

**IN THE CIRCUIT COURT FOR THE TWELFTH JUDICIAL CIRCUIT
IN AND FOR DESOTO COUNTY, FLORIDA**

MOLLY BOWEN; MOLLY BOWEN AS
GUARDIAN OF ANNA SERENA,
DAVID SERENA, JOEL SERENA,
GRACE CLAYTON, and REBECCA
SERENA; DOROTHY BOWEN;
SUNDAY HAAS; SAM BLANTON
III; SAM BLANTON III AS
GUARDIAN OF SAM BLANTON IV;
THOMAS V. HAND; MARIE
DRYMON; LEIGH FATHAUER; JOSE
FERNANDEZ; DIANE BALLARD,
KENNETH LINN; and RALPH
BREWER; Florida Citizens,

Plaintiffs,

Civil Action

File No.: _____

v.

AMERICAN WATER SERVICES
RESIDUALS MANAGEMENT, INC.,
BLUE SEPTIC TANK SERVICE,
INC., VERNON CLYDE
HOLLINGSWORTH JR., JAMES D.
BREWER, WALTER L. BREWER,
ROBERT C. BREWER, AND
MICHAEL BORAN,

Defendants.

_____ /

**COMPLAINT FOR TRESPASS AND PRIVATE NUISANCE DAMAGES AND
INJUNCTIVE RELIEF**

Plaintiffs Molly Bowen, et al., sue Defendants American
Water Services Residuals Management, Inc., et al., and allege:

1. This is an action in trespass and nuisance for damages and for injunctive relief. This Court has jurisdiction pursuant to section 26.012(2)(c), Florida Statutes (2001).

2. Venue is proper pursuant to sections 47.011 and 47.051, Florida Statutes because the cause of action accrued in DeSoto County.

STATEMENT OF FACTS

3. Plaintiffs are Florida citizens residing in DeSoto County; all Plaintiffs except for Ralph Brewer, who recently moved from the neighborhood, own, lease, rent or possess property on or near Horse Creek, in a neighborhood called "Hidden Acres."

4. Plaintiffs Molly Bowen and Dorothy Bowen reside at 8731 Deer Trail, Arcadia, FL 34266.

5. Plaintiff Molly Bowen's children, Anna Serena, Rebecca Serena, David Serena, Joel Serena, and Grace Clayton, on behalf of whom Molly Bowen sues as guardian, reside with Molly Bowen at 8731 Deer Trail, Arcadia FL, 34266.

6. Plaintiff Sunday Haas resides at 3452 S.W. Armadillo Trail, Arcadia, FL 34266.

7. Plaintiff Sam Blanton III resides at 3452 S.W. Armadillo Trail, Arcadia, FL 34266.

8. Sam Blanton IV, on behalf of whom Sam Blanton III sues as guardian, resides at 3452 S.W. Armadillo Trail, Arcadia, FL 34266.

9. Plaintiff Thomas V. Hand resides at 3422 Armadillo Trail, Arcadia, FL 34266.

10. Plaintiff Marie Drymon resides at 3422 Armadillo Trail, Arcadia, FL 34266.

11. Plaintiff Leigh Fathauer resides at 3644 S.W. Armadillo Trail, Arcadia, FL 34266.

12. Plaintiff Diane Ballard resides at 3788 Armadillo Trail, Arcadia, FL 34266.

13. Plaintiff Jose Fernandez resides at 3954 Armadillo Trail, Arcadia, FL 34266.

14. Plaintiff Ralph Brewer resided at 3474 Gopher Trial Trail, Arcadia, FL 34266 until October, 2002.

15. Plaintiff Kenneth Linn resides at 9028 Raccoon Trail, Arcadia, FL 34266.

16. Plaintiffs Thomas V. Hand, Marie Drymon, Sunday Haas, Sam Blanton III, and Jose Fernandez are riparian owners.

17. Defendant American Water Services Residuals Management, Inc., formerly Azurix North America Residuals Management, Inc., is a foreign corporation doing business in Florida.

18. American Water Services Residuals Management, Inc. engages in sewage sludge management activities in DeSoto County, Florida.

19. A major component of sewage sludge is human waste. Also referred to as "wastewater residuals" and "biosolids",

sewage sludge is solid, semisolid or liquid residue generated during the treatment of sewage in a treatment facility.

