

FILED
12-02-2022
Clerk of Circuit Court
Kewaunee County, WI
2022CF000096

STATE OF WISCONSIN CIRCUIT COURT KEWAUNEE COUNTY

STATE OF WISCONSIN,

Plaintiff,

v.

Case No. 22-CF-_____

GREGORY R. STODOLA

N2971 County Road V

Luxemburg, WI 54217

DOB: 07/16/1983

Sex/Race: M/W

and

STODOLA AG. TRANSPORT

N2971 County Road V

Luxemburg, WI 54217

JOHANNES W. WAKKER

821 Dodge St.

Kewaunee, WI 54216

DOB: 03/10/1951

Sex/Race: M/W

BENJAMIN TODD KOSS,

E3991 County Road J

Kewaunee, WI 54216

DOB: 08/04/1962

Sex/Race: M/W

Defendants.

SUMMONS

THE STATE OF WISCONSIN TO SAID DEFENDANT:

The Complaint, a copy of which is attached, having been made before me accuses the Defendants of the following crime:

IF YOU REQUIRE THE ASSISTANCE OF AUXILIARY AIDS OR SERVICES BECAUSE OF A DISABILITY, CALL (920) 388-4410 (TTY -- (920) 388-0755) AND ASK FOR THE KEWAUNEE COUNTY CIRCUIT COURT ADA COORDINATOR.

COUNT 1: Conspiracy to Commit a Crime (as to Johannes W. Wakker, Gregory R. Stodola, and Benjamin Todd Koss)

Between on or about December 5, 2019, through on or about March 3, 2020, in Kewaunee County, State of Wisconsin, Defendants Johannes W. Wakker, Gregory R. Stodola, and Benjamin Todd Koss, with intent that a crime be committed, agreed or combined with another for purpose of committing that crime, with one or more of the parties to the conspiracy doing an act to effect its object, to wit, being directors, officers, managers, agents or employees of any corporation or limited liability company, the Defendants agreed or combined with another for the purpose of falsifying a record, account, or other document belonging to that corporation or limited liability company, by alteration, false entry, or omission, or made, circulated, or published any written statement regarding the corporation or limited liability company which they knew was false, namely the 2020 Wakker Dairy Manure Hauling Report submitted to the Wisconsin Department of Natural Resources. This is a Class H felony in violation of Wis. Stat. §§ 939.31 and 943.39(1), an offense punishable by a fine of up to \$10,000, or imprisonment not more than six years, or both, pursuant to Wis. Stat. § 939.50(3)(h).

COUNT 2: Fraudulent Writing, PTAC (as to Johannes W. Wakker)

On or about March 3, 2020, in Kewaunee County, State of Wisconsin, Defendant Johannes W. Wakker, as party to a crime, being a director, officer, manager, agent or employee of any corporation or limited liability company, falsified a record, account, or other document belonging to that corporation or limited liability company by alteration, false entry, or omission, or made, circulated or published any written statement regarding the corporation or limited liability company which he knew was false, namely the 2020 Wakker Dairy Manure Hauling Report submitted to the Wisconsin Department of Natural Resources. This is a Class H felony in violation of Wis. Stat. §§ 943.39(1) and 939.05, an offense punishable by a fine of up to \$10,000, or imprisonment not more than six years, or both, pursuant to Wis. Stat. § 939.50(3)(h).

COUNT 3: Fraudulent Writing, PTAC (as to Gregory R. Stodola)

On or about March 3, 2020, in Kewaunee County, State of Wisconsin, Defendant Gregory R. Stodola, as party to a crime, being a director, officer, manager, agent or employee of any corporation or limited liability company, falsified a record, account, or other document

belonging to that corporation or limited liability company by alteration, false entry, or omission, or made, circulated or published any written statement regarding the corporation or limited liability company which he knew was false, namely the 2020 Wakker Dairy Manure Hauling Report submitted to the Wisconsin Department of Natural Resources. This is a Class H felony in violation of Wis. Stat. §§ 943.39(1) and 939.05, an offense punishable by a fine of up to \$10,000, or imprisonment not more than six years, or both, pursuant to Wis. Stat. § 939.50(3)(h).

