

VIRGINIA:
IN THE CIRCUIT COURT OF SURRY COUNTY

SANDRA L. WYATT,)
WILLIS E. WYATT, JR.,)
ROBERT L. WYATT,)
EVA S. GREGORY,)
LEVERETTE B. GREGORY, JR.,)
TERESA E. GREGORY,)
)
Plaintiffs,)
)
v.)
)
) Case No.
Sussex Surry, LLC,)
Synagro Central, Inc., individually and)
formerly known as Synagro Mid-Atlantic Inc.)
)
Defendants)

COMPLAINT

Plaintiffs, Sandra L. Wyatt, Willis E. Wyatt, Jr., Robert L. Wyatt, Eva S. Gregory, Leverette B. Gregory, Jr., and Teresa E. Gregory (“Plaintiffs”), by counsel, file this complaint against Sussex Surry, LLC and Synagro Central, Inc., f/k/a Synagro Mid-Atlantic, Inc. (“Defendants”), jointly and severally and, in support thereof, allege the following:

NATURE OF THE CASE

1. This case involves a fundamental right in the Commonwealth of Virginia – the right to the use and enjoyment of one’s home.
2. Sludge is the solid by-product of sewage treatment and contains the contents of sewage that are not water-soluble.

3. Defendants have spread, are spreading, and appear to be continuing to spread their sludge on fields in Surry County, Virginia including on land adjacent to the Plaintiffs' property. and Defendants have sprayed, are spraying, and appear to be continuing to spray the hazardous and noxious material onto trees in Surry County, Virginia including on land adjacent to the Plaintiffs' property.
4. Defendants' application of the hazardous and noxious material has and is taking place on thousands of acres in the County.

PARTIES

Plaintiffs

5. Plaintiff Sandra L. Wyatt is a natural person who owns property in Surry County, Virginia. She resides at 1534 Spring Grove Rd., Claremont, Virginia.
6. Plaintiff Willis E. Wyatt, Jr., is a natural person who owns property in Surry County, Virginia. He resides at 1534 Spring Grove Rd., Claremont, Virginia.
7. Plaintiff Robert L. Wyatt is a natural person who resides in Surry County, Virginia at 1534 Spring Grove Rd., Claremont, Virginia with his parents Sandra L. Wyatt and Willis E. Wyatt, Jr.
8. Plaintiff Eva S. Gregory is a natural person who owns property in Surry County, Virginia. She resides at 368 Spring Grove Road, Spring Grove, Virginia.
9. Plaintiff Leverette B. Gregory, Jr., is a natural person who owns property in Surry County, Virginia. He resides at 368 Spring Grove Road, Spring Grove, Virginia.
10. Plaintiff Teresa Gregory is a natural person, daughter of Leverette B. Gregory, Jr. and Eva S. Gregory who own property in Surry County, Virginia. She currently resides at 199 Mancha Avenue, Claremont, VA 23899.

11. Plaintiffs have been injured, aggravated, driven from their homes, irritated, inconvenienced, and/or otherwise negatively impacted by the spread of hazardous and noxious sewage sludge in Surry County by Defendants.

Defendants

12. Sussex-Surry LLC (“Sussex Surry”) is a Virginia corporation with its principal place of business at 140 Danielstown Road, PO Box 158, Dundas, Virginia 23938-0000, doing business in the Commonwealth of Virginia. Sussex-Surry LLC may be served with process through its registered agent, Sidney J. Brandon, Jr., 140 Danielstown Road, PO Box 158, Dundas, Virginia 23938-0000.
13. Synagro Central, Inc., (“Synagro”) individually and formerly doing business as Synagro Mid-Atlantic, Inc., is a Delaware corporation with its principal place of business at 7014 East Baltimore St., Baltimore, Maryland, 21224-0000, doing business in the Commonwealth of Virginia. Synagro Central, Inc. may be served with process through its registered agent, CT Corporation System, 4701 Cox Road, Suite 301, Glen Allen, Virginia 23060-6802.
14. Defendants engage in business in Virginia as real estate owners, sludge haulers, sludge processors, sludge spreaders, or a combination of these activities.
15. At all times relevant to this litigation, Defendants engaged in one or more phases of the sludge business, from the generation of sludge and other wastes mixed and spread along with sludge, the ownership of the property where the sludge and other waste is sprayed, the hauling of waste from the generator to the land where it is to be applied, and the marketing and sale of sludge and related waste services in Virginia.

