

**BEFORE THE ILLINOIS POLLUTION CONTROL BOARD**

PEOPLE OF THE STATE OF ILLINOIS,	)	
	)	
Complainant,	)	
	)	PCB NO. 11-
v.	)	(Enforcement-Water)
	)	
TOWN OF CORTLAND,	)	
an Illinois municipal corporation,	)	
	)	
Respondent.	)	

**NOTICE OF FILING**

TO: Robert Seyller, Mayor  
Town of Cortland  
59 South Somonauk Road  
Cortland, Illinois 60112-0519

Clerk  
Illinois Pollution Control Board  
James R. Thompson Center  
100 W. Randolph Street, Ste. 11-500  
Chicago, Illinois 60601

PLEASE TAKE NOTICE that I have today filed with the Office of the Clerk of the Illinois Pollution Control Board a Complaint, Notice of Filing, and a Certificate of Service on behalf of the People of the State of Illinois, a copy of which is attached and herewith served upon you.

Section 103.204(f) of the Pollution Control Board Procedural Rules, 35 Ill. Adm. Code 103.204(f) provides: "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

LISA MADIGAN  
Attorney General  
State of Illinois

BY:



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ZEMEHERET BEREKET-AB  
Assistant Attorney General  
Environmental Bureau  
69 W. Washington St., 18<sup>th</sup> Flr.  
Chicago, IL 60602  
(312) 814-3816

DATE: April 7, 2011

G:\Environmental Enforcement\Z BEREKET-AB\TOWN OF CORTLAND\Pleading\NOF&Cert 4-7-11.Doc

**THIS FILING IS SUBMITTED ON RECYCLED PAPER**

**BEFORE THE ILLINOIS POLLUTION CONTROL BOARD**

PEOPLE OF THE STATE OF ILLINOIS,	)	
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Complainant,	)	
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v.	)	(Enforcement – Water)
	)	
TOWN OF CORTLAND, an	)	
Illinois Municipal Corporation,	)	
	)	
Respondent.	)	

**COMPLAINT FOR CIVIL PENALTIES**

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, complain of Respondent, TOWN OF CORTLAND, an Illinois Municipal 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 the terms and provisions of Section 31 of the Illinois Environmental Protection Act ("Act"), 415 ILCS 5/31 (2010), against Respondent TOWN OF CORTLAND, an Illinois municipal corporation.

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 (2010), and charged, *inter alia*, with the duty of enforcing the Act.

3. At all times relevant to this Complaint, Respondent, the Town of Cortland (“Cortland”), is and had been a municipal corporation duly organized and existing under the laws of the State of Illinois.

4. Cortland has a population of approximately 4,000 citizens and is located approximately four (4) miles east of the City of DeKalb and south of the City of Sycamore in DeKalb County, Illinois.

5. Cortland owns and operates wastewater spray irrigation fields and rigs located east of the town, north of Maple Park Road, with Rigs A1, A2, A3 and A4 on the east of Airport Road and Rigs B1, B2 and B3 on the west side of Airport Road.

6. Cortland’s spray irrigation system consists of:

- a 3-cell aerated lagoon system;
- a turbo-disc filtration system;
- an ultra-violet disinfection system;
- 6,690 feet of 12-inch irrigation piping;
- 1,860 feet of 8-inch irrigation piping;
- 1225 feet of 6-inch irrigation piping;
- a spray irrigation application area of approximately 86 acres designed for an application rate of 1.6 inches per week during the 215-day irrigation season; and
- eight groundwater monitoring wells.

7. On August 18, 2006, the Illinois EPA issued to Cortland Water Pollution Control Permit No. 2005-GA-3591 for the operation of Cortland’s Sewage Treatment Plant Spray Irrigation Phase 1A (“State Operating Permit”).

8. On July 17, 2009, the Illinois EPA’s Rockford Regional Office received complaints of surface discharge of wastewater from the northwest corner of the designated spray

field to an adjacent field to the east. Cortland's State Operating Permit does not allow for the surface discharge of wastewater from the spray field.