COUNT 4: Fraudulent Writing, PTAC (as to Benjamin Todd Koss)

On or about March 3, 2020, in Kewaunee County, State of Wisconsin, Defendant Benjamin Todd Koss, as party to a crime, being a director, officer, manager, agent or employee of any corporation or limited liability company, falsified a record, account, or other document belonging to that corporation or limited liability company by alteration, false entry, or omission, or made, circulated or published any written statement regarding the corporation or limited liability company which he knew was false, namely the 2020 Wakker Dairy Manure Hauling Report submitted to the Wisconsin Department of Natural Resources. This is a Class H felony in violation of Wis. Stat. §§ 943.39(1) and 939.05, an offense punishable by a fine of up to \$10,000, or imprisonment not more than six years, or both, pursuant to Wis. Stat. § 939.50(3)(h).

COUNT 5: Fraudulent Writing (as to Gregory R. Stodola)

Between on or about December 5, 2019, through on or about December 13, 2019, in Kewaunee County, State of Wisconsin, Defendant Gregory R. Stodola being a director, officer, manager, agent or employee of any corporation or limited liability company, falsified a record, account, or other document belonging to that corporation or limited liability company by alteration, false entry, or omission, or made, circulated or published any written statement regarding the corporation or limited liability company which he knew was false, namely a document referred to by the Defendant as the “Untitled Document” wherein the Defendant provided false information regarding the amount of manure he spread per day and the location in which that manure was spread, pertaining to fields MP 1, AS 1, MP 6, Koss 4, BD 9-10, MP 11-12, Koss 1 and Koss 2. This is a Class H felony in violation of Wis. Stat. §§ 943.39(1), an offense punishable by a fine of up to \$10,000, or imprisonment not more than six years, or both, pursuant to Wis. Stat. § 939.50(3)(h).

COUNT 6: Discharging Pollutants into Waters of the State (PTAC) (as to Gregory R. Stodola and Stodola Ag. Transport)

Between on or about December 5, 2019, through on or about December 8, 2019, Defendants Gregory R. Stodola and Stodola Ag. Transport, as parties to the crime, in Kewaunee County, State of Wisconsin, did willfully or negligently discharge a pollutant into waters of the State of Wisconsin, without a permit issued by the Wisconsin Department of Natural Resources, to wit: the discharge of animal manure into waters of the State, namely, an unnamed tributary to Lake Michigan (WBIC 5019251). This is in violation of Wis. Stat. §§ 283.31(1), 283.91(3), and 939.05, an offense punishable by a fine of not less than \$10 nor more than \$25,000 for each day of violation or imprisonment for not more than six months, or both. If the conviction is for a violation committed after a first conviction of such person under this subsection, the person shall be fined not less than \$10 nor more than \$50,000 per day of violation or imprisoned for not more than one year in the county jail or both.

COUNT 7: Discharging Pollutants into Waters of the State (PTAC) (as to Gregory R. Stodola, and Stodola Ag. Transport)

On or about December 7, 2019, in Kewaunee County, State of Wisconsin, Defendants Gregory R. Stodola and Stodola Ag. Transport, as parties to the crime, did willfully or negligently discharge a pollutant into waters of the State of Wisconsin without a permit issued by the Wisconsin Department of Natural Resources, to wit: the discharge of animal manure into waters of the State, namely, an unnamed tributary to Lake Michigan (WBIC 90400). This is in violation of Wis. Stat. §§ 283.31(1), 283.91(3), and 939.05, an offense punishable by a fine of not less than \$10 nor more than \$25,000 for each day of violation or imprisonment for not more than six months, or both. If the conviction is for a violation committed after a first conviction of such person under this subsection, the person shall be fined not less than \$10 nor more than \$50,000 per day of violation or imprisoned for not more than one year in the county jail or both.