16. When reference is made to any act or omission of the Defendants, it shall be deemed to mean that the officers, directors, agents, employees, or representatives of the Defendants committed or authorized such act or omission, or failed to adequately supervise or properly control or direct their employees while engaged in the management, direction, operation or control of the affairs of Defendants, and did so while acting within the scope of their employment or agency.

JURISDICTION AND VENUE

17. This Court has jurisdiction over Defendants because they are either Virginia corporations authorized to do business in Virginia, are registered with the Virginia Secretary of State, do sufficient business with sufficient minimum contacts in Virginia, or otherwise intentionally avail themselves of the Virginia market through the sale, manufacturing, distribution, spreading, spraying, and/or processing of sludge and related products in Virginia to render the exercise of jurisdiction over Defendants by the Virginia courts consistent with traditional notions of fair play and substantial justice.
18. Venue is proper in this Court because the cause of action – the injury, offense, and disturbance created by Defendants’ acts – arose in this County; and/or at least one defendant regularly conducts affairs or business activity in this County, or in the case of withdrawal from this Commonwealth by such Defendant did conduct such business at the time of such withdrawal; and/or Plaintiffs reside in this County and all Defendants are nonresidents.

Sludge in Surry County - Facts

19. According to Harper Collins Dictionary of Environmental Science, sludge is defined as, "[a] viscous, semi-solid mixture of bacteria, virus-laden organic matter, toxic metals, synthetic organic chemicals, and settled solids removed from domestic and industrial waste water at sewage treatment plants."¹ Sludge is not comprised solely of natural, untainted human waste, rather sludge contains numerous hazardous components that are not naturally occurring.
20. Sewage treatment facilities generating sludge receive waste not only from homes, but also street runoff, industry, and other sources including hospitals and medical facilities. This is due in part to the fact that every business in America is allowed to dispose of up to 33 pounds of hazardous wastes in sewers every month without reporting or further regulation.
21. For several reasons, including but not limited to the fact that sewage sludge contains prescription drug products and their biologically active metabolites, synthetic chemicals, and other industrial chemicals, waste, and toxic runoff, sludge is different from untreated hog waste or any other animal manure product used for fertilizing purposes. Manure contains few toxic ingredients and does not contain the vast array of human pathogens found in sludge.
22. In order to temporarily reduce the bacterial load in the sludge, it is often treated with lime, and raised to a severely caustic pH level, above pH of 12. Material at this high

¹ THE HARPER COLLINS DICTIONARY OF ENVIRONMENTAL SCIENCE, Gareth Jones, et. al., HarperCollins Publishers, Ltd., New York, (1992).

- of a pH is irritating to the skin, nose, throat, and lungs, and can cause rashes and burns.
23. In addition to bacteria (including e-coli), gram-negative bacteria, protozoa, viruses, pathogens, caustic, and endotoxins (including *Chlamydia pneumoniae*), sludge contains thousands of chemicals ranging from hormone disrupting polybrominated diphenyl ethers (PBDEs), which are used as flame-retardants, to carcinogenic pesticides and heavy metals such as arsenic, lead and cadmium.
 24. Sludge also contains neurotoxic pollutants such as mercury and lead.
 25. Because many synthetic chemicals, including pharmaceutical compounds such as the synthetic estrogens used in birth control pass through the body into wastewater and are not destroyed or removed in the sewage treatment process, they accumulate in the sludge and present a hazard. Other pharmaceutical compounds are expected to be found concentrated in sewage sludge, including hormone and mood altering drugs.
 26. Current treatment methods do not result in the long-term stabilization of the biological material contained in sludge and biological contaminants such as bacteria and fungi can regenerate during transportation and storage.
 27. Samples of sludge from sewage treatment plants have been found to exceed EPA Soil Screening Levels (SSLs), under the federal environmental laws these exceedences would require a risk assessment to determine the associated hazards and possible cleanup.
 28. To date, there has not been a scientifically adequate risk assessment of exposure to sludge and all of the pollutants contained therein.