9. On July 24, 2009, the Illinois EPA again received citizen complaints about Cortland's spray irrigation system. The irrigation system was spraying wastewater directly onto Airport Road for a period of approximately thirty minutes. Cortland's State Operating Permit does not allow for wastewater to be sprayed on land other than the permitted spray fields.

10. As better known to the Defendant, the sprayed wastewater entered Union Ditch #1, tributary to the Kishwaukee River and/or roadside stormwater ditches.

11. On September 24, 2009, the Illinois EPA sent a Violation Notice to Cortland for failure to comply with its State Operating Permit and unlawful discharge of wastewater. On information and belief, based on the design of the spray irrigation system, a thirty minute discharge would amount to approximately 9,000 gallons of wastewater.

12. Section 12(a) of the Act, 425 ILCS 5/12(a) (2010), provides, in pertinent part, 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.

13. Section 3.315 of the Act, 415 ILCS 5/3.315 (2010), 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.

14. Respondent Cortland is a “person” as that term is defined in Section 3.315 of the Act, 415 ILCS 5/3.315 (2010).

15. Section 3.165 of the Act, 415 ILCS 5/3.165 (2010), provides the following definition:

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

16. Wastewater is a “contaminant” as that term is defined in Section 3.165 of the Act, 415 ILCS 5/3.165 (2010).

17. Section 3.545 of the Act, 415 ILCS 5/3.545 (2010), provides the following definition:

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

18. Section 3.550 of the Act, 415 ILCS 5/3.550 (2010), provides the following definition:

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

19. Union Ditch #1, tributary to Kishwaukee River and/or roadside stormwater ditches are “waters” as that term is defined in Section 3.550 of the Act, 415 ILCS 5/3.550 (2010).

20. On July 17 and 24, 2009, wastewater was discharged from Cortland’s spray irrigation system to areas outside of the permitted irrigation area and entered Union Ditch #1 and/or roadside stormwater ditches, tributary to Kishwaukee River, waters of the State.

21. Respondent Cortland, by allowing discharges from the spray system outside the permitted area, caused or allowed wastewater to enter Union Ditch #1 and other roadside stormwater ditches, waters of the State, thereby causing, threatening or allowing water pollution.

22. By discharging wastewater to areas outside of the spray irrigation application area, Cortland caused, threatened or allowed water pollution in Illinois, in violation of Section 12(a) of the Act, 415 ILCS 5/12(a) (2010).

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully request that this Board enter an order in favor of Complainant and against Respondent CORTLAND, with respect to this Count I:

1. Authorizing a hearing in this matter at which time 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) (2010);
3. Ordering Respondent to cease and desist from any further violations of Section 12(a) of the Act, 415 ILCS 5/12(a);
4. Assessing against the Respondent a civil penalty of Fifty Thousand Dollars (\$50,000.00) each for each and every violation of Section 12(a) of the Act, 415 ILCS 5/12(a) (2010), with an additional penalty of Ten Thousand Dollars (\$10,000.00) against the Respondent for each day of each violation of Section 12(a);
5. Ordering Respondent to implement measures to prevent surface discharges of wastewater from its wastewater spray irrigation system;
6. Ordering Respondent to pay all costs including attorney, expert witness, and consultant fees expended by the State in its pursuit of this action; and

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

**COUNT II**  
**FAILURE TO COMPLY WITH STATE OPERATING PERMIT**

1-18. Complainant realleges and incorporates by reference herein paragraphs 1 through 11 and 13 through 19 of Count I as paragraphs 1-18 of this Count II.

19. Section 12(b) of the Act, 415 ILCS 5/12(b) (2010), provides, in pertinent part, as follows:

No person shall:

\* \* \*

- (b) Construct, install, or operate any equipment, facility, vessel, or aircraft capable of causing or contributing to water pollution, or designed to prevent water pollution, of any type designated by Board regulations, without a permit granted by the Agency, or in violation of any conditions imposed by such permit.

20. Special Condition 7 of State Operating Permit No. 2005-GA-3591 provides as follows:

This permit is issued with the express understanding that there shall be no surface discharge from the permitted facilities.

21. The surface discharge of wastewater to areas outside the spray irrigation application area on July 17 and July 24, 2009, was in violation of Special Condition 7 of Cortland's State Operating Permit, #2005-GA-3591.