COUNT 8: Discharging Pollutants into Waters of the State (PTAC) (as to Gregory R. Stodola, and Stodola Ag. Transport)

Between on or about December 8, 2019, through on or about December 9, 2019, in Kewaunee County, State of Wisconsin, Defendants Gregory R. Stodola and Stodola Ag. Transport,

as parties to the crime, did willfully or negligently discharge a pollutant into waters of the State of Wisconsin without a permit issued by the Wisconsin Department of Natural Resources, to wit: the discharge of animal manure into waters of the State, namely, an unnamed tributary to Lake Michigan (WBIC 90400). This is in violation of Wis. Stat. §§ 283.31(1), 283.91(3), and 939.05, an offense punishable by a fine of not less than \$10 nor more than \$25,000 for each day of violation or imprisonment for not more than six months, or both. If the conviction is for a violation committed after a first conviction of such person under this subsection, the person shall be fined not less than \$10 nor more than \$50,000 per day of violation or imprisoned for not more than one year in the county jail or both.

You, Gregory R. Stodola, Stodola AG Transport (agent Gregory Stodola), Johannes W. Wakker, and Benjamin Todd Koss are, therefore, summoned to appear in Courtroom 1 of the Kewaunee County Courthouse, located at 613 Dodge Street, Kewaunee, Wisconsin, in front of the Honorable Jeffrey R. Wisnicky to answer said Complaint, **on Thursday, the 12th day of January 2023, at 2:00 p.m.**

IF YOU FAIL TO APPEAR, A WARRANT FOR YOUR ARREST MAY BE ISSUED.

Dated this 2nd day of December, 2022.

Respectfully submitted,

JOSHUA L. KAUL
Attorney General of Wisconsin

Electronically signed by:

s/ Lucas P. Bennewitz
LUCAS P. BENNEWITZ
Assistant Attorney General
State Bar No. 1090810

Wisconsin Department of Justice
Post Office Box 7857 Madison,
Wisconsin 53707 (608)
266-1221
(608) 294-2907 (Fax)
bennewitzlp@doj.state.wi.us

Attorneys for State of Wisconsin

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DOB: 03/10/1951

Sex/Race: M/W

BENJAMIN TODD KOSS,

DOB: 08/04/1962

Sex/Race: M/W

Defendants.

CRIMINAL COMPLAINT

I, John E. Schreiber, being first duly sworn, state upon information and belief that:

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Between on or about December 5, 2019, through on or about March 3, 2020, in Kewaunee County, State of Wisconsin, Defendants Johannes W. Wakker, Gregory R. Stodola, and Benjamin

Todd Koss, with intent that a crime be committed, agreed or combined with another for purpose of committing that crime, with one or more of the parties to the conspiracy doing an act to effect its object, to wit, being directors, officers, managers, agents or employees of any corporation or limited liability company, the Defendants agreed or combined with another for the purpose of falsifying a record, account, or other document belonging to that corporation or limited liability company, by alteration, false entry, or omission, or made, circulated, or published any written statement regarding the corporation or limited liability company which they knew was false, namely the 2020 Wakker Dairy Manure Hauling Report submitted to the Wisconsin Department of Natural Resources. This is a Class H felony in violation of Wis. Stat. §§ 939.31 and 943.39(1), an offense punishable by a fine of up to \$10,000, or imprisonment not more than six years, or both, pursuant to Wis. Stat. § 939.50(3)(h).

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On or about March 3, 2020, in Kewaunee County, State of Wisconsin, Defendant Benjamin Todd Koss, as party to a crime, being a director, officer, manager, agent or employee of any corporation or limited liability company, falsified a record, account, or other document belonging to that corporation or limited liability company by alteration, false entry, or omission, or made, circulated or published any written statement regarding the corporation or limited liability company which he knew was false, namely the 2020 Wakker Dairy Manure Hauling Report submitted to the Wisconsin Department of Natural Resources. This is a Class H felony in violation of Wis. Stat. §§ 943.39(1) and 939.05, an offense punishable by a fine of up to \$10,000, or imprisonment not more than six years, or both, pursuant to Wis. Stat. § 939.50(3)(h).

