

**IN THE CIRCUIT COURT
THIRD JUDICIAL CIRCUIT OF ILLINOIS
MADISON COUNTY**

HOLIDAY SHORES SANITARY DISTRICT,)
Individually and on behalf of all others)
Similarly situated,)
)
Plaintiff,)
)
v.)
)
SYNGENTA CROP PROTECTION, INC., and)
GROWMARK, INC.,)
)
Defendants.)

Case No. 2004-L-000710

**DEFENDANT’S FIRST SET OF REQUESTS FOR PRODUCTION
TO PLAINTIFF HOLIDAY SHORES SANITARY DISTRICT ON THE CLASS
CERTIFICATION ISSUES**

Pursuant to Illinois Supreme Court Rule 214, Defendant, Syngenta Crop Protection, Inc., by its attorneys, hereby requests Plaintiff Holiday Shores Sanitary District to produce and permit inspection of the following documents and things, in their best available form, no later than twenty-eight (28) days after service of these Requests.

DEFINITIONS

As used in these Requests, the following terms shall have the following meanings:

1. “Atrazine,” whether singular or plural, shall mean technical grade atrazine and/or commercial grade atrazine, atrazine-containing products (where atrazine is intended as an active ingredient), and the degradation products of atrazine, deethylatrazine, deisopropylatrazine and diaminoatrazine.
2. “Defendants” mean the entities that have been named as defendants in the following lawsuits currently pending in the Circuit Court for the Third Circuit of Illinois: Holiday Shores Sanitary District v. Sipcam Agro USA, Inc., and GROWMARK, Inc., Case No. 2004-L-000708; Holiday Shores Sanitary District v. Drexel Chemical Co. and GROWMARK, Inc., Case No. 2004-L-000709; Holiday Shores Sanitary District v. Syngenta Crop Protection, Inc., and GROWMARK, Inc., Case No. 2004-L-000710; Holiday Shores Sanitary District v. United Agri Products, Inc., and GROWMARK, Inc., Case No. 2004-L-000711; Holiday Shores Sanitary District v. Makhteshim-Agan of

North America, Inc., and GROWMARK, Inc., Case No. 2004-L-000712; and Holiday Shores Sanitary District v. Dow Agrosiences LLC and GROWMARK, Inc., Case No. 2004-L-000713.

3. "Document(s)" is defined as the term is used in Illinois Supreme Court Rules 201 (b) and 214.
4. "Facility" means any and/or all of the land, plant and equipment, however used by you to process raw water into drinking water consumed by your constituents or consumers from the time when you first began to process raw water into drinking water up to and including the present.
5. "Person" means an individual, sole proprietorship, partnership, limited partnership, limited liability partnership, corporation, limited liability corporation, governmental entity and any other legally recognized entity.
6. "Remediate" and "remediation" mean action to clean up, mitigate, correct, abate, minimize, eliminate, control, prevent the presence, spreading, migration, leaking, leaching, volatilization, spilling or transport of a substance or further release of a substance into the environment.
7. "Representative" means any partner, agent, employee, consultant, attorney, accountant, expert or anyone else acting or purporting to act for, at the direction of, or on behalf of the referenced entity.
8. "You," "your," "yours," and/or "HSSD" means Holiday Shores Sanitary District and any of its employees, officers, directors, agents, attorneys, predecessors and representatives.

REQUESTS FOR PRODUCTION

1. Any and all exhibits and demonstrative evidence you may introduce into evidence at any hearing in connection with any Motion For Class Certification.
2. Any and all documents which relate to your contention that atrazine is unsafe to humans at any measurable level below 3 parts per billion (ppb).
3. Any and all documents which relate to your and each putative class member's decision to use any filtering technology and/or to the actual use of any filtering technology at any time during the alleged class period for (a) removing atrazine from raw or finished water, or (b)

improving or enhancing to any extent the quality of the finished drinking water provided to any consumer or purchaser.

4. Any and all documents which evidence or relate to: a) any labor, equipment and other costs incurred by you and each putative class member for whatever reason to process raw water into finished drinking water during each calendar year during the alleged class period and b) any labor, equipment and other costs incurred by you and each putative class member to remove atrazine from raw or finished water during each calendar year during the alleged class period.

5. Any and all documents relating to the selection process or actual selection of any consultant or other person whose services or expertise you utilized in connection with the Facility at any time from your legal creation to the present pertaining in any way to (a) removing atrazine from your raw or finished water, or (b) improving or enhancing to any extent the quality of the finished drinking water that you provided to any consumer or purchaser.