20. American Water Services Residuals Management, Inc. owns and operates the Nutricycle sewage sludge treatment facility, located in Township 37S, Range 23E, off of the Manatee-DeSoto County Line Road.

21. As part of its sewage sludge management activities, American Water Services Residuals Management, Inc. disposes of a large amount of sewage sludge within DeSoto County.

22. As part of its sewage sludge management activities, American Water Services Residuals Management, Inc. has applied, and continues to apply, sewage sludge to lands owned by Defendant Vernon Clyde Hollingsworth Jr.

23. As part of its sewage sludge management activities, American Water Services Residuals Management, Inc. has applied, and continues to apply, sewage sludge to lands owned by Defendant Michael Boran.

24. As part of its sewage sludge management activities, American Water Services Residuals Management, Inc. has applied, and continues to apply, sewage sludge to lands owned or leased by Defendants James D. Brewer, Walter L. Brewer and Robert C. Brewer.

25. Blue Septic Tank Service, Inc., is a foreign corporation doing business in Florida.

26. Blue Septic Tank Service, Inc., engages in sewage sludge management activities in DeSoto County, Florida, doing business as "Blue Environmental."

27. As part of its sewage sludge management activities, Blue Septic Tank Service, Inc. disposes of a large amount of sewage sludge within DeSoto County and within neighboring sections of Manatee County.

28. As part of its sewage sludge management activities, Blue Septic Tank Service, Inc. has applied, and continues to apply, sewage sludge to lands owned or leased by Vernon Clyde Hollingsworth Jr.

29. As part of its sewage sludge management activities, Blue Septic Tank Service, Inc. has applied, and continues to apply, sewage sludge to lands owned or leased by James D. Brewer, Walter L. Brewer and Robert C. Brewer.

30. The land application of sewage sludge to the properties referred to in paragraphs 22-24 and 28-29 is a waste disposal activity.

31. Defendant Vernon Clyde Hollingsworth Jr. is a Florida citizen who resides in DeSoto County.

32. Vernon Clyde Hollingsworth Jr. has permitted and continues to permit American Water Services Residuals Management, Inc. to apply sewage sludge to the following lands that he either owns or leases and that are in or within the immediate vicinity of the Horse Creek watershed:

(a) Application zones within a 2100-acre site, referred to as "V.C. Hollingsworth, Sr. Ranch / North," including application zones within sections 16, 17, 19, 20, and 21 within Township 37S, Range 24E.

(b) Application zones within a 4273-acre site, referred to as "V.C. Hollingsworth, Sr. Ranch / West," including application zones within sections 1, 2, 3, 4, 5, 6, 7, and 8 of Township 37S, Range 23E and sections 31, 32, and 33 of Township 36S, Range 23E.

(c) Application zones within properties accessed by the entrance path at the first left-turning corner of Henry Barrow Ave. N.W. as one moves north on Henry Barrow Ave. from S.R. 70; an "Azurix" sign is posted at this point; the Global Positioning System (GPS) coordinates at this point are 17R 0400735, UTM 2999493.

(d) Application zones accessed by the tanker truck entrance on the north side of S.R. 70 between Gator Trail and Tom Mizell Ave; the entrance is within section 3, Township 38, Range 23.

33. Vernon Clyde Hollingsworth Jr. has permitted and continues to permit both American Water Services Residuals Management, Inc. and Blue Septic Tank Service, Inc. to apply sewage sludge to the following lands that he either owns or leases and that are in or within the immediate vicinity of the Horse Creek watershed:

(a) Application zones within a 1140-acre site within sections 19, 30 and 31 of Township 36S, Range 23E; this site is part of what is referred to as the "Hollingsworth/Brewer Ranch."

(b) Additional application zones, also part of what is referred to as the "Hollingsworth/Brewer Ranch," located in Manatee County and within sections 25, 26, 35, and 36 of Township 36S, Range 22E and within section 1 of Township 37S, Range 22E.

(c) The properties described above in paragraphs 33(a) and 33(b) are listed under the ownership of Vernon Clyde Hollingsworth Jr. on an Agricultural Use Plan (AUP) on file with the Florida Department of Environmental Protection.