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manager, agent or employee of any corporation or limited liability company, falsified a record, account, or other document belonging to that corporation or limited liability company by alteration, false entry, or omission, or made, circulated or published any written statement regarding the corporation or limited liability company which he knew was false, namely a document referred to by the Defendant as the “Untitled Document” wherein the Defendant provided false information regarding the amount of manure he spread per day and the location in which that manure was spread, pertaining to fields MP 1, AS 1, MP 6, Koss 4, BD 9-10, MP 11-12, Koss 1 and Koss 2. This is a Class H felony in violation of Wis. Stat. §§ 943.39(1), an offense punishable by a fine of up to \$10,000, or imprisonment not more than six years, or both, pursuant to Wis. Stat. § 939.50(3)(h).

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not less than \$10 nor more than \$50,000 per day of violation or imprisoned for not more than one year in the county jail or both.

STATEMENT OF PROBABLE CAUSE

Your Complainant, John E. Schreiber, is a Special Investigative Warden employed by the State of Wisconsin, Department of Natural Resources. Your Complainant was employed in such capacity at all times and was assigned to an investigation involving the above-named Defendants and violations of Wisconsin's water pollution control laws in Kewaunee County, Wisconsin. Based upon your Complainant's personal knowledge, and upon your Complainant's information and belief as set forth below, your Complainant believes and states as follows:

From 2017 through 2020, the Wisconsin Department of Natural Resources (hereinafter DNR) responded to, documented, and investigated over a dozen manure discharges at Wakker Dairy where manure ran off fields during spreading events and entered waters of the state. This activity occurred at Wakker Dairy Inc. (Wakker Dairy or the Dairy), which is located in Carlton Township, Kewaunee County, Wisconsin. Defendant Johannes Wakker (Wakker) is the owner of the Dairy. Defendant Benjamin Koss (Koss) of Koss Ag. LLC represented the Dairy as their hired crop consultant/agronomist during these manure discharge events. Defendant Gregory Stodola (Stodola) of Defendant Stodola Ag. Transport was the hired manure hauler during these manure discharge events.

Wakker Dairy is a Wisconsin Pollutant Discharge Elimination System (WPDES) permitted Concentrated Animal Feeding Operation (CAFO) regulated by the DNR, owning approximately 2,000 dairy cows. Wisconsin law requires that CAFO dairy operations create, maintain, and submit documents related to routine manure spreading events via reports to the DNR.

Pursuant to Wakker Dairy's WPDES permit, the Dairy is annually required to lower its stored manure level to the 180-day marker in its waste storage facilities by no later than November 30th of each year to ensure it has six months of available winter manure storage space. Wakker Dairy was storing too much manure onsite in late 2019 and began hauling that excess manure in November and early December in attempt to create available storage space—initially to prevent, and later rectify, its 180-day storage violation. This regulated storage space deadline, and Wakker Dairy's lack of adequate preparation to meet that deadline, created motivation on behalf of Wakker Dairy to haul large amounts of manure quickly in late 2019, even though weather conditions at the time caused soils to be saturated with water, increasing the likelihood of manure runoff events detrimental to the surrounding environment. Wakker Dairy could have chosen to properly manage its manure by hauling it to off-site storage facilities rather than land-apply it, however, this activity would have cost large sums of money, so the manure was spread on surrounding fields. Wakker Dairy hired Gregory Stodola to haul and spread this manure.

Upon investigation into these large manure discharges in late 2019, some discharges over 100,000 gallons, the DNR identified discrepancies in documents and statements made by the manure hauler (Stodola), agronomist (Koss), and the Dairy (Wakker) pertaining to the amount of manure that was actually applied to fields, as compared to the Dairy's official manure discharge metrics reported to the DNR by Wakker Dairy in the 2022 Wakker Dairy Manure Hauling Report on or about March 3, 2020, as referenced in counts 1-4.

The investigation uncovered that Stodola overapplied manure and falsified records to cover up the overapplication, resulting in manure leaving the fields and entering multiple unnamed tributary waters of Lake Michigan in December of 2019. During the investigation, the DNR conducted a Waste Storage Volume Analysis for the Dairy, completed by an engineer, which showed discrepancies in the amount of manure reported to have been field-spread by the Dairy

when compared to the amount of manure the Dairy reportedly spread. As a result, approximately 3 million total gallons of additional unaccounted-for manure was believed to be spread during this time period.