6. Any and all documents, including but not limited to reports, studies, pilot test program results, notes, correspondences, and/or memoranda, exchanged between you and any consultant or other person whose services you utilized in connection with the Facility at any time from your legal creation to the present pertaining in any way to (a) removing atrazine from your raw or finished water, or (b) improving or enhancing to any extent the quality of the finished drinking water that you provided to any consumer or purchaser.

7. Any and all documents from your legal creation to the present constituting, referring to or relating to any communication of any kind between you and any Illinois Community Water System or Public Water System, the Illinois Environmental Protection Agency, The United States Environmental Protection Agency, The Illinois Department of

Agriculture, The United States Department of Agriculture, The Illinois Rural Water Association, and/or the Holishor Association concerning:

- a) the presence of and/or level of atrazine in your raw or finished drinking water;
- b) your contention that atrazine at any measurable level presents a health risk to humans or
- c) Best Management Practices (BMPS) suggested or recommended by any person or entity for use in your watershed or any watershed in Illinois.

8. Any and all documents identifying or relating to the source(s) from where you obtained raw water at any time from your legal creation to the present.

9. Any and all documents which constitute, refer to or relate to your efforts to comply with and/or your compliance or failure to comply with any aspect of the Safe Drinking Water Act, 42 U.S.C. § 300f *et. seq.*, from your legal creation to the present.

10. Any and all documents relating in any way to soil erosion or sedimentation either in your watershed or in the Holiday Lake area at any time from your legal creation to the present, including but not limited to efforts that you or others made to address soil erosion or sedimentation, any application for financial assistance submitted to any person to address soil erosion or sedimentation and/or any actual financial assistance you received to address soil erosion or sedimentation.

11. Any and all documents relating to water quality in your watershed, Holiday Lake or drinking water sold by you at any time from your legal creation to the present, including but not limited to efforts that you or others in your watershed made to address the presence of atrazine or other substances, any application for financial assistance that you submitted to any

person to address the presence of atrazine or other substances and/or any actual financial assistance that you received to address the presence of atrazine or other substances.

12. Any and all documents relating to either your ownership of any of your raw water sources or your Facility and/or any easement, of whatever kind or nature, granted to you by the Holishor Association or any other person, at any time from your legal creation to the present, which in any way related to source(s) of your raw water or the operation of the Facility.

13. Any and all documents which support to any extent any of the denials made by you in regard to any of the Requests for Admissions submitted to you by this defendant..

14. All federal and state tax returns submitted by you at any time from your legal creation to the present.

15. Any and all documents constituting, referring to or relating to any of your financial records from your legal creation to the present, including but not limited to capital, operational and maintenance budgets, applications for financing with any person, reports of expenditures, income statements, balance sheets, depreciation schedules and job cost reports.

16. Any and all documents constituting, referring to or relating to any and all applications made by you at any time from your legal creation to the present for any permit to operate the Facility and/or any equipment therein.

17. Any and all documents relating to the actual use of any algaecide at any time at either the Facility and/or Holiday Lake.

18. Any and all photographs, videotapes, or other visual media of whatever kind or nature depicting the Facility and/or any equipment physically connected to the Facility from your legal creation to the present.

19. Any and all documents constituting, referring to or relating to any operational or maintenance policies, procedures, and/or guidelines at the Facility from your legal creation to the present.

20. Any and all documents relating to the original design and/or construction of the Facility and/or any equipment to be used therein, including but not limited to requests for bids or proposals, consultants' reports, applications for financing, construction or design contracts, purchase orders, schedules, warranty statements, change orders, certificates of completion, blueprints, schematics, design criteria, site surveys, topographical maps, hydrology surveys, geotechnical reports, soil classification maps, land use maps, population planning studies, watershed maps, equipment specifications, permits and permit applications.

21. Any and all documents relating to any proposed and/or implemented changes to the Facility and/or additions to or new construction to the Facility and/or any equipment used therein at any time from original construction to the present, including but not limited to requests for bids or proposals, consultants' reports, applications for financing, construction or design contracts, purchase orders, schedules, warranty statements, change orders, certificates of completion, blueprints, schematics, design criteria, site surveys, topographical maps, hydrology surveys, geotechnical reports, soil classification maps, land use maps, population planning studies, watershed maps, equipment specifications, permits and permit applications.

22. Any and all documents relating to any training, experience and expertise of any personnel hired, retained and/or employed at any time from your legal creation to the present in connection with any operations or maintenance which had anything to do with treatment of raw water at the Facility.