29. Defendants have failed to exercise reasonable care by adequately, fully, and completely characterizing, testing, assessing, measuring, or otherwise estimating the potential impact to human health for the sludge disposed of in Surry County.
30. Spreading these chemicals, alone and/or in combination with the other components of sludge, endangers life or health, offends the senses, violates the laws of decency and obstructs the reasonable and comfortable use of property.
31. In addition to the chemical and biological hazards associated with sludge, sludge has an extremely offensive odor due to the presence of toxic and/or irritating gases including dimethyl sulfide, dimethyl disulfide, methyl mercaptan, trimethylamine, and ammonia. This odor is even more offensive than other agricultural manures.
32. The spreading of sludge gives offense to the senses, violates the laws of decency and obstructs the reasonable and comfortable use of property.
33. Along with the offensive odor, the smell, often accompanied by a strong ammonia or chemical smell, can burn and irritate the lungs, eyes, throat, nose, and skin. This smell, which emanates from sludge application sites, gives offense to the senses, endangers life and health, violates the laws of decency and obstructs the reasonable and comfortable use of property.
34. Before spreading the sludge, Defendants test it for a very limited number of pollutants. In fact, testing is limited to determining the levels of some of the more innocuous elements likely to be found in the sludge.
35. Defendants test the sludge for only 8 metals present in sludge: arsenic, cadmium, copper, lead, mercury, nickel, selenium, and zinc.

36. Often, there is no test data for the specific batch of sludge spread or sprayed on a particular plot of land.
37. Defendants do not test for pesticides, even persistent, hazardous organic pesticides that are commonly identified in sewage sludge.
38. Defendants do not test for pharmaceutical products.
39. Defendants test for the weaker indicative pathogens, but do not test for the full range of more persistent virulent pathogens that are commonly identified in sewage sludge.
40. Defendants have actual or constructive knowledge of the various impacts on the surrounding public, including the impacts on Plaintiffs caused by the spraying of sludge in Surry County.
41. Defendants nevertheless intentionally, willfully, maliciously, recklessly, and/or negligently transport, haul, spray, spread, otherwise use, or provide assistance or land for the transportation, hauling, spraying, spreading, or other uses or disposal methods of sludge.

History of Plaintiffs' Problems with Sludge

42. In or around mid July 2005, Defendant Synagro began stockpiling and ultimately spraying sewage sludge on the roughly 1300 acres adjacent to the Wyatt's 38-acre lot located at 1534 Spring Grove Rd. Claremont, Virginia.
43. The sludge disposal began with Defendants', or their agents', trucks hauling loads of sludge both during the day and in the middle of the night throughout the remainder of the summer and for several months following the initial dumping, slowing in or around February of 2006. This hauling, dumping, and spraying operation continued during nights, through the winter, and often through rain and other adverse weather

- conditions. Defendants, or their agents, have returned to the site to spread, spray, distribute, or otherwise dispose of sludge, at various times throughout the months preceding this complaint.
44. The land where the sludge is and has been dumped, stored, sprayed, and spread is, or was at times relevant to this litigation, owned by one or more of Defendants.
 45. The waste sprayed into the trees contained both treated sewage sludge and untreated hog manure generated at local hog farms.
 46. Almost immediately, the nearby residents, including Plaintiffs, began to notice the offensive odors, and suffered from running nose, burning eyes, burning throat, irritated skin, and sores in the nasal passages. These problems got progressively worse.
 47. Eventually these symptoms progresses and Plaintiffs suffered from difficulty breathing, persistent cough, and other respiratory impairments due to the offensive odors and dust in the air.
 48. The offensive odors continued since the very first sludge application, getting more potent with certain wind and weather conditions. These odors have persisted and continue to offend the senses and obstruct the reasonable and comfortable use of the Plaintiffs' property.
 49. In addition to the odors, particulate matter and dust associated with the spread and settling of the sludge permeated and continues to permeate the Plaintiffs' air, endangering health and obstructing the reasonable and comfortable use and enjoyment of residents' homes.

50. Exposure to particulate matter causes increased mortality, especially in the elderly and in individuals with existing cardiopulmonary diseases, such as chronic obstructive pulmonary disease (COPD), interstitial lung diseases, pneumonia, and chronic heart disease.
51. Plaintiffs have also been disrupted by the increased presence of flies at various times throughout the Defendants' sludge operations.
52. Due to the presence of bacteria and other biological materials in sludge, the spread of airborne particulate matter presents an even greater hazard, posing the risk of infection and illnesses such as pneumonia.

