UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 7
11201 RENNER BOULEVARD
LENEXA, KANSAS

BEFORE THE ADMINISTRATOR

IN THE MATTER OF:	)	Docket. No. CWA-07-2016-0018
	)	
CENTRAL MISSOURI AGRISERVICE, LLC,	)	
	)	COMPLAINT AND
Respondent.	)	CONSENT AGREEMENT
	)	AND FINAL ORDER

PRELIMINARY STATEMENT

The United States Environmental Protection Agency, Region 7 ("EPA"), and Central Missouri AGRIService, LLC ("Respondent"), have agreed to a settlement of the alleged violations set forth in this Complaint and Consent Agreement/Final Order ("CA/FO") prior to the filing of a complaint. Thus this action is simultaneously commenced and concluded pursuant to Rules 22.13(b) and 22.18(b)(2) of the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits ("Consolidated Rules of Practice"), 40 C.F.R. §§ 22.13(b) and 22.18(b)(2).

COMPLAINT

Jurisdiction

1. This is an administrative action for the assessment of civil penalties instituted pursuant to Section 309(g)(2)(B) of the Clean Water Act ("CWA"), 33 U.S.C. § 1319(g)(2)(B), and in accordance with the Consolidated Rules of Practice.

2. This CA/FO alleges that Respondent has violated Section 301 of the CWA, 33 U.S.C. § 1311, and a permit issued pursuant to Section 402 of the CWA, 33 U.S.C. § 1342.

Parties

3. Complainant, by delegation from the Administrator of EPA and re-delegation from the Regional Administrator, EPA, Region 7, is the Director of the Water, Wetlands and Pesticides Division, EPA, Region 7.

4. Respondent is Central Missouri AGRIService, LLC, a limited liability company in good standing under the laws of the State of Missouri.

Statutory and Regulatory Background

In General

5. The objective of the CWA is to restore and maintain the chemical, physical, and biological integrity of the nation's waters. Section 101(a) of the CWA, 33 U.S.C. § 1251(a).

6. Section 301(a) of the CWA, 33 U.S.C. § 1311(a), prohibits the discharge of any pollutant by any person except in compliance with, *inter alia*, a permit issued pursuant to Sections 404 and 402 of the CWA, 33 U.S.C. § 1344 and 1342.

7. The CWA prohibits the discharge of "pollutants" from a "point source" into a "navigable water" of the United States, as these terms are defined by Section 502 of the CWA, 33 U.S.C. § 1362.

8. Section 502(12) of the CWA, 33 U.S.C. § 1362(12), defines the terms "discharge of a pollutant" and "discharge of pollutants" as, *inter alia*, any addition of any pollutant to navigable waters from any point source.

9. Section 502(6) of the CWA, 33 U.S.C. § 1362(6), defines the term "pollutant" as any dredged spoil, solid waste, incinerator residue, sewage, garbage, sewage sludge, munitions, chemical wastes, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand, cellar dirt and industrial, municipal, and agricultural waste discharged into water.

10. Section 502(14) of the CWA, 33 U.S.C. § 1362(14), defines the term "point source" as any discernible, confined, and discrete conveyance from which pollutants are or may be discharged.

11. Section 502(5) of the CWA, 33 U.S.C. § 1362(5), defines the term "person" as, *inter alia*, any corporation, partnership, or association.

CWA § 404

12. Section 404 of the CWA, 33 U.S.C. § 1344, requires a person to obtain a permit from the Secretary of the Army acting through the Chief of Engineers, commonly referred to as the United States Army Corps of Engineers (hereinafter "Corps"), for the discharge of dredged or fill material into the navigable waters.

13. The regulations at 40 C.F.R. § 232.2 define the term "discharge of dredged material" to mean, with specified exceptions, any addition of dredged material into, including redeposit of dredged material other than incidental fallback within, the waters of the United

States. The term includes, but is not limited to, *inter alia*, the addition of dredged material to a specified discharge site located in waters of the United States; and any addition, including redeposit other than incidental fallback, of dredged material, including excavated material, into waters of the United States which is incidental to any activity, including mechanized land-clearing, ditching, channelization, or other excavation.

14. The regulations at 40 C.F.R. § 232.2 define the term "dredged material" as material that is excavated or dredged from waters of the United States.

15. The regulations at 40 C.F.R. § 232.2 define the term "discharge of fill material" as the addition of fill material into waters of the United States, including, *inter alia*, the placement of fill that is necessary for the construction of any structure or infrastructure in a water of the United States; the building of any structure, infrastructure, or impoundment requiring rock, sand, or other material for its construction; site-development fills for recreational, industrial, commercial, residential, or other uses; causeways or road fills; and dams and dikes.

16. The regulations at 40 C.F.R. § 232.2 define the term "fill material" to include material placed in waters of the United States where the material has the effect of replacing any portion of a water of the United States with dry land, or of changing the bottom elevation of any portion of a water of the United States. The definition provides examples including, *inter alia*, rock, sand, soil, clay, overburden, and materials used to create any structure or infrastructure in the waters of the United States.