23. Any and all documents relating to operations, maintenance and/or quality control at the Facility regarding treatment of your raw water, including but not limited to maintenance and operations manuals, logs, histories, preventative maintenance schedules, quality audit plans and results, quality metrics and failure/root cause and correction analyses pertaining to any unit within your Facility or any equipment used at the Facility from your legal creation to the present.

24. Any documents pertaining or relating to any boil orders ever issued by you in connection with the drinking water which you sold or provided to anyone at any time from your legal creation to the present.

25. Any and all documents relating to, substantiating or describing to any extent any of the monetary damages claimed by you in the lawsuit including, but not limited to, those damages described in paragraph 36 of the Complaint.

26. Any and all documents relating to the sale of assets between Holiday Utilities Association and HSSD.

27. Any and all documents constituting, referring to or relating to communications between you and Sheppard, Morgan and Schwab, or any predecessor entity, at any time from your legal creation to the present which in any way dealt with your Facility.

28. Any and all documents constituting, referring to or relating to any loan or funding application and/or loan or funding received by you from any person at any time from your legal creation to the present relating to any aspect of the operation or maintenance of the Facility, including but not limited to installation or use of filtering equipment or materials

29. Any and all documents constituting, referring to or relating to communications between you and Du-Con regarding your Facility at any time from your legal creation to the present

30. Any and all documents constituting, referring to or relating to communications between you and Henry, Meisenheimer and Gende, Inc., regarding your Facility at any time from your legal creation to the present..

31. Any and all documents from your legal creation to the present, which you considered in any way related to the applicability/use/addition of filtration equipment or materials and/or membrane filtration at the Facility, including but not limited to:

- a) Any engineer's report;
- b) Any historical summary of meteorological conditions and of raw water quality, including references to fluctuations in quality and possible sources of contamination;
- c) Any summary of the design criteria;
- d) Any operation requirements;
- e) Any general layouts;
- f) Any preliminary plans;
- g) Any detailed plans, including blueprints;
- h) Any specifications;
- i) Any cost estimates;
- j) Any information provided to IEPA;
- k) Any environmental assessments;
- l) Any permits for construction/installation;
- m) Treatment objectives;
- n) Water quality considerations;
- o) Pilot plant study/preliminary investigations;

- p) Challenge testing;
- q) Pretreatment;
- r) Membrane materials;
- s) Useful life of membranes;
- t) Treatment efficiency;
- u) Power consumption;
- v) Bypass water;
- w) Reject water;
- x) Backflushing, backwashing or cross-flow cleansing;
- y) Membrane cleaning;
- z) Membrane integrity and finished water monitoring;
- aa) Cross connection control;
- bb) Redundancy of critical components;
- cc) Post treatment and
- dd) Operator training.

32. Any and all documents constituting or relating to any source water protection plans for the Holiday Lake watershed from the date of your legal creation to the present.

33. Any and all documents constituting or relating to any sanitary survey or study made of any factors that may affect your water quality from your legal creation to the present..

b)34. Any and all documents during the alleged class period constituting or relating to communications of whatever kind or nature between you and the American Water Works Association((AWWA), National Rural Water Association (“NRWA”), Natural Resources Defense Council (“NRDC”), the Environmental Working Group (“EWG”), United States

Geological Survey (USGS), Fenton Communications, Tides Foundation and Tides Center, Rose Foundation, Pesticide Action Network, Pesticide Action Network North America, Environmental Defense Fund, Beyond Pesticides, World Wildlife Fund, Sierra Club, Union of Concerned Scientists, Center for Science in the Public Interest, Physicians for Social Responsibility, Collaborative on Health and the Environment, Center for Biological Diversity, Washington Toxics Coalition, Waterkeeper Alliance. Theo Colburn, Susan G. Komen Foundation, Tufts University, Frank Ackerman, Cornell University, Jones Foundation, Homeland Foundation, National Geographic Society, Mitchell Kapor Foundation, Environmental Science & Technology, NIH, NIEHS, Sokoke, Inc., Tyrone Hayes, Susan Fenton, Holly Ingraham, Miyuka Suzawa, Anne Greenlee, Shana Swan, Paul Rosenfeld, WuQiang Fan, and/or ATSDR pertaining to:

a) Your present lawsuit contention that atrazine at any measurable level below 3 parts per billion is unsafe for humans or

b) Any of the contentions or allegations asserted by you in this present lawsuit as they relate in any manner to any of your alleged class certification common questions

35. Any and all documents describing, discussing or relating to the hydrology of Holiday Lake at any time from your legal creation to the present.

36. Any and all documents discussing or relating to the existence and location of any water intakes, and the location of any water intakes vis-à-vis the dam of Holiday Lake at any time from your legal creation to the present.