22. By operating in violation of Special Condition 7 of its State Operating Permit, Cortland violated Section 12(b) of the Act, 415 ILCS 5/12(b) (2010).

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that this Board enter an order in favor of Complainant and against Respondent, the TOWN OF CORTLAND, with respect to this Count II:



1. Authorizing a hearing in this matter at which time Respondent will be required to answer the allegations herein;
2. Finding that Respondent has violated Section 12(b) of the Act, 415 ILCS 5/12(b) (2010);
3. Ordering Respondent to cease and desist from any further violations of Section 12(b) of the Act, 415 ILCS 5/12(b) (2010);
4. Assessing against the Respondent a civil penalty of Fifty Thousand Dollars (\$50,000.00) each for each and every violation of Section 12(b) of the Act, 415 ILCS 5/12(b) (2010), with an additional penalty of Ten Thousand Dollars (\$10,000.00) against the Respondent for each day of each violation of Section 12(b);
5. Ordering Respondent to implement measures to prevent future surface discharges of wastewater from its wastewater spray irrigation system;
6. Ordering Respondent to pay all costs including attorney, expert witness, and consultant fees expended by the State in its pursuit of this action; and
7. Granting such other relief as the Board deems appropriate and just.

**COUNT III**  
**CREATION OF A WATER POLLUTION HAZARD**

1-18. Complainant realleges and incorporates by reference herein paragraphs 1 through 18 of Count II as paragraphs 1 through 18 of this Count III.

19. Section 12(d) of the Act, 415 ILCS 5/12(d) (2010), provides, in pertinent part, 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.

20. Spraying wastewater on areas outside the spray irrigation application area allowed contaminants to be deposited on land in such a manner as to create a water pollution hazard, in violation of Section 12 (d) of the Act, 415 ILCS 5/12(d) (2010).

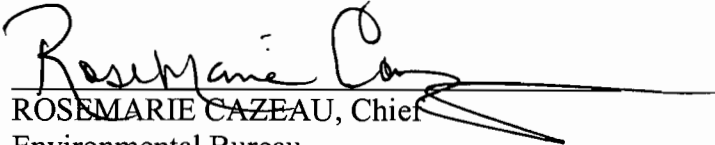
WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, prays that this Board enter an order in favor of Complainant and against Respondent CORTLAND, with respect to this Count III:

1. Authorizing a hearing in this matter at which time 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) (2010);
3. Ordering Respondent to cease and desist from any further violations of Section 12(d) of the Act, 415 ILCS 5/12(d) (2010);
4. Assessing against the Respondent a civil penalty of Fifty Thousand Dollars (\$50,000.00) each for each and every violation of Section 12(d) of the Act, 415 ILCS 5/12(d) (2010), with an additional penalty of Ten Thousand Dollars (\$10,000.00) against the Respondent for each day of each violation of Section 12(d);
5. Ordering Respondent to implement measures to prevent future surface discharges of wastewater from its wastewater spray irrigation system;
6. Ordering Respondent to pay all costs including attorney, expert witness, and consultant fees expended by the State in its pursuit of this action; and
7. Granting such other relief as the Board deems appropriate and just.

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

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

By:

  
ROSEMARIE CAZEAU, Chief

Environmental Bureau  
Assistant Attorney General

Of Counsel:

ZEMEHERET BEREKET-AB  
Assistant Attorney General  
Environmental Bureau  
Illinois Attorney General's Office  
69 W. Washington Street, Suite 1800  
Chicago, Illinois 60602  
(312) 814-3816

**CERTIFICATE OF SERVICE**

I, ZEMEHERET BEREKET-AB, an Assistant Attorney General, do certify that I caused to be served on this 7<sup>th</sup> day of April 2011, the foregoing Notice of Filing, and a Complaint, upon the Honorable Robert Seyller, Mayor of the Town of Cortland, via Certified Mail by placing same in an envelope bearing sufficient postage with the United States Postal Service located at 100 West Randolph Street, Chicago, Illinois.



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ZEMEHERET BEREKET-AB