Plaintiff Sandra L. Wyatt

53. In or around the middle of August 2005, within weeks of the start of Defendants' waste disposal operations on the property, Ms. Wyatt began suffering from severe cough and breathing troubles associated with the smell of sludge odors. These problems increased in severity over time.
54. On or around August 31, 2005, Ms. Wyatt made a telephone call to Reginald Harrison, a member of the Spring Grove Board of Supervisors, to ask him what it was that was being spread in the property surrounding the Wyatt property.
55. On or about the same day, Ms. Wyatt called Amy Pemberton at the Surry Health Department, and Ms. Pemberton came out to investigate the spread of sludge on the property surrounding the Wyatt property. Ms. Pemberton made a telephone call to the Virginia Department of Health and left a message for Cal Sawyer. Ms. Wyatt and Ms. Pemberton also made a call to contact Mark Alling at the Virginia Department of

- Environmental Quality. Mr. Alling informed them that Synagro would be notified about the complaint.
56. Sandra Wyatt was diagnosed with pneumonia on or around September 9, 2005.
 57. On September 16th, 2005, Sandra Wyatt was told by one of her physicians that something was infiltrating her lungs making them unhealthy.
 58. Ms. Wyatt was referred to a lung specialist by her primary care doctor, and started seeing him on or around September 22, 2005. He ordered an in-depth CT scan, and Ms. Wyatt was seen for the CT scan on September 26, 2005.
 59. Ms. Wyatt's pulmonologist informed her that her lungs were suffering as a result of an irritant inhaled into her lungs that caused inflammation and scarring.
 60. On or about October 11, 2005, Ms. Wyatt contacted a local television station, Channel 10, to express her concerns with the spreading of sludge and the impact on her wellbeing, her property, and her state of mind.
 61. On or around November 3, 2005, Ms. Wyatt underwent an open lung biopsy.
 62. On November 27th, 2005, Ms. Wyatt wrote a letter to Virginia Governor Mark Warner raising her concerns about the spraying of human and animal sewage sludge on the neighboring property and the impact that it had had on the environment, her health, her well-being, and her and her husband's property.
 63. On or around December 1st, The Smithfield Times ran an article about the spraying of sewage sludge in Surry County and discussed Ms. Wyatt's concerns.
 64. On or around December 15th, 2005, Mark Alling from the Virginia Department of Environmental Quality informed Ms. Wyatt that he had discussed Ms. Wyatt's

complaints with Synagro, and informed her that she needs to contact Virginia Department of Health with any further complaints.

65. On February 2nd, 2006, Sandra Wyatt sent a letter to Dr. Stroube at the Virginia Department of Health begging that something be done to stop the spread of sludge on the nearby land. She indicated that the odor was so bad that both her and her husband's eyes and nose were irritated and that she was having trouble breathing. She also indicated that the conditions were so bad, that she was forced from her home and had to seek refuge 45 minutes away.
66. In addition, starting soon after the disposal of sludge on the approximate 1300 acre property adjacent to the Wyatt property, there have been several articles and opinion pieces in the local papers, including the Daily Press and the Sussex-Surry Dispatch, discussing local residents' concerns, including specifically those voiced by Ms. Wyatt, about sludge, the problems that it has caused her, its offensive odor and the risk of health effects associated with sludge.
67. Despite the public concern and outcry from residents including Ms. Wyatt, Defendants continue to transport, haul, spray, spread, otherwise use, or provide assistance or land for the transportation, hauling, spraying, spreading, or other uses or disposal methods of sludge on land adjacent to or near Plaintiffs' property.

Plaintiff Willis E. Wyatt

68. Following the first sludge application, Mr. Wyatt has experienced the offensive odors associated with the spraying of the sewage sludge on the neighboring property, a smell that has, and continues to, offend his senses.

69. He has suffered, and continues to suffer from, the diminished use and enjoyment of his property.
70. He has developed a persistent cough since the initial spraying of sludge in 2005.
71. He has been woken from sleep and been otherwise disturbed on numerous occasions by the loud banging of sludge trucks running in and out of the adjacent property disposing of sludge and other waste materials, stockpiling sludge and other waste materials, and cutting down trees to prepare for the stockpiling and spraying of sludge and related materials.
72. He has also suffered from increased anxiety, emotional distress, and related health problems caused by the offensive odors, loud and disturbing noises, sleepless nights, and constant uncertainties associated with the spraying of waste on the surrounding property.
73. He also suffers from increased anxiety and emotional distress associated with the impacts suffered by his wife, Ms. Wyatt.

Plaintiff Robert L. Wyatt

74. Robert L. Wyatt is the son of Mr. and Mrs. Wyatt.
75. Robert Wyatt first experienced the offensive odors and disruption associated with the sludge spraying when coming to visit his parents shortly after the sludge application began.
76. Because of the presence of strong odors and dusts, Robert Wyatt could no longer bring his children to the Wyatt Property to spend time with their grandmother and grandfather, Mr. and Mrs. Wyatt. As the sludge remains on the surrounding property

and the spraying continues, Robert Wyatt's has had his ability to spend time with his children and their grandparents as a family severely limited.