37. Any and all documents discussing or relating to treatment of wastewater and drinking water by HSSD at any time from your legal creation to the present, including the proximity between the facilities, plants, equipment, intake and discharge piping.

38. Any and all documents discussing or relating to the guidelines/bases and/or action taken by which you lowered water levels in Holiday Lake at any time from your legal creation to the present.

39. Any and all documents discussing or relating to the installation, operation and maintenance of HSSD's backwash waste lines, water pumping and distribution systems, including but not limited to piping to customers at any time from your legal creation to the present.

40. Any and all documents discussing or relating to the installation, depth, operation and/or maintenance of the well(s) HSSD used at any time as either a primary or secondary source of raw water for treatment within the HSSD system at any time from your legal creation to the present.

41. Any and all documents, including but not limited to legal pleadings, pertaining to any lawsuits filed for or against you at any time from your legal creation to the present dealing in any water with the quality of your raw or finished water.

42. Any and all documents from your legal creation to the present relating to the following as to atrazine:

- a) Fate and transport characteristics in soil and/or water;
- b) Solubility in water;
- c) Biodegradation;
- d) Photo-decomposition;
- e) Run-off characteristics;
- f) Presence in water bodies;
- g) Breakdown products;

- h) The ability or inability to distinguish one manufacturer's atrazine from those originating from any other manufacturer;
- i) Documents which discuss proposals to restrict or ban atrazine anywhere in Illinois because of the presence of atrazine in drinking water at any measurable level below 3 ppb;
- j) All documents that you contend contain misrepresentations made by any of the Defendants; and
- k) Statements or reports of any kind made or provided to any person or entity by you or any other putative class member regarding the safety or lack of safety from a human health standpoint of the drinking water being provided by you or any putative class member to any person.

43. Any and all documents which discuss, evidence, set forth or otherwise relate to when and/or how you first became aware that atrazine is allegedly unsafe to humans at any measurable level below 3 ppb and also produce the actual documents themselves which you saw that provided you with this alleged information regarding atrazine

44. Any and all documents which discuss, evidence or otherwise relate to any steps or action taken by you and each specific putative class member from January 1, 2004 to the present to remove atrazine from your raw or finished drinking water to a non-detect level before providing the finished drinking water to any customers or purchasers

45. Any and all documents, which have not already been produced, which relate to steps you and each putative class member have taken at any time during the alleged class period to remove atrazine from any water body, water supply, lake bottom and/or soil.

46. Any and all documents, which have not already been produced, which discuss or evidence the amount of atrazine and/the removal of atrazine from your raw or finished water at any time from your legal creation to the present, including but not limited to documents relating to costs and/or methodology of such atrazine monitoring or removal..

47. Any and all documents during the alleged class period, which relate to the response, program and/or protocol and/or specific action that potentially responsible parties, water providers, and/or agencies should take where a sample from a community water system's raw or finished water, evidences any level of atrazine below 3 ppb, including but not limited to documents relating to any monitoring, testing, cleanup or remediation that should take place, who should take such action, when should such action be taken,, who should pay for such action and why.

48. Any and all documents during the alleged class period, which relate to any surveys or studies, including the surveys/studies themselves, of potential impacts on public drinking water supplies and/or wells due to the presence of atrazine at any measurable level below 3 ppb.

49. Any and all documents during the alleged class period, which relate to your decision to or not to provide human health warnings or warnings of any kind to customers, consumers, purchasers of your finished water, government regulators, agencies, residents of Holiday Shores, or the general public and the actual warnings issued relating to the presence of atrazine in your finished drinking water at any measurable level below 3 ppb.

50. Any and all documents during the alleged class period, which relate to inquiries or complaints regarding the presence of atrazine in your finished drinking water, including the inquiries/complaints themselves, that you have received (or of which you are aware) from

customers, consumers, government regulators, agencies, residents of Holiday Shores, employees, contractors, purchasers of your finished water, water providers, governmental entities or other persons or entities. Produce all documents relating to any response to any such inquiries or complaints.

51. Any and all records of fines or penalties assessed against you by any governmental agency at any time from your legal creation to the present concerning the presence of atrazine in your raw or finished drinking water.

52. Any and all documents relating to your corporate history, including but not limited to documents which constitute or relate to the following:

- a) The original and any subsequent or amended charter, articles of incorporation, by-laws and/or other documents relating to your legal creation and operating structure;
- b) The agenda, minutes, notes and other documents relating to all meetings involving your board of directors or trustees since your legal creation;
- c) Any corporate or business name changes;
- d) Any purchases by or mergers with you of any other business or corporation, and the dates these occurred; and
- e) Organizational charts of your present and historical corporate structures.