34. The land application of sewage sludge to Vernon Clyde Hollingsworth Jr.'s property is a waste disposal activity.

35. Defendant James D. Brewer is a Florida citizen, residing in Arcadia, Florida, within DeSoto County.

36. Defendant Walter L. Brewer is a Florida citizen, residing in Arcadia, Florida, within DeSoto County.

37. Defendant Robert C. Brewer is a Florida citizen, residing in Arcadia, Florida, within DeSoto County.

38. Defendants James D. Brewer, Walter L. Brewer, and Robert C. Brewer have permitted and continue to permit American Water Services Residuals Management, Inc. and Blue Septic Sank Services, Inc., to apply sewage sludge to the following lands that they either own or lease and that are in or within the immediate vicinity of the Horse Creek watershed:

(a) Application zones within a 1140-acre site within sections 19, 30 and 31 of Township 36S, Range 23E; this site is part of what is referred to as the "Hollingsworth/Brewer Ranch."

(b) Additional application zones, also part of what is referred to as the "Hollingsworth/Brewer Ranch," located in Manatee County and within sections 25, 26, 35, and 36 of Township 36S, Range 22E and within section 1 of Township 37S, Range 22E.

(c) The properties described above in paragraphs 38(a) and 38(b) are listed under the ownership of James D. Brewer, Walter L. Brewer and Robert C. Brewer in the database of the DeSoto County Property Appraiser and in an online property appraiser database kept by the state of Florida.

39. The land application of sewage sludge to these properties is a waste disposal activity.

40. Defendant Michael Boran is a Florida citizen.

41. Defendant Michael Boran has permitted and continues to permit American Water Services Residuals Management, Inc. to apply sewage sludge to the following lands that he owns and that are in or within the immediate vicinity of Hidden Acres and the Horse Creek watershed: application zones within a 4800-acre site, including application zones within sections 3, 4, and 5 in Township 39S, Range 23E, and sections 20, 21, 28, 29, 32, 33 and 34 in Township 38S, Range 23E.

42. The land application of sewage sludge to Michael Boran's property is a waste disposal activity.

43. Sewage sludge applied by Blue Septic Tank Service, Inc. and by American Water Services Residuals Management, Inc. to the land of one or more of the other named defendants flushes through the Horse Creek watershed into the neighborhood of Plaintiffs and onto the property of Plaintiffs Molly Bowen, Dorothy Bowen, Sunday Haas, Sam Blanton III, Thomas V. Hand, Marie Drymon, Leigh Fathauer, Jose Fernandez, and Diane Ballard.

EFFECTS OF SEWAGE SLUDGE ON THE PLAINTIFFS

44. This flushed sewage sludge has created and continues to create a distinct and foul odor which circulates through Plaintiffs' properties, periodically spiking in intensity.

(a) For example, as described in paragraph 72 the odor spiked in intensity on Thanksgiving Day, 2000, disrupting Plaintiff Bowen's family celebration of the holiday.

(b) For example, Plaintiff Sam Blanton III recalls a particularly intense offensive odor around the Fourth of July of this year, 2002; because of his neighborhood's reputation for the distinct and foul odor, Sam Blanton III celebrated this Fourth of July outside of Hidden Acres.

45. This flushed sewage sludge has deposited an unsavory residue on the property of Plaintiffs Molly Bowen, Dorothy Bowen, Sunday Haas, Sam Blanton III, Thomas V. Hand, Marie Drymon, Leigh Fathauer, Jose Fernandez, and Diane Ballard.

46. This flushed sewage sludge has degraded and continues to degrade the quality of Horse Creek to the point where it is a health threat to those who swim, boat or fish in it.

47. As enumerated below, Plaintiffs have suffered various symptoms and illnesses associated with viruses, bacteria, and other pathogens found in human waste and sewage sludge. These symptoms and illnesses include fevers, ear infections, mastoid infection, pleurisy, rotavirus, pharyngitis, cellulitis, chronic diarrhea, headaches, allergic coughs, burning of the eyes, nose and throat, upper-respiratory problems, fatigue, nausea, and rashes.

COUNT I

TRESPASS

48. Paragraphs 1 through 47 are realleged and incorporated herein by reference.

49. By causing sewage sludge to flush onto the lands of Plaintiffs Molly Bowen, Dorothy Bowen, Sunday Haas, Sam Blanton III, Thomas V. Hand, Marie Drymon, Leigh Fathauer, Jose Fernandez, and Diane Ballard, leaving an unsavory residue and causing the aforementioned health problems, Defendants trespassed and encroached upon such Plaintiffs' lands, and wrongfully interfered with and disturbed the rightful possession of their lands.