77. On or around the week of September 25, 2006, Robert Wyatt moved back in to live with his parents at the family residence. With the presence of the sludge and the continued spraying in the surrounding property, Robert Wyatt experiences the sludge odors, dust, and other offenses on a daily basis.
78. The ongoing presence and spraying of the sludge has and continues to offend Robert Wyatt's senses with the offensive odors, dusts, and daily disruptions.
79. The odors have decreased and continue to decrease Robert Wyatt's lawful use and enjoyment of the family property.

Plaintiff Eva S. Gregory

80. Following the first sludge application, Ms. Gregory has experienced the offensive odors associated with the spraying of the sewage sludge on the neighboring property, a smell that has, and continues to, offend her senses.
81. Ms. Gregory has suffered, and continues to suffer from, the diminished use and enjoyment of her property.
82. Ms. Gregory has suffered, and will continue to suffer, property damage as a result of Defendants' sludge activities on the neighboring property in Surry County and the odors and dusts the and the associated irritation, offense, and disturbance.

83. Ms. Gregory and her husband Leverette B. Gregory, Jr. own property containing a pond that is and will be threatened with contamination due to Defendants' sludge activities on the neighboring property.

Plaintiff Leverette B. Gregory, Jr.

84. Following the first sludge application, Mr. Gregory has experienced the offensive odors associated with the spraying of the sewage sludge on the neighboring property, a smell that has, and continues to, offend his senses.

85. He has suffered, and continues to suffer from, the diminished use and enjoyment of his property including, but not limited to, diminished use of his land for both professional work and hobbies as a result of the odors and dusts and the associated irritation, offense, and disturbance.

86. Mr. Gregory has suffered, and will continue to suffer, property damage as a result of Defendants' sludge activities on the neighboring property in Surry County.

87. Mr. Gregory and his wife Eva S. Gregory own property containing a pond that is and will be threatened with contamination due to Defendants' sludge activities on the neighboring property.

Plaintiff Teresa E. Gregory

88. Teresa E. Gregory is the daughter of Mr. Leverette B. Gregory, Jr. and Mrs. Eva S. Gregory.

89. Teresa Gregory first experienced the offensive odors and disruptions associated with the sludge spraying when coming to visit her parents shortly after the sludge application.

90. Teresa Gregory experiences the offensive odors and disruption of the legal use and enjoyment of the Gregory family property located at 368 Spring Grove Road, Spring Grove, VA 23881.
91. Teresa Gregory feeds and tends her horses at the Gregory family property twice every day.
92. Teresa Gregory also rides frequently on the wooded trails at the family property and the surrounding areas neighboring the 1300-acre sludge disposal area.
93. When the sludge is spread, the odors in our woods and pasture make riding there extremely disagreeable, limiting her use and enjoyment of the property and trails.
94. Because of the presence of offensive odors and dusts, Teresa Gregory also has serious concerns about the health and wellbeing of her horses that are constantly subjected to any dusts and odors emanating from the 1300-acre sludge disposal area neighboring the Gregory family property.
95. The ongoing presence and spraying of the sludge has and continues to offend Teresa Gregory's senses with the offensive odors and dust.
96. The odors and dust, and the associated irritation, offense, and disturbance, have decreased and continue to decrease Teresa Gregory's lawful use and enjoyment of Gregory family property.

Defendants have known or should have known the adverse impact that their intentional, willful, reckless and otherwise negligent activities were having, and continue to have on Plaintiffs.

97. Beginning as early as the end of August 2005 when Ms. Wyatt and Ms. Pemberton contacted the Virginia Department of Health and the Virginia Department of Environmental Quality, Defendants were aware, or should have been aware, of the

aggravation, concern, disruption, irritation, discomfort, and additional maladies caused by their conduct.