53. Any and all documents which you identified in, referred to, or relied upon in answering the accompanying set of Interrogatories and/or Requests To Admit.

54. Your current records retention policies and any prior records retention policies from your legal creation to the present for documents of the type requested in these Requests For Production or inquired about in the accompanying Interrogatories.

55. Any and all documents relating to monitoring, sampling, testing or other analysis of any raw or finished water for the presence of atrazine and/or the presence of any other chemical, product, contaminant or substance, including but not limited to documents constituting or relating to protocols or procedures used by you and/or each putative class member during the alleged class period.

56. To the extent not otherwise produced, any and all documents relating to the allegation in paragraph 15 of the amended complaint that suppliers of atrazine have “continuously publicly denied any connection between the use of atrazine and adverse impact on human health.”

57. To the extent not otherwise produced, any and all documents relating to the allegation in paragraph 16 of the amended complaint that Defendants “have affirmatively and deliberately represented that atrazine use is safe and does not present serious health consequences to humans and the environment”

58. To the extent not otherwise produced, any and all documents relating to the allegations in the amended complaint that Defendants knew of the alleged harmful effects of atrazine to humans and/or property.

59. To the extent not otherwise produced, any and all documents relating to the allegation in paragraph 36 of the amended complaint that HSSD has suffered a “reduction of the value of its property.”

60. Any and all documents relating to any contracts, agreements involving you and anyone else concerning the payment of any fees, costs, or expenses incurred in connection with this litigation, or involving the payment of any other sums in connection with this litigation.

61. To the extent not otherwise produced, any and all documents relating to any proposed remediation plan to address the damages alleged by you in the amended complaint.

62. Any and all documents pertaining or relating in any way to your sale of or providing of any raw or finished water to any Illinois community water supplier at any time from your legal creation to the present.

63. To the extent not otherwise produced, any and all documents relating to all testifying experts, including without limitation any communications between you and any such expert, *curriculum vitae*, transcripts of prior testimony, reports and all documents which you have either sent to each such expert or you have received from each such expert at any time.

64. Any and all documents regarding any applications for and/or the actual receipt of any funding or grants from any person or entity, which related to your compliance with or attempt to comply with any provisions of the Safe Drinking Water Act from your legal creation to the present, including, but not limited to, the Madison County Soil and Water District.

65. To the extent not otherwise produced, any and all documents which relate to any change of any kind that you ever made to any of your GAC and/or GAC filters from January 1, 1997 to the present, including but not limited to any replacement of same or repairs or regeneration of same or work done to same or changing to any extent the empty bed contact time for any of them.

66. Any and all documents relating to any study or analysis ever done by any person from your legal creation to the present analyzing or determining to any extent whether Holiday Lake was an impaired water body under the Clean Water Act and, if so, for what reason or reasons.

67. Any other documents, not already produced, which originated from an employee and/or consultant for one of the defendants, which you may use as an exhibit at any class certification hearing and set forth how you came into possession of each such document.

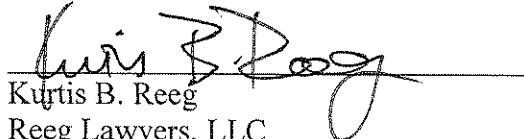
68. Any documents during the alleged class period to the present pertaining in any manner to turbidity, algae blooms and breakdown products from same, humic acids, other organic compounds from decaying plants/leaves, disinfection byproducts, protozoa, Giardia, Cryptosporidium, viruses and bacteria (including coliform bacteria) in your raw or finished water and all documents pertaining in any way to your treatment of any of these water quality issues, problems or concerns.

69. Any documents pertaining to any action of any kind taken by you at any time during the alleged class period to come into compliance with the Safe Drinking Water Act Total Coliform Rule.

Respectfully submitted,

SYNGENTA CROP PROTECTION INC.

By:


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CERTIFICATE OF SERVICE

The undersigned hereby certifies that on the 22nd day of June, 2009, I caused to be served the attached via **Hand Delivery**, upon the following counsel:

TO: Stephen M. Tillery, Esq.
Christine Moody, Esq.
Korein Tillery, L.L.C.
U.S. Bank Plaza
505 North 7th Street, Suite 3600
St. Louis, MO 63101

with a copy sent via United States mail, properly addressed and postage paid, upon the following counsel:

Mr. Scott Summy
Baron & Budd
3102 Oak Lawn Avenue, Suite 1100
Dallas, TX 75219

Attorneys for Plaintiff
HOLIDAY SHORES SANITARY DISTRICT