On August 12, 2021, investigative wardens and conservation wardens from the DNR interviewed Wakker, Koss, and Stodola, and uncovered evidence that Stodola intentionally overapplied manure contrary to the conditions of the Nutrient Management Permit. Additionally, wardens uncovered evidence that Stodola changed and manipulated the actual manure gallon amounts spread, and those false numbers were later included in the 2020 Wakker Dairy Manure Hauling Report to the DNR.

Warrants and subpoenas were served on Wakker, Stodola, and Koss. The investigation determined that Stodola manipulated his record keeping by altering the locations and gallon amounts of manure spread, and then he supplied that falsified documentation to Wakker. Stodola told Wakker that the numbers to be reported to the DNR would need to be different than the amounts of manure that he actually spread. Stodola created a billing invoice for the full amount of manure spread, which Wakker paid. However, the amount of manure listed on the billing invoice was far greater than the amount of manure listed on the reports Stodola created to document how much manure was spread and where it was dispersed. Stodola billed Wakker for the actual amount spread so he would be paid for the actual amount, but then modified those numbers within other documentation of the spreading events so the manure spreading values would fall within DNR regulations. Wakker knew that Stodola overapplied manure, and he knew about the pollution discharge events caused by that overapplication, but Wakker still accepted and used Stodola's falsified lower application numbers so that the final report would be accepted by the DNR.

The investigation uncovered various manure spreading documents created by Stodola that were in conflict with the manure spreading metrics reported to the DNR by Koss and Wakker.

These documents were in various locations, some shared between Koss, Wakker, and Stodola. The documents include Stodola's hauling notes, Stodola's hauling daily log, invoice for manure hauling operations, and a document created by Stodola—and referenced in Count 5—labeled “Untitled Document.” The “Untitled Document” contained the false manure gallon metrics Stodola sent to Wakker. Investigator Schreiber also acquired data from Stodola's John Deere GPS tractor data management system. The collected data showed how much manure Stodola actually spread on the specific dates of the offenses alleged herein, which provides further evidence that Stodola falsified documentation pertaining to how much manure he had spread on the dates of detrimental discharge in early December of 2019.

In summary, documents and statements uncovered during the investigation showed that Stodola spread manure in such a way that caused documented pollution discharge into waters of the State of Wisconsin. Stodola falsified the manure spreading records associated with those discharge events and sent those falsified records to Wakker. Wakker then knowingly and intentionally sent the false records to Koss for reporting, admitting that he knew the records were falsified in that Stodola overapplied manure and under-reported the amount spread. Koss then made the intentional decision to use the false records supplied by Stodola and Wakker for reporting to the DNR in the 2020 Wakker Dairy Manure Hauling Report. Koss admitted to manipulating the manure spreading metrics even further before submitting the report to the DNR, in an effort to “calibrate the books” so the metrics would fit within DNR regulations.

Specific Pollution Discharge Events

This complaint will focus on three specific pollution discharge events.

December 5, 2019, through December 8, 2019 (fields MP 1, AS 1, MP 6, Koss 4)

On or about December 5, 2019, through on or about December 8, 2019, Stodola applied manure to fields labelled as MP 1, AS 1, MP 6, and Koss 4 in the Dairy's nutrient management plan. These fields are located in Kewaunee County, Wisconsin. On December 9, 2019, DNR staff observed and documented manure or process wastewater discharging into multiple unnamed tributaries to Lake Michigan identified by Water Body Identification Codes (WBIC) WBIC 5019180 and WBIC 5019251, waters of the state, through subsurface drains coming from the fields listed above. Water samples were collected and tested, and the results showed highly elevated levels of *E. Coli* bacteria and other organic waste nutrients in the water, indicative of the presence of pollutants within the waterway.