17. Section 502(7) of the CWA, 33 U.S.C. § 1362(7), defines the term "navigable waters" as, *inter alia*, the "waters of the United States," which are defined at 40 C.F.R. § 232.2 and 33 C.F.R. Part 328, and which include wetlands adjacent to waters of the United States.

CWA § 402

18. Section 402(p) of the CWA, 33 U.S.C. § 1342(p), sets forth requirements for the issuance of NPDES permits for the discharge of storm water. Pursuant to Section 402(p) of the CWA, 33 U.S.C. § 1342(p), EPA promulgated regulations at 40 C.F.R. § 122.26(a)(1)(ii) setting forth the NPDES permit requirement for storm water discharges associated with industrial activity.

19. The regulations at 40 C.F.R. §§ 122.26(a)(1)(ii) and 122.26(c) require dischargers of storm water associated with industrial activity to apply for an individual permit or to seek coverage under a promulgated storm water general permit.

20. The regulation at 40 C.F.R. § 122.26(b)(14) defines "storm water discharge associated with industrial activity" as, *inter alia*, the discharge from construction activity including clearing, grading, and excavation, except operations that result in the disturbance of less than five acres of total land area.

21. The regulation at 40 C.F.R. § 122.26(b)(13) defines "storm water" as storm water runoff, snow melt runoff, and surface runoff and drainage.

22. The regulation at 40 C.F.R. § 122.2 defines "discharge" as the "discharge of a pollutant," which is in turn defined by 40 C.F.R. §122.2 as any addition of any pollutant or combination of pollutants to waters of the United States from any point source, as those terms are defined at 40 C.F.R. § 122.2.

23. The Missouri Department of Natural Resources ("MDNR") is the state agency with the authority to administer the federal NPDES program in Missouri pursuant to Section 402 of the CWA, 33 U.S.C. § 1342. EPA maintains concurrent enforcement authority with authorized states for violations of the CWA.

24. MDNR implements General Operating Permit MO-RA for the discharge of storm water under the NPDES program. The permit governs wastewater, including storm water, discharges resulting from construction or land disturbance activity.

Penalty Authority

25. Section 309(g)(1) of the CWA, 33 U.S.C. § 1319(g)(1), authorizes the Administrator to issue an administrative order assessing a civil penalty against a person who violates Section 301 of the CWA, 33 U.S.C. § 1311.

Factual Allegations

In General

26. Respondent is a "person" within the meaning of Section 502(5) of the CWA, 33 U.S.C. § 1362(5).

27. At all times relevant to this action, Respondent owned, operated, leased, and/or otherwise controlled property located in the Sections 5, 9, 10, and 16, Township 50 North, Range 21 West, Saline County, City of Marshall, Missouri (hereinafter the "Site" or "Facility").

CWA § 404

28. On or about November 24, 2014, and for the purpose of constructing a railroad loop track and loading facility on the Site, Respondent and/or persons acting on Respondent's behalf, by the use of earth moving equipment, authorized and/or directed the grading, excavation, placement, and discharge of dredged and/or fill material at the Site, including, but not limited to, dirt, spoil, rock, and sand, impacting approximately 0.29 acres of wetlands, 920 linear feet of an ephemeral stream, and 232 linear feet of an intermittent stream.

29. On June 26, 2015; July 14, 2015; and July 22, 2015, representatives from the Corps inspected the Site and documented the discharges of dredged and/or fill material described in Paragraph 28.

30. The dredged and/or fill materials discharged by Respondent as described in Paragraph 28 are "pollutants" within the meaning of Section 502(6) of the CWA, 33 U.S.C. § 1362(6).

31. The wetlands referenced in Paragraph 28 are "waters of the United States" within the meaning of 40 C.F.R. § 232.2 and 33 C.F.R. Part 328, and therefore "navigable waters" as defined by Section 502(7) of the CWA, 33 U.S.C. § 1362(7).

32. The earth moving equipment referenced in Paragraph 28 constitutes a "point source" within the meaning of Section 502(14) of the CWA, 33 U.S.C. § 1362(14).

33. The addition of the dredged and/or fill material by the use of earth moving equipment into the wetlands as described in Paragraph 28 constitutes the "discharge of a pollutant" within the meaning of Section 502(12) of the CWA, 33 U.S.C. § 1362(12).

34. Respondent did not obtain a permit issued pursuant to Section 404 of the CWA, 33 U.S.C. § 1344, prior to the performance of the work described in Paragraph 28.

CWA § 402

35. On or about November 24, 2014, Respondent commenced construction activities at the Site involving earth moving, grading, clearing, and excavation activities that disturbed more than 50 acres of total land area.

36. Storm water runoff, snow melt runoff, and surface runoff and drainage leaves the Site and flows into an unnamed tributary to North Fork Finney Creek.