50. By permitting sewage sludge to be applied to his property and thereby degrading Horse Creek to the point where it is a health threat to those who swim, boat or fish in it, Defendant Vernon Clyde Hollingsworth Jr. has encroached upon lower-riparian-owning Plaintiffs' lands and wrongfully interfered with and disturbed the rightful possession of their lands.

51. Plaintiffs are entitled to damages for Defendants' trespass and unlawful encroachment upon Plaintiffs' lands, and for Defendants' wrongful interference with Plaintiffs' rights to these lands.

COUNT II

NUISANCE

52. Paragraphs 1 through 51 are realleged and incorporated herein by reference.

53. By applying sewage sludge to land in such a manner that it has caused and continues to cause the aforementioned distinct and foul odor on the property of Plaintiffs, Defendant American Water Services Residuals Management, Inc. has substantially and unreasonably interfered with Plaintiffs' use and enjoyment of their property.

54. By applying sewage sludge to land in such a manner that it has caused and continues to cause the aforementioned health problems for Plaintiffs, Defendant American Water Services Residuals Management, Inc. has substantially and

unreasonably interfered with Plaintiffs' use and enjoyment of their property.

55. By applying sewage sludge to land in such a manner that it has deposited and continues to deposit the aforementioned unsavory residue on the property of Plaintiffs Molly Bowen, Dorothy Bowen, Sunday Haas, Sam Blanton III, Thomas V. Hand, Marie Drymon, Leigh Fathauer, Jose Fernandez, and Diane Ballard, Defendant American Water Services Residuals Management, Inc. has substantially and unreasonably interfered with such Plaintiffs' use and enjoyment of their property.

56. By applying sewage sludge to land in such a manner that it has caused and continues to cause the aforementioned distinct and foul odor on the property of Plaintiffs, Defendant Blue Septic Tank Service, Inc. has substantially and unreasonably interfered with Plaintiffs' use and enjoyment of their property.

57. By applying sewage sludge to land in such a manner that it has caused and continues to cause the aforementioned health problems for Plaintiffs, Defendant Blue Septic Tank Service, Inc. has substantially and unreasonably interfered with Plaintiffs' use and enjoyment of their property.

58. By applying sewage sludge to land in such a manner that it has deposited and continues to deposit the aforementioned unsavory residue on the property of Plaintiffs Molly Bowen, Dorothy Bowen, Sunday Haas, Sam Blanton III, Thomas V. Hand, Marie Drymon, Leigh Fathauer, Jose Fernandez, and Diane

Ballard, Defendant Blue Septic Tank Service, Inc. has substantially and unreasonably interfered with such Plaintiffs' use and enjoyment of their property.

59. By permitting the application of sewage sludge to his land in such a manner that it has caused and continues to cause the aforementioned distinct and foul odor on the property of Plaintiffs, Defendant Vernon Clyde Hollingsworth Jr. has substantially and unreasonably interfered with Plaintiffs' use and enjoyment of their property.

60. By permitting the application of sewage sludge to his land in such a manner that it has caused and continues to cause the aforementioned health problems for Plaintiffs, Defendant Vernon Clyde Hollingsworth Jr. has substantially and unreasonably interfered with Plaintiffs' use and enjoyment of their property.

61. By permitting the application of sewage sludge to his land in such a manner that it has deposited and continues to deposit the aforementioned unsavory residue on the property of Plaintiffs Molly Bowen, Dorothy Bowen, Sunday Haas, Sam Blanton III, Thomas V. Hand, Marie Drymon, Leigh Fathauer, Jose Fernandez, and Diane Ballard, Defendant Vernon Clyde Hollingsworth Jr. has substantially and unreasonably interfered with such Plaintiffs' use and enjoyment of their property.

62. By permitting the application of sewage sludge to his land in such a manner that it has caused and continues to cause the aforementioned distinct and foul odor on the property of

Plaintiffs, Defendant Michael Boran has substantially and unreasonably interfered with Plaintiffs' use and enjoyment of their property.

63. By permitting the application of sewage sludge to his land in such a manner that it has caused and continues to cause the aforementioned health problems for Plaintiffs, Defendant Michael Boran has substantially and unreasonably interfered with Plaintiffs' use and enjoyment of their property.