December 7, 2019 (field BD 9-10)

On or about December 7, 2019, Stodola applied manure to the field labelled as BD 9-10 in the Dairy's nutrient management plan. This field is located in Kewaunee County, Wisconsin. On December 7, 2019, DNR staff observed and documented manure or process wastewater discharging into an unnamed tributary of Lake Michigan (WBIC 90400), a water of the state, through subsurface drains from field BD 9-10. Water samples were collected and tested, and the results showed highly elevated levels of *E. Coli* bacteria and other organic waste nutrients in the water, indicative of the presence of pollutants within the waterway.

December 8, 2019, through December 9, 2019 (fields MP 11-12, Koss 1, Koss 2)

On or about December 8, 2019, and on or about December 9, 2019, Stodola applied manure to the fields labelled as MP 11-12, Koss 1, and Koss 2 in the Dairy's nutrient management plan. These fields are located in Kewaunee County, Wisconsin. On December 8 and 9, 2019, DNR staff observed and documented manure or process wastewater discharging into an unnamed tributary of Lake Michigan (WBIC 90400), a water of the state, through subsurface drains from the above-listed fields. Water samples were collected and tested, and the results showed highly elevated

levels of *E. Coli* bacteria and other organic waste nutrients in the water indicative of the presence of pollutants within the waterway.

Water Sample Test Results

The water samples collected by the DNR from the above discharge events were tested by a Water Resource Management Specialist. There were a number of public waterways subject to testing as part of this investigation, which are referred to by a Water Body Identification Code (WBIC), used by the DNR for Wisconsin public waterways that are otherwise unnamed.

The results showed highly elevated levels of pollutants in each of the samples tested. By way of analogy, Wisconsin will issue a beach advisory if the bacterium count for *E. Coli* meets a threshold of 235 bacterium per 100 ml of water. Wisconsin will close the beach entirely if the bacterium count for *E. Coli* reaches a level of 1,000 bacterium per 100 ml. The water samples taken from WBIC 90400 after the manure discharge events at Wakker Dairy showed a bacterium count of 111,990 *E. Coli* bacterium present in 100 ml of the water sample taken.

Water samples from WBIC 5019180 showed a bacterium count of 15,410 *E. Coli* bacterium per 100 ml of water sampled, and water samples taken from WBIC 5019251 showed a bacterium count of 6,130 *E. Coli* bacterium per 100 ml of water sampled. All water samples collected also showed extremely high levels of nitrates, phosphates, and other organic waste nutrients.

Analysis of Stodola's Manure Spreading Data Showing Falsification of Records

During his investigation, DNR Special Investigative Warden John Schreiber reviewed the evidence collected relating to Stodola, Wakker, and Koss's discharge events and compared it to the official DNR manure application and Stodola's John Deere GPS tractor system flow meter. Early on in the investigation, Stodola initially stated that his tractor was not equipped with GPS

flow meter data, but wardens later uncovered that Stodola did in fact own and utilize a GPS flow meter during the manure discharge events, and that data pertaining to the dates and volumes of his manure spreading events were recorded within that system. Warden Schreiber compared the official manure application numbers that were reported to the DNR by Koss on or about March 3, 2020 in the 2020 Wakker Dairy Manure Hauling Report, against various records possessed by Koss, Stodola, and Wakker, and against the records obtained from Stodola's John Deere GPS tractor system flow meter, known as John Deere Green Star.

Warden Schreiber found that the documentation of the manure that was applied to these fields was combined or fabricated entirely, rather than being documented accurately and separately as required. These records showed that the manure gallon amounts and spreading rates were intentionally misrepresented by Stodola.

The investigation determined that Stodola documented the manure hauling rates, locations, and volumes pertinent to this hauling event in four different locations: notes, hauling logs located in the tractors, John Deere Green Star GPS flow meter system installed on his tractors, and on the document he identified as "Untitled Document." The investigation showed that the reported spreading metrics in all these different records contradict themselves and showed that significant amounts of manure were applied to fields at higher rates than reported by Koss to the DNR.

Records show that on or about December 13, 2019, Stodola provided the "Untitled Document" to Wakker, which purportedly documented the 2019 fall manure hauling events that occurred at Wakker Dairy. Stodola told Wakker, however, that more manure was actually applied during the hauling events than what should be reported to the DNR. The "Untitled Document" created by Stodola contained much lower manure spreading numbers.

