



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 5

77 WEST JACKSON BOULEVARD

CHICAGO, IL 60604-3590

NOV 07 2011

REPLY TO THE ATTENTION OF:

SC-5J

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Mr. Allen T. Lake, Owner
Lake's Farms Service, LLC
54300 Walnut Road
New Carlisle, IN 46552

Re: Lake's Farm Service, New Carlisle, Indiana Consent Agreement and Final Order
Docket No. *CAA-05-2010-0058*

Dear Mr. Lake:

Enclosed please find a fully executed Consent Agreement and Final Order (CAFO) in resolution of the above case. The U. S. Environmental Protection Agency filed the original CAFO with the Regional Hearing Clerk on November 7, 2011. Please pay the civil penalty in the amount of \$50,000 in the manner prescribed in paragraphs 9 - 11 and reference your check with the number BD 2751203A004 and the docket number.

Please feel free to contact Greg Chomycia at chomycia.greg@epa.gov or (312)353-8217, if you have any questions regarding the enclosed documents. Please direct any legal questions to Louise Gross at (312) 886-6844. Thank you for your assistance in resolving this matter.

Sincerely,

A handwritten signature in black ink, appearing to read "Mike Hans", with a long horizontal line extending to the right.

Michael E. Hans, Chief
Chemical Emergency
Preparedness and Prevention Section

Enclosure

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5

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U.S. EPA REGION 5
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IN THE MATTER OF:)	
)	DOCKET NO.: CAA-05-2010-0058
LAKE'S FARM SERVICE LLC)	
)	PROCEEDING TO ASSESS
)	A CIVIL PENALTY UNDER
NEW CARLISLE, INDIANA,)	SECTION 113(d) OF THE
)	CLEAN AIR ACT,
RESPONDENT.)	42 U.S.C. § 7413(d)
_____)	

CONSENT AGREEMENT AND FINAL ORDER

PRELIMINARY STATEMENT

1. The Complainant, by lawful delegation, the Director of the Superfund Division, United States Environmental Protection Agency (U.S. EPA), Region 5 brought this action under Section 113(d) of the Clean Air Act (CAA), 42 U.S.C. § 7413(d), proposing that a civil penalty be assessed against Respondent for alleged violations of Section 112(r) of the CAA, 42 U.S.C. § 7412(r), and regulations promulgated thereunder by the Administrator, codified at 40 C.F.R. Part 68.
2. On August 16, 2010, U.S. EPA filed the Complaint in this action against Lake's Farm LLC (Respondent). The Complaint alleges that Respondent violated Section 112(r) of the CAA and implementing regulations. On May 13, 2011, Complainant filed a Motion for Leave to Amend the Complaint, which was granted by the Court on June 8, 2011.
3. Respondent filed Answers to both the Complaint and Amended Complaint, requesting a hearing.

4. In the Amended Complaint, Complainant proposed that a \$76,000 penalty be assessed against Respondent for violations of Section 112(r) of the CAA, 42 U.S.C.

§ 7412(r), and its implementing regulations.

5. Respondent consents to the terms of this CAFO, including the assessment of the civil penalty specified below.

JURISDICTION AND WAIVER OF RIGHT TO HEARING

6. Respondent admits the jurisdictional allegations in the Amended Complaint, and neither admits nor denies the factual allegations in the Amended Complaint other than those it admitted in its Answer.

7. Respondent waives its right to a hearing on any issue of law or fact set forth in the Amended Complaint and its right to appeal this Consent Agreement and Final Order. (CAFO).

CIVIL PENALTY

8. In consideration of the factors specified in Section 113(e) of the CAA, 42 U.S.C. § 7413(e), the facts of this case, and other factors as justice may require, Complainant has determined that an appropriate civil penalty to settle this action is \$50,000.

9. No later than January 31, 2012, Respondent must pay the \$50,000 civil penalty by sending a cashier's or certified check, payable to the "Treasurer, United States of America," to:

U.S. EPA
Fines and Penalties
Cincinnati Finance Center
P.O. Box 979077
St. Louis, MO 63197-9000

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10. The check must note the following: the case caption, the docket number of this CAFO and the billing document number to be assigned by U.S. EPA upon filing of this CAFO.

