

THIRD JUDICIAL CIRCUIT
MADISON COUNTY, ILLINOIS

HOLIDAY SHORES SANITARY DISTRICT; CITY OF CARLINVILLE, ILLINOIS; CITY OF FLORA, ILLINOIS; CITY OF FAIRFIELD, ILLINOIS, CITY OF HILLSBORO, ILLINOIS; AND CITY OF MATTOON, ILLINOIS; individually and On behalf of all others similarly situated,

FILED

AUG 31 2010

CLERK OF CIRCUIT COURT #66
THIRD JUDICIAL CIRCUIT
MADISON COUNTY, ILLINOIS

V

04-L-710

SYNGENTA CROP PROTECTION, INC. and GROWMARK, INC.

Order

This cause came before the court on Syngenta's Motion to Dismiss or Stay and its Motion to Dismiss the Amended Complaint. The court heard arguments from counsel and took the motions under advisement to review the arguments, pleadings and cases.

This action has been pending since 2004. Discovery between the parties has been extensive and ongoing. The court realizes that there is no specific rule that a later filed case does not prevent the stay or dismissal of an earlier-filed action. However, the parties are not identical in the newer action and it does not include only Illinois parties. The parties to this action, and certainly the original plaintiff, should not be dismissed or delayed due to a similar action. Defendant's motion to stay because of a putative class action case filed in 2010 that could possibly encompass these plaintiffs is denied. Obviously, defendant should and may bring any class certification orders or dispositional orders that are entered in the federal action that may affect this one.

The renewed motion to dismiss has been considered. The court does not believe the amendments to the complaint have materially changed the allegations that existed when the prior judge ruled on motions to dismiss. If anything, plaintiffs' have removed some allegations regarding property damage, diminution in the property values, and the injunctive provisions and request for a remedial plan that were noted as problems and ordered dismissed previously. The motion to dismiss is denied.

The Clerk is to send a copy of this order to counsel of record.

Date: 8-31-2010

B. Cusler Judge