64. By permitting the application of sewage sludge to his land in such a manner that it has deposited and continues to deposit the aforementioned unsavory residue on the property of Plaintiffs Molly Bowen, Dorothy Bowen, Sunday Haas, Sam Blanton III, Thomas V. Hand, Marie Drymon, Leigh Fathauer, Jose Fernandez, and Diane Ballard, Defendant Michael Boran has substantially and unreasonably interfered with such Plaintiffs' use and enjoyment of their property.

65. By permitting the application of sewage sludge to their land in such a manner that it has caused and continues to cause the aforementioned distinct and foul odor on the property of Plaintiffs, Defendants James D. Brewer, Walter L. Brewer, and Robert C. Brewer have substantially and unreasonably interfered with Plaintiffs' use and enjoyment of their property.

66. By permitting the application of sewage sludge to their land in such a manner that it has caused and continues to cause the aforementioned health problems for Plaintiffs, Defendants James D. Brewer, Walter L. Brewer, and Robert C.

Brewer have substantially and unreasonably interfered with Plaintiffs' use and enjoyment of their property.

67. By permitting the application of sewage sludge to their land in such a manner that it has deposited and continues to deposit the aforementioned unsavory residue on the property of Plaintiffs Molly Bowen, Dorothy Bowen, Sunday Haas, Sam Blanton III, Thomas V. Hand, Marie Drymon, Leigh Fathauer, Jose Fernandez, and Diane Ballard, Defendants James D. Brewer, Walter L. Brewer, and Robert C. Brewer have substantially and unreasonably interfered with such Plaintiffs' use and enjoyment of their property.

68. Plaintiffs are entitled to damages for Defendants' wrongful interference with Plaintiffs' rights to use and enjoy their properties.

DAMAGES

69. By reason of the Defendants' disposal of sewage sludge in a manner that has fouled the air and waters of property owned or leased by the Plaintiffs, the Plaintiffs have suffered the following health problems:

(a) Plaintiff Diane Ballard has suffered from the following health problems: severe fevers, severe diarrhea, pneumonia, pleurisy, and a mastoid infection requiring surgical removal of a cyst.

(b) Plaintiff Haas has suffered from the following

health problems: chronic diarrhea since August of 2002; a chronic sore throat since July 10th of 2002; headaches, heartburn, nausea, fatigue, an allergic cough.

(c) Sam Blanton IV, who is currently 17 months old and upon whose behalf Sam Blanton III sues as guardian, has suffered two bouts of rotavirus (one of which yielded a high fever requiring emergency medical treatment), and an enlarged lymph node the size of a baseball.

(d) Ralph Brewer has suffered from a steady chest ache, chronic diarrhea, strained urination, and a double ear infection.

(e) Kenneth Linn has suffered from headaches, nausea, fatigue, burning eyes, nose and throat, a regular cough, and upper-respiratory problems, including persistent gagging.

(f) Plaintiff Hand has suffered from the following health problems: a rash on his legs and his chest, gastrointestinal problems, headaches, nausea, fatigue, upper-respiratory problems, burning eyes, nose and throat, an allergic cough, lesions on his skin, and a rash.

(g) Plaintiff Fathauer has suffered from the following health problems: chronic sinus and respiratory problems, headaches, fatigue, burning eyes, nose and throat, an allergic cough, lesions on his skin, postnasal drip, and a discharge from his ears.

(h) Plaintiff Drymon has suffered from the following

health problems: chronic diarrhea; headaches, nausea, fatigue, upper-respiratory problems, burning eyes, nose and throat, and an allergic cough.

(i) Plaintiff Dorothy Bowen has suffered bacterial infections, headaches, nausea, upper-respiratory problems, burning eyes, nose and throat, and an allergic cough.

(j) Plaintiff Sam Blanton III has suffered from the following health problems: a severe foot rash; daily irritation of the eyes; upper-respiratory problems.

(k) Plaintiff Jose Fernandez has suffered from ear infections.

(l) Plaintiff Molly Bowen has suffered headaches, fatigue, upper-respiratory problems, burning eyes, nose and throat, and an allergic cough.

(m) David Serena, on behalf of whom Molly Bowen sues as guardian, has suffered from the following health problems: pharyngitis, ear infection, a cough, sore throat, and a foot rash.