11. A transmittal letter, stating Respondent's name, the case title, Respondent's complete address, the case docket number and the billing document number must accompany the payment. Respondent must send a copy of the check and transmittal letter to:

Regional Hearing Clerk (E-19J)
U.S. EPA, Region 5
77 West Jackson Blvd.
Chicago, IL 60604

Greg Chomycia (SC-5J)
Chemical Emergency Preparedness
and Prevention Section
U.S. EPA, Region 5
77 West Jackson Blvd.
Chicago, IL 60604

Louise Gross (C-14J)
Office of Regional Counsel
U.S. EPA, Region 5
77 West Jackson Blvd.
Chicago, IL 60604

12. This civil penalty is not deductible for federal tax purposes.

13. If Respondent does not timely pay the civil penalty, U.S. EPA may bring an action to collect any unpaid portion of the penalty with interest, handling charges, nonpayment penalties and the United States' enforcement expenses for the collection action.

Respondent agrees that the validity, amount and appropriateness of the civil penalty are not reviewable in a collection action.

14. Pursuant to 31 C.F.R. § 901.9, Respondent must pay the following on any amount overdue under this CAFO. Interest will accrue on any overdue amount from the date payment was due at a rate established by the Secretary of the Treasury. Respondent must pay a \$15 handling charge each month that any portion of the penalty is more than 30 days past due. In addition, Respondent must pay a quarterly nonpayment penalty each quarter during which the assessed penalty is overdue according to section 113(d)(5) of the CAA, 42 U.S.C. § 7413(d)(5). This nonpayment penalty will be 10 percent of the aggregate amount of the outstanding penalties and nonpayment penalties accrued from the beginning of the quarter.

GENERAL PROVISIONS

15. This CAFO resolves only Respondent's liability for federal civil penalties for the violations alleged in the Amended Complaint.

16. This CAFO does not affect the right of the U.S. EPA or the United States to pursue appropriate injunctive or other equitable relief or criminal sanctions for any violations of law.

17. Respondent certifies that it is complying fully with Section 112(r) of the CAA, and with 40 C.F.R. Part 68.

18. This CAFO does not affect Respondent's responsibility to comply with the CAA or other applicable federal, state and local laws or regulations.

19. This CAFO is a "final order" for purposes of U.S. EPA's enforcement response policy for Section 112(r) of the CAA.

20. The terms of this CAFO bind Respondent, its successors, and assigns.

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21. Each person signing this consent agreement certifies that he or she has the authority to sign for the party whom he or she represents and to bind that party to its terms.
22. Each party agrees to bear its own costs and fees, including attorneys' fees, in this action.
23. This CAFO constitutes the entire agreement between the parties.

Lake's Farm Service LLC, Respondent

10/26/11
Date

Allen Lake
Allen Lake, President
Lake's Farm Service LLC

U.S. Environmental Protection Agency, Complainant

11-2-11
Date

Richard C. Karl
Richard C. Karl, Director
Superfund Division

In the Matter of:
Lake's Farm Service, LLC
New Carlisle, Indiana
Docket No: CAA-05-2010-0058

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FINAL ORDER

This Consent Agreement and Final Order, as agreed to by the parties, will become effective immediately upon filing with the Regional Hearing Clerk. **IT IS SO ORDERED.**

Date: 11-3-11

By: 

Susan Hedman
Regional Administrator
U.S. Environmental Protection Agency
Region 5

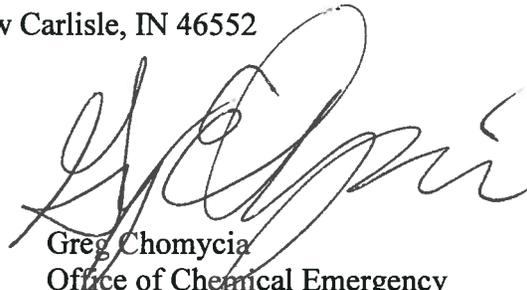
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CERTIFICATE OF SERVICE

I certify that the attached Consent Agreement and Final Order with Lake's Farm Service, LLC, Docket Number CAA-05-2010-0058 was filed this day with the Regional Hearing Clerk (R-19J), U.S. EPA Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, and that a true copy was sent to Respondent at the following address:

Mr. Allen T. Lake, Owner
Lake's Farms Service, LLC
54300 Walnut Road
New Carlisle, IN 46552

Date: 11/7/11



Greg Chomycia
Office of Chemical Emergency
Preparedness and Prevention (SC-5J)
U.S. EPA Region 5
77 West Jackson Boulevard
Chicago, Illinois 60604