98. This knowledge, either actual or constructive, was repeatedly reinforced over time following the initial sludge disposal by letters to State and local officials and to the Defendants themselves, in-person communications with State and local officials and with Defendants and Defendants' agents, and by the numerous newspaper articles and opinion pieces regarding sludge and the public concerns associated with its disposal in Surry County. Much of this communication contained, in whole or in part, concerns related to Plaintiffs specifically.
99. At all times relevant to this litigation, Defendants, despite any actual or constructive knowledge of the general public concern and the concerns raised by the specific Plaintiffs joined in this case, continued to this day to intentionally, willfully, recklessly, and negligently transport, stockpile, spray, or otherwise assist in the transportation, stockpiling, or spraying of sludge.
100. At all times relevant to this litigation, Defendants, despite any actual or constructive knowledge of the impact of their activities on the general public and the impact that their activities was having on Plaintiffs, continued to intentionally, willfully, recklessly, and negligently transport, stockpile, spray, or otherwise assist in the transportation, stockpiling, or spraying of sludge, further impacting Plaintiffs.
101. Defendants are also jointly and severally liable because they conspired to conceal the true nature of sludge, to profit from the disposal of sludge at Plaintiffs' expense, to disrupt the comfortable use and enjoyment of Plaintiffs' property, to offend the senses of those exposed to their activities, to violate the laws of decency, to contaminate

Plaintiffs' property including its clean air, and to avoid liability for such contamination.

FIRST CAUSE OF ACTION

Negligence

102. Plaintiffs re-allege and reaffirm each and every allegation set forth in paragraphs 1 through 101 as if fully restated herein.
103. Defendants during the relevant time period transported, hauled, sprayed, spread, marketed, otherwise used, or provided assistance or land for the transportation, hauling, spraying, spreading, or other uses or disposal methods of sludge.
104. As transporters, haulers, sprayers, spreaders, marketers, users, or those otherwise providing assistance or land for the transportation, hauling, spraying, spreading, or other uses or disposal methods of sludge, Defendants owed and continue to owe a duty to Plaintiffs as well as all persons whom Defendants' sludge products might foreseeably harm, and to exercise due care in handling, control, transport, disposal, spread, spraying, storage, and hauling of sludge and other human, animal, or industrial wastes.
105. Defendants had and continue to have a duty and the financial and technical means to dispose of sludge and other industrial or animal wastes in a way that does not pose offense, harm, or hazard to Plaintiffs
106. At all times relevant to this litigation, Defendants knew or should have known that:
 - a. Exposures to odors, dusts, and other pollutants contained in sludge are commonplace and likely to occur;
 - b. Exposures to odors, dusts, and other pollutants contained in sludge actually did occur in the areas surrounding the 1300-acre area adjacent to the Wyatt Property;

- c. When sludge is sprayed 10 to 30 feet in the air that the chemical and biological pollutants in sludge will form particles and aerosols and can travel great distances in the air;
- d. When sludge is stored, sprayed, or spread in the environment, several of the chemical and biological pollutants found in sludge, including PCBs, dioxins, pesticides and heavy metals are released into the environment, where they will persist years following the disposal;
- e. Sludge and the chemical and biological pollutants found in sludge may expose people to unknown health risks;
- g. Sludge and the chemical and biological pollutants found in sludge may, and in fact did, irritate the skin, eyes, nose, throat, and lungs of those exposed;
- h. Sludge and the chemical and biological pollutants found in sludge may create offensive odors, offending the senses of those living near where it is hauled, stored, or sprayed into the trees;
- i. Sludge and the chemical and biological pollutants found in sludge may disrupt the comfortable use and enjoyment of one's property living near where sludge is sprayed, spread, or otherwise disposed of;
- j. Because of the offensive odors and the other hazards created by the hauling, storing, and spraying in the trees of sludge, sludge should not be handled near private residential property and should be disposed of in a different manner;

107. Defendants have negligently breached their duties of due care to Plaintiffs by:

- a. transporting and hauling sludge adjacent to or near private residential property, including that of Plaintiffs, at all hours of the day and night, creating offensive odors, dusts, and loud and disturbing noises that disrupt the sleep, peace and wellbeing of the surrounding residents;
- b. storing and stockpiling large amounts of sludge on land adjacent to private residential property including that of Plaintiffs;
- c. spraying several thousand pounds of sludge 10 to 30 feet in the air into and onto trees on land adjacent to or near private residential property including that of Plaintiffs;

- d. failing to test the sludge they hauled, stored, or sprayed for additional pollutants that could make the waste more hazardous to human health or the environment;
- e. voluntarily incorporating and spreading other forms of animal or industrial wastes, including but not limited to untreated hog waste, in addition to the sewage sludge, on property adjacent to or near the private residential property of people such as Plaintiffs;
- f. failing to use safer and less offensive means of disposing of sludge wastes such as landfilling;
- g. failing to respond to complaints regarding the physical injuries, the aggravation of physical injuries, mental anguish, emotional trauma, and loss of the comfortable use and enjoyment of personal property of public citizens, including Plaintiffs;
- h. continuing to haul, store, and spray sludge on property adjacent to or near private residential properties, including that of Plaintiffs, despite complaints that Defendants were, or should have been aware of.