(n) Grace Clayton, on behalf of whom Molly Bowen sues as guardian, has suffered the following health problems: pharyngitis, ear aches, fevers, a staph infection, cellulitis, and a cough.

(o) Rebecca Serena, on behalf of whom Molly Bowen sues as guardian, has suffered the following health problems: two bouts of pharyngitis, a rash on her lower leg, a staph infection, coughing, fever and other illnesses.

(p) Anna Serena, on behalf of whom Molly Bowen sues as guardian, has suffered from ear infections, upper respiratory infections, sore throats, itching, burning eyes, nose and throat, diarrhea, and toe and teeth infections.

(q) Joel Serena, on behalf of whom Molly Bowen sues as guardian, has suffered from the following health problems: ear infection, sore throat, headaches, and rashes.

70. The distinct and foul odor created by Defendants' land application of sewage sludge has substantially and unreasonably interfered with Plaintiffs' use and enjoyment of their property.

71. The substantial and unreasonable interference referred to in paragraph 70 has reduced the value of lands owned by Plaintiffs Molly Bowen, Dorothy Bowen, Jose Fernandez, Diane Ballard and Kenneth Linn.

72. In addition to the damages enumerated in paragraphs 70 and 71, Defendants' land application of sewage sludge has created the following gross interference with Plaintiff Bowen's use and enjoyment of her property: on Thanksgiving Day, November 23, 2000, the distinct and foul odor produced by Defendants' land application of sewage sludge spiked in intensity, making Plaintiff Bowen nauseous, and forcing her to close the doors and shut all of the windows of her home in an effort to temper her family's exposure to the distinct and foul odor of Defendants' sewage sludge.

73. Plaintiffs Molly Bowen, Dorothy Bowen, Sunday Haas, Sam Blanton III, Thomas V. Hand, Marie Drymon, Leigh Fathauer,

Jose Fernandez, and Diane Ballard have suffered the invasion of sewage sludge onto their lands; such sludge has left an unsavory residue on such Plaintiffs' lands and in addition to the health problems enumerated above this trespass has resulted in the following damages:

(a) Plaintiff Fernandez has expended the cost, time and effort of scrubbing his canoes, bicycles and tools with toilet-bowl cleaner and a scotch pad in order to remove the unsavory residue from these items.

(b) Plaintiff Hand has expended the cost, time and effort of pressure cleaning his entire screen porch, including the furniture, the walls, and the ceiling, once every two months; his pressure cleaner cost him \$280.

(c) Receding floodwaters have deposited an unsavory residue on the floorboard of plaintiff Sam Blanton III's car and in his driveway and yard and he has expended substantial energy to shovel out holes in which to dump residue-containing dirt.

(d) Plaintiff Molly Bowen expended cost, time and energy to remove the aforementioned unsavory residue from her lands. Plaintiff Molly Bowen has been forced to hose down her property in an effort to wash the unsavory residue from parts of her lands. In addition, she has been required to employ and to apply to her property, in the following order, Procleaner (a degreaser), a disinfectant and a bleach rinse.

(e) Plaintiff Dorothy Bowen has expended money, time and effort to remove the aforementioned unsavory residue from

her lands. In order to remove the unsavory residue, Plaintiff Dorothy Bowen has been required to employ and to apply to her property, in the following order, Procleaner (a degreaser), a disinfectant and a bleach rinse.

74. Riparian owners Sam Blanton III, Sunday Haas, Thomas V. Hand, Marie Drymon, and Jose Fernandez have suffered impaired usage of Horse Creek for boating, swimming and fishing from their properties.

75. By reason of the Defendants' disposal of sewage sludge, Plaintiffs have suffered the following sundry damages:

(a) Medical expenses incurred in treating the health problems enumerated above.

(b) Plaintiff Bowen has suffered emotional distress due to the health problems suffered by her children over the past three years that were caused by Defendants' land application of sewage sludge.

(c) Plaintiff Haas has suffered the emotional distress and financial expense of having her infant son, Sam Blanton IV, treated for two bouts of rotavirus, rushing her son to the hospital with a high fever as a consequence of one of these bouts of rotavirus, having her son treated for a enlarged lymph node the size of a baseball, and boiling, per physician instructions, all of her baby's bathwater and any water with which she cooks.