In a later statement to DNR conservation wardens, Wakker said that Stodola told him that Stodola would provide a separate invoice for the total amount of manure spread, as that amount

was actually higher than the amount listed on the “Untitled Document.” Wakker also admitted to DNR wardens that as he observed the early December 2019 manure discharge events, and he was certain that Stodola had been overapplying the manure. According to an invoice dated December 31, 2019, Stodola invoiced Wakker for the removal of 1,984,188 gallons of manure from Wakker Dairy in excess of what Stodola reported to have spread within the “Untitled Document” he created for reporting purposes. This excess manure was spread onto the fields surrounding Wakker Dairy, resulting in the manure discharge events described above. During the execution of search warrants on August 12, 2021, and August 24, 2021, the “Untitled Document” was located on Stodola’s phone, as a paper copy in his office, and on his computer as an original document in the “notepad” program on his computer.

Additionally, Stodola created multiple records documenting his manure spreading amounts that were in conflict with the “Untitled Document” he provided to Wakker and with the final amounts later reported to the DNR by Wakker and Koss. The records reviewed by the DNR show that Stodola intentionally changed the manure spreading amounts on the “Untitled Document” he created for recording purposes, a document purporting to record the amount of manure he spread per day and the location in which that manure was spread, pertaining to fields MP 1, AS 1, MP 6, Koss 4, BD 9-10, MP 11-12, Koss 1 and Koss 2, as referenced in Count 5. Further, Stodola acknowledged that the numbers in the “Untitled Document” were less than the amount of manure he spread and put on the billing invoice for Wakker.

After receiving the “Untitled Document” from Stodola, Wakker sent it to Koss for reporting to the DNR and informed Koss that Stodola was under-reporting the manure gallon amounts. Wakker did not provide any alternative or corrected documentation to Koss for reporting purposes, only the “Untitled Document” he knew to be falsified.

Koss showed DNR wardens the “Untitled Document” that he received from Wakker. This document was also located as a result of a warrant and subpoena served on Koss, along with an email from Wakker to Koss including the “Untitled Document” as an attachment. Wakker told Koss via email that he knew the “Untitled Document” was incorrect, and he knew that the actual amount of manure Stodola spread was closer to 9 million gallons, contrary to the 6.4 million gallons reported by Stodola in the attached “Untitled Document,” telling Koss in the email: “so he [Stodola] is underreporting.” In a statement to the DNR, Koss admitted that after receiving the “Untitled Document” from Wakker, he further modified the numbers to fit within DNR regulations, and Koss explained he needed to “calibrate the books,” to make them acceptable. Koss also admitted that even though the soils in the fields were “saturated” at the time of the manure spreading, he reported that the fields were “unsaturated” so that the DNR would continue to let them spread manure.

This complaint contains a summary of facts to establish probable cause, and does not contain all facts known to me from this investigation. In sum, the DNR investigation shows that Stodola grossly overapplied manure to the above-referenced fields, causing that manure to discharge from the fields, thereby polluting waters of the State of Wisconsin. The investigation further shows that Stodola, of Stodola Ag. Transport, intentionally fabricated his reporting of the spreading events, and provided that fabricated information to Johannes Wakker, of Wakker Dairy Incorporated. Wakker’s own emails establish that he knew the numbers provided by Stodola were fabricated, yet he sent them to his agronomist Benjamin Todd Koss, of Koss Ag. LLC., for required reporting purposes. Koss received these documents and knew they were fabricated. Koss then manipulated the documents further to create the illusion that these hauling events were done to an acceptable and legal standard.

[Signature on following page]

Dated this 2 day of December, 2022.

COMPLAINANT



JOHN E. SCHREIBER

Special Investigative Warden

Wisconsin Department of Natural Resources

Telephonically subscribed and sworn to before
me, and approved for filing,
this 2nd day of December, 2022.

s/ Lucas P. Bennewitz

LUCAS P. BENNEWITZ

Assistant Attorney General

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