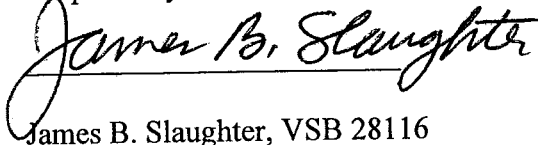


Dated: December 19, 2006

Respectfully submitted,

A handwritten signature in black ink that reads "James B. Slaughter". The signature is written in a cursive style with a horizontal line underneath the name.

James B. Slaughter, VSB 28116
Beveridge & Diamond, P.C.
1350 I Street, N.W., Suite 700
Washington, D.C. 20005
(202) 789-6000 (phone)

3. As of the date of this Notice of Removal, Defendant Sussex Surry has not been served, and its status does not affect this Notice of Removal. *See McKinney v. Board of Trustees of Maryland Community College*, 955 F.2d 924 (4th Cir. 1992). As explained below, Defendant Sussex Surry is fraudulently joined.

4. Plaintiffs' Complaint seeks injunctive relief as well as compensatory and punitive damages for alleged negligence, private nuisance, and trespass, all stemming from Synagro's land application of biosolids (treated sewage sludge) as a fertilizer and soil conditioner, pursuant to federal regulations and state permits, to forest land in Surry County that happens to be owned by Sussex Surry. *See* Complaint ¶¶ 102-125.

5. A defendant may remove to the appropriate federal district court "any civil action brought in a State court of which the district courts of the United States have original jurisdiction." *City of Chicago v. International College of Surgeons*, 522 U.S. 156, 163 (1997) (quoting 28 U.S.C. § 1441(a)).

6. This Court has original jurisdiction pursuant to 28 U.S.C. § 1332(a) because complete diversity of citizenship exists between Plaintiffs, residents of Virginia, and the only proper Defendant, Synagro, which is a Delaware Corporation with its principal place of business in Baltimore, Maryland. *See* Complaint ¶¶ 5-10 and 13. In addition, the amount in controversy exceeds \$75,000. *See* Complaint ¶¶ 126-130.

7. Defendant Sussex Surry is a Virginia corporation that owns the land on which Synagro applied biosolids. Sussex Surry did not participate in or control the actions alleged in the Complaint and can not be liable under the causes of action pled by Plaintiffs.

8. The Complaint constitutes a fraudulent joinder of instate Defendant Sussex Surry, a Virginia corporation, in order to defeat diversity jurisdiction.

9. Plaintiffs do not have a valid cause of action against the instate Defendant, Sussex Surry, under any of Plaintiffs' three theories of recovery.

10. This Court also has original jurisdiction over this case because it "aris[es] under the Constitution, laws, or treaties of the United States." *City of Chicago*, 522 U.S. at 163 (quoting 28 U.S.C. § 1331).

11. Plaintiffs' Complaint is preempted under the Supremacy Clause of the United States Constitution by the federal Clean Water Act and regulations thereunder. The Clean Water Act and its regulations regarding the land application of biosolids constitute a comprehensive regulatory program to encourage this valuable recycling activity. See 40 C.F.R. Part 503. The United States Environmental Protection Agency (EPA) researched and promulgated the Part 503 regulations to provide detailed mandates for the land application of biosolids, including the chemical and biological components of biosolids, operational controls, and record keeping, all of which will be at issue in this case. The Clean Water Act allows for state law to complement and strengthen the federal biosolids program, but it does not allow for, and preempts, state tort claims that conflict with and would eviscerate and defeat a national program by which thousands of communities recycle biosolids to the land.

12. Moreover, this case should be removed to this Court because Plaintiffs' right to relief necessarily depends on resolution of substantial questions of federal law. See generally *Franchise Tax Bd. of the State of Calif. v. Construction Laborers Vacation Trust for So. Calif.*, 463 U.S. 1, 13 (1983); *Pinney v. Nokia, Inc.*, 402 F.3d 430, 442 (4th Cir. 2005). Pursuant to the Clean Water Act, Congress and the EPA have encouraged and closely regulated the land application of biosolids in order to recycle valuable nutrients in biosolids and avoid wasteful disposal of growing volumes of sewage sludge. See, e.g., 40 C.F.R. Part 503; EPA, *Biosolids*

Recycling: Beneficial Technology for a Better Environment (1994). The federal biosolids program codified in the Part 503 regulations is based on one of the largest scientific risk assessments ever undertaken by EPA. EPA, *A Guide to the Biosolids Risk Assessments for the EPA Part 503 Rule* (1995). Plaintiffs' Complaint challenges the decisions and regulatory actions of EPA in choosing how to regulate land application of biosolids, and adjudication of Plaintiffs' claims will likely require judicial evaluation and decisions regarding the interpretation of EPA biosolids regulations and EPA fact finding regarding the safety of land application.

13. This Notice of Removal is filed in the District Court of the United States for the district in which this suit was filed -- the Eastern District of Virginia.

14. This Notice of Removal is filed within the time provided by 28 U.S.C. § 1446(b).

15. Pursuant to 28 U.S.C. § 1446(a), true and legible copies of all process, pleadings, papers and orders which have been received by Synagro in this matter, consisting of a Bill of Complaint (Tab A) and Synagro's Demurrer (Tab B), are attached hereto.

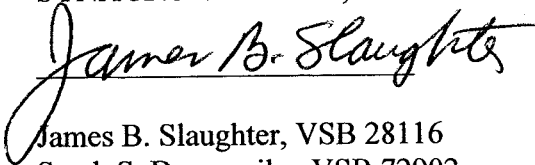
16. Pursuant to 28 U.S.C. § 1446(d), Synagro is filing a copy of this Notice of Removal with the Clerk of the Circuit Court for the County of Surry, Virginia, where the action was originally filed. Synagro has also served Plaintiffs' counsel with this Notice of Removal.

WHEREFORE, Synagro hereby removes to this Court the action captioned as *Sandra L. Wyatt, et al., v. Sussex Surry, LLC, et al.*, case no. CL06000069-00, from the Circuit Court of the County of Surry, Virginia to the United States District Court for the Eastern District of Virginia.

Dated: December 19, 2006

Respectfully submitted,

SYNAGRO CENTRAL, INC.

A handwritten signature in black ink that reads "James B. Slaughter". The signature is written in a cursive style with a large, looping initial "J".

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Synagro Central, Inc.

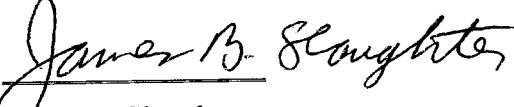
CERTIFICATE OF SERVICE

I hereby certify on December 19, 2006, prior to filing, true and correct copies of the Civil Cover Sheet, Defendant Synagro's Notice of Removal, and Defendant Synagro's Rule 7.1 Disclosure in the above captioned matter were served by Federal Express on:

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Defendant Sussex Surry LLC's Registered Agent


James B. Slaughter
Counsel for Defendant Synagro Central, Inc.