108. As a direct and proximate result of one or more of the foregoing negligent acts or omissions on the part of Defendants, sludge and/or the pollutants contained in sludge, whether in gaseous, solid, particulate, or other form, have:

- a. prevented and continues to prevent Plaintiffs' comfortable use and enjoyment of their private, residential property, severely restricting its use and enjoyment;
- b. posed and continue to pose a threat to the comfortable use and enjoyment of Plaintiffs' private residential property;
- c. negatively impacted and otherwise injured the mental health and general well-being of Plaintiffs;
- d. posed and continues to pose a threat to the mental health and general well-being of Plaintiffs;
- e. aggravated existing medical conditions experienced by Plaintiffs, causing increased pain and suffering and requiring additional medical care, attention, and treatment;
- f. diminished the property value of Plaintiffs' property adjacent to or near the land where sludge and hog wastes have been stored and sprayed.

109. Plaintiffs request an award of compensatory and punitive damages against Defendants, jointly and severally.

SECOND CAUSE OF ACTION

Private Nuisance

110. Plaintiffs re-allege and reaffirm each and every allegation set forth preceding paragraphs 1 through 101 as if fully restated herein.
111. Plaintiffs' private residential property, including but not limited to the once-clean air, has been and continues to be contaminated by sludge and the biological and chemical pollutants contained in sludge, whether they be in gaseous, solid, or particulate state, as a direct and proximate result of the intentional, unreasonable, negligent and reckless conduct of Defendants, all as alleged herein.
112. Gases, vapors, particulates, flies, and odors caused by Defendants' conduct have damaged and continue to damage Plaintiffs' property and business done on the property.
113. Gases, vapors, particulates, flies, and odors caused by Defendants' conduct have offended and continue to offend the senses of those living, working, and recreating in private residential property adjacent to or near the hauling, storage, spraying, and spreading of sludge and hog wastes, such as Plaintiffs.
114. Gases, vapors, particulates, flies, and odors caused by Defendants' conduct have created and continue to create a health hazard to those living, working, and recreating in private residential property adjacent to or near the hauling, storage, spraying, and spreading of sludge and hog wastes, such as Plaintiffs.

115. Gases, vapors, particulates, flies, and odors caused by Defendants' conduct violate and continue to violate the laws of decency with respect to those living, working, and recreating in private residential property adjacent to or near the hauling, storage, spraying, and spreading of sludge and hog wastes, such as Plaintiffs.
116. Gases, vapors, particulates, flies, and odors caused by Defendants' conduct obstructed and continue to obstruct the reasonable and comfortable use of one's property for those living, working, and recreating in private residential property adjacent to or near the hauling, storage, spraying, and spreading of sludge and hog wastes, such as Plaintiffs.
117. As a direct and proximate result of Defendants' acts and omissions creating the above-described nuisance, Plaintiffs have suffered injuries including diminished property value, physical and emotional injuries, the aggravation of existing medical conditions, diminished use and enjoyment of their property, reduced income from the loss of business, increased health care and associated costs due to the creation of or aggravation of health conditions, and irritation of the eyes, nose, throat, and skin.
118. Plaintiffs request an injunction and an award of compensatory and punitive damage against Defendants, jointly and severally.

THIRD CAUSE OF ACTION

Trespass

119. Plaintiffs re-allege and reaffirm each and every allegation set forth preceding paragraphs 1 through 101 as if fully restated herein.
120. Plaintiffs are the owners, lessees, and/or actual possessors of property adjacent to or near the roughly 1300 acres where Defendants, their agents, and/or employees have

stored, sprayed, and/or spread sludge and other industrial or animal wastes, and knew or in the exercise of reasonable care should have known, that sludge and other industrial or animal wastes or the pollutants contained therein, whether in solid, liquid, or gaseous phase, are hazardous to human health, offensive to the senses, diminish the comfort, use and enjoyment of one's property, diminish the value of nearby property, and diminish other property rights.

