2.-26. Complainant realleges and incorporates by reference herein paragraphs 2 through 21 of Count I, and paragraph 28 and paragraphs 34 through 37 of Count II as paragraphs 2 through 26 of this Count VII.

27. Section 304.120(a) of the Board Water Pollution Regulations, 35 Ill. Adm. Code 304.120(a), provides, in pertinent part, as follows:

Deoxygenating Wastes

Except as provided in 35 Ill. Adm. Code 306.Subpart C, all effluents containing deoxygenating wastes shall meet the following standards:

- a) No effluent shall exceed 30 mg/L of five day biochemical oxygen demand (BOD₅) (STORET number 00310) or 30 mg/L of suspended solids

(STORET number 00530)...

28. In June 2005 and October 2005, Kraft discharged effluent from its Facility into the western storm sewer, the Jaguar storm sewer, the Jefferson storm sewer, and to the West Branch of the DuPage River from the Jefferson storm sewer at the times and in the amounts set forth below:

Dates	Location of Sample Taken	BOD₅ 30 mg/l	TSS 30 mg/l
June 7, 2005	Jefferson storm sewer outfall	915	54
June 23, 2005	Jefferson storm sewer outfall	2280	--
June 23, 2005	Jefferson storm sewer outfall	258	--
October 14, 2005	Jaguar storm sewer	690	54

29. By discharging its effluent to the West Branch of the DuPage River from the Jefferson storm sewer at levels of BOD₅ and TSS in excess of 30 mg/L, Kraft violated Section 304.120(a) of the Board Water Pollution Regulations, 35 Ill. Adm. Code 304.120(a), thereby violating Section 12(a) of the Act, 415 ILCS 5/12(a)(2004).

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an order against Respondent, KRAFT FOODS GLOBAL, INC. on this Count VII:

1. Authorizing a hearing in this matter at which time the Respondent will be required to answer the allegations herein;
2. Finding that Respondent has violated Section 12(a) of the Act, 415 ILCS 5/12(a) (2004), and Section 304.120(a) of the Board Water Pollution Regulations, 35 Ill. Adm. Code 304.120(a);
3. Ordering the Respondent to cease and desist from any further violations of Section 12(a) of the Act, 415 ILCS 5/12(a) (2004), and Section 304.120(a) of the Board Water

Pollution Regulations, 35 Ill. Adm. Code 304.120(a);

4. Assessing against Respondent a civil penalty of Fifty Thousand Dollars (\$50,000.00) for each and every violation of Section 12(a) of the Act and Section 304.120(a) of the Board Water Pollution Regulations, with an additional penalty of Ten Thousand Dollars (\$10,000.00) for each day of violation;

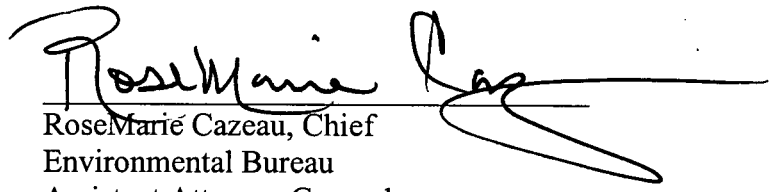
5. Ordering Respondent to pay all costs, pursuant to Section 42(f) of the Act, 415 ILCS 5/42(f) (2004), including attorney, expert witness, and consultant fees expended by the State in its pursuit of this action; and

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

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

MATTHEW J. DUNN, Chief
Environmental Enforcement/
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By:


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CERTIFICATE OF SERVICE

I, Stephen J. Sylvester, an Assistant Attorney General, do certify that a true and correct copy of the Complaint and Notice of Filing were sent by certified mail with return receipt requested to the person listed on the Notice of Filing on June 5, 2007.

BY:


STEPHEN J. SYLVESTER