(d) Plaintiff Sunday Haas has suffered the emotional distress and the impairment of usage of her property for hosting

guests after four of her guests became sick with identical symptoms - sore throat, diarrhea, and vomiting - shortly after swimming in Horse Creek from her property in September of 2002.

(e) Plaintiff Sam Blanton III has suffered the emotional distress of having his infant son, Sam Blanton IV, treated for two bouts of rotavirus and an enlarged lymph node the size of a baseball.

76. In addition, Plaintiffs will suffer future damages for the costs of protecting their property from the intrusion of sewage sludge and for the costs of treating the health problems caused by such sludge and the pain and suffering caused by those health problems.

77. The defendants are on notice that their sewage sludge activities are damaging Horse Creek and the health of Plaintiffs because of numerous complaints, public and private, by Plaintiffs and because of numerous media reports of these problems.

78. In doing the acts alleged in this complaint, Defendants continued knowingly, or with a wanton disregard of the Plaintiffs' rights, to trespass and to damage the health and environment of Plaintiffs, so that Plaintiffs are entitled to punitive damages.

COUNT IV

INJUNCTIVE RELIEF

79. Paragraphs 1 through 47 are realleged and incorporated herein by reference.

80. Plaintiffs have no adequate remedy at law for the future flushing of sewage sludge into the Horse Creek watershed.

81. Until the land application and flushing process described in paragraphs 22 through 43 ceases, the invasion of Plaintiffs' lands by Defendants' sewage sludge will continue.

82. Until the land application and flushing process described in paragraphs 22 through 43 ceases, the Defendants' substantial and unreasonable interference with the Plaintiffs' use and enjoyment of their property will continue.

83. Until the land application and flushing process described in paragraphs 22 through 43 ceases, the damage to Horse Creek will continue, injuring riparian-owner Plaintiffs in their use of the Creek.

84. For these reasons, the Defendants' land disposal of sewage sludge within or near the Horse Creek watershed will cause irreparable injury to Plaintiffs.

85. The Plaintiffs are entitled to an injunction prohibiting the Defendants from continuing to dispose of sewage sludge in a manner that creates an odor on Plaintiffs' properties, deposits a residue on Plaintiffs' properties, degrades the quality of Horse Creek, or fouls the quality of the

land, water and air on Plaintiffs' properties, causing health problems for Plaintiffs.

WHEREFORE, Plaintiffs prays for the following relief against the Defendants:

(1) an order enjoining Defendants, Defendants' agents, employees, and others acting under Defendants' direction and authority from causing sewage sludge to enter Plaintiffs' property, creating an offensive odor on Plaintiffs' property, and interfering with Plaintiffs' health and with Plaintiffs' possession, use, and enjoyment of their property;

(2) trespass damages;

(3) nuisance damages;

(4) punitive damages;

(5) an award of Plaintiffs' costs in bringing and maintaining this suit; and

(6) such other and further relief as the Court may deem proper.

DEMAND FOR JURY TRIAL

Plaintiffs demand a jury trial on all issues of fact presented in this action.

Respectfully submitted this 11th day of December, 2002.

Eric Giroux
Fla. Bar No. 0569941
David G. Guest
Fla. Bar No. 0267228
Earthjustice
P. O. Box 1329
Tallahassee, Florida 32302
(850) 681-0031 (tel)
(850) 681-0020 (fax)

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the foregoing complaint and a request that the defendants accept service of process by mail has been provided by certified mail, return receipt requested to:

NRAI Services, Inc. Registered Agent, American Water Services Residuals Management, Inc. 526 East Park Avenue Tallahassee, FL 32301	Arcadia, FL 34266 Michael Boran, Owner Boran/Lipes Ranch 10346 S.W. B & R Ranch Road Arcadia, FL 34266
Jack A. Myers Registered Agent, Blue Septic Tank Service, Inc. 2803 70th ST CT E. P.O. Box 20361 Bradenton, FL 34208	James D. Brewer P.O. Box 400 Nocatee, FL 34268 Walter L. Brewer P.O. Box 400 Nocatee, FL 34268
V.C. Hollingsworth Jr., Owner V.C. Hollingsworth Ranch 3013 N.W. County Road 661-A	Robert C. Brewer P.O. Box 400 Nocatee, FL 34268

on this 11th day of December, 2002.

Attorney