121. Defendants intentionally stored, spread, and sprayed sewage sludge and other industrial and animal wastes, releasing it into the environment and directly and proximately caused and continue to cause sewage sludge or the pollutants that comprise sludge, whether in solid, particulate, or gaseous state, to enter into and contaminate Plaintiffs' property.
122. As a direct and proximate result of the trespass, Plaintiffs have been damaged and are entitled to injunctive relief to abate the trespass and other damages alleged herein, including but not limited to, pain and suffering due to aggravated medical conditions, diminution in property value, loss of use and enjoyment of property, loss of business revenue due to loss of productivity, cost of bringing the property to its original condition, investigation, remediation, and treatment, and/or to such other appropriate relief Plaintiffs may elect at trial.
123. Plaintiffs requests an award of compensatory and punitive damages against Defendants.

FOURTH CAUSE OF ACTION

Punitive Damages

124. Plaintiffs re-allege and reaffirms each and every allegation set forth preceding paragraphs 1 through 101 as if fully restated herein.
125. Due to the Defendants' reckless disregard demonstrated by Defendants' actions, as illustrated in the alleged facts, Plaintiffs request an award of punitive damages to prevent further similar conduct on the part of Defendants.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs pray for a judgment against these Defendants jointly and severally, as follows:

Sandra L. Wyatt, Willis E. Wyatt, Jr.:

126. Compensatory damages according to proof including for (i) loss of use and enjoyment of private property; (ii) loss of property value; (iii) loss of revenue; (iv) pain and suffering associated with irritation of the eyes, nose, skin, throat, and lungs and other injuries associated with Defendants' conduct; (v) pain and suffering associated with aggravation of existing medical conditions including respiratory conditions; (vi) mental and emotional anguish; (vii) and medical costs associated with irritations, injuries, psychological and emotional injuries in the amount of:
 - a. Three Million Dollars (\$3,000,000) on the First Cause of Action;
 - b. Three Million Dollars (\$3,000,000) on the Second Cause of Action;
 - c. One Million Dollars (\$1,000,000) on the Third Cause of Action;

Eva S. Gregory, and Leverette B. Gregory:

127. Compensatory damages according to proof including for (i) loss of use and enjoyment of private property; (ii) loss of property value; (iii) pain and suffering associated with irritation of the eyes, nose, skin, throat, and lungs and other injuries associated with Defendants' conduct; (iv) and mental and emotional anguish in the amount of:

- a. Two Million Dollars (\$2,000,000) on the First Cause of Action;
- b. Two Million Dollars (\$2,000,000) on the Second Cause of Action;
- c. One Million Dollars (\$1,000,000) on the Third Cause of Action;

Robert L. Wyatt:

128. Compensatory damages according to proof including for (i) loss of use and enjoyment of private property; (ii) pain and suffering associated with irritation of the eyes, nose, skin, throat, and lungs and other injuries associated with Defendants' conduct; (iii) and mental and emotional anguish in the amount of:

- a. One Million Dollars (\$1,000,000) on the First Cause of Action;
- b. One Million Dollars (\$1,000,000) on the Second Cause of Action;
- c. Five-hundred Thousand Dollars (\$500,000) on the Third Cause of Action;

Teresa E. Gregory:

129. Compensatory damages according to proof including for (i) loss of use and enjoyment of private property; (ii) pain and suffering associated with irritation of the eyes, nose, skin, throat, and lungs and other injuries associated with Defendants' conduct; (iii) and mental and emotional anguish in the amount of:

- a. One Million Dollars (\$1,000,000) on the First Cause of Action;

- b. One Million Dollars (\$1,000,000) on the Second Cause of Action;
- c. Five-hundred Thousand Dollars (\$500,000) on the Third Cause of Action;

130. In addition, each Plaintiff prays for a judgment against these Defendants jointly and severally, for:

- a. An appropriate injunction to remedy the public nuisance created by these Defendants;

- b. Exemplary and punitive damages sufficient to punish Defendants and deter Defendants from ever committing the same or similar acts, in the amount of:

- Three Hundred Fifty Thousand Dollars (\$350,000) on the First Cause of Action;

- Three Hundred Fifty Thousand Dollars (\$350,000) on the Second Cause of Action;

- Three Hundred Fifty Thousand Dollars (\$350,000) on the Third Cause of Action;

- c. Costs incurred in prosecuting this action;

- d. Interest on all damages from the date the cause of action accrued until paid; and

- e. Any other and further relief as the Court deems just, proper and equitable.

JURY TRIAL DEMANDED

Plaintiffs demand a trial by jury.

Respectfully submitted,
Plaintiffs

By: _____

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