37. The runoff and drainage from the Site is "storm water," as defined by 40 C.F.R. § 122.26(b)(13).

38. Storm water from the Site contains "pollutants," as defined by Section 502(6) of the CWA, 33 U.S.C. § 1362(6).

39. North Fork Finney Creek and tributaries thereto are "waters of the United States" within the meaning of 40 C.F.R. § 112.2, and therefore "navigable waters" as defined by Section 502(7) of the CWA, 33 U.S.C. § 1362(7).

40. The Site is a "point source" as defined by Section 502(14) of the CWA, 33 U.S.C. § 1362(14).

41. The discharge of storm water from the Site constitutes a "storm water discharge associated with industrial activity," specifically discharge from construction activity including clearing, grading, and excavation of not less than five acres of total land area, as defined by 40 C.F.R. § 122.26(b)(l4)(x).

42. The discharge of storm water associated with Respondent's industrial activity results in the addition of pollutants from a point source to navigable waters and is a "discharge of a pollutant" as defined by CWA Section 502(12), 33 U.S.C. § 1362(12).

43. Respondent's discharge of pollutants associated with an industrial activity, therefore, requires a permit issued pursuant to Section 402 of the CWA, 33 U.S.C. § 1342.

44. On December 4, 2014, MDNR issued a General Operating Permit, MORA05939, ("NPDES Permit") to Respondent pursuant to Section 402 of the CWA, 33 U.S.C. § 1342. The NPDES Permit authorizes discharges of wastewater, including storm water, from all outfalls at the Site described in Paragraph 27 and operating under Standard Industrial Classification Code 1629, pertaining to construction or land-disturbing activities.

45. On November 17-18, 2015, a representative from EPA performed an Industrial Stormwater Compliance Evaluation Inspection ("the EPA inspection") of the Site under the authority of Section 308(a) of the CWA, 33 U.S.C. § 1318(a), to evaluate Respondent's management of storm water at the Site in accordance with the NPDES Permit and the CWA. The inspection included a visual inspection of the Site and a review of Respondent's recordkeeping and self-monitoring procedures.

Allegations of Violation

46. The facts stated in Paragraphs 26 through 45 above are herein incorporated into each of the Allegations of Violation below:

Unauthorized Discharge of Dredged and/or Fill Material

47. Respondent's discharges of pollutants from a point source into a water of the United States occurred without a permit issued pursuant to Section 404 of the CWA, 33 U.S.C. § 1344. Therefore, these discharges violated Section 301 of the CWA, 33 U.S.C. § 1311.

Discharge of Industrial Storm Water in Violation of NPDES Permit

Failure to Timely Develop SWPPP

48. Condition C.2 of the NPDES Permit requires Respondent to develop a site-specific Stormwater Pollution Prevention Plan ("SWPPP") prior to issuance of the permit.

49. The EPA inspection revealed that the NPDES Permit was issued on December 4, 2014. The EPA inspection documented that the SWPPP and site plans for the railroad loop track

are dated January 16, 2015, and the SWPPP and site plans for the loading facility are dated September 9, 2015.

50. Respondent's failure to develop a site-specific SWPPP prior to the issuance of the NPDES Permit is a violation of Respondent's permit and, as such, of Sections 301(a) and 402(p) of the CWA, 33 U.S.C. §§ 1311(a) and 1342(p), and implementing regulations.

Inadequate SWPPP

51. Condition C.3.f of the NPDES Permit, "Selection of Temporary and Permanent Structural BMPs," provides that "[t]he permittee shall select appropriate structural [Best Management Practices ("BMPs")] for use at the site and list them in the SWPPP."

52. The EPA inspection revealed that the SWPPP does not contain adequate BMPs for a number of drainage pathways existing at the Site. In particular, the EPA inspector observed that BMPs were not in place to control storm water runoff originating from several locations on the Site, including two large soil stockpiles on the northern portion of the Site; a cut agricultural terrace in the eastern portion of the Site; and areas east and south of the loading facility and south of the grain storage bins located on the northern portion of the Site. The inspection documented erosion channels, scour formation, and water discoloration in the drainage pathways issuing from these locations.

53. Condition C.3.m of the NPDES Permit, "Dewatering," provides that "[t]he SWPPP shall include a description of any anticipated dewatering methods including the anticipated volume of water to be discharged and the anticipated maximum flow discharged from these dewatering activities expressed in gallons per minute."

54. The EPA inspection revealed that the SWPPP includes a general provision for dewatering activities but does not specifically identify any anticipated dewatering activities on the Site. The inspector found that the basement of the rail loading facility flooded on at least one occasion and that Respondent pumped a significant amount of rainwater from the basement into adjacent farmland. The inspector also noted that Respondent did not record the amount of water discharged and the maximum flow rate. Additionally, the Corps inspections on July 14 and July 22, 2015, revealed that Respondent and/or workers acting on Respondent's behalf had trenched a silt fence to allow drainage of the Site and pumped storm water from the Site into an unnamed intermittent stream.

55. Respondent's failure to select and list all appropriate BMPs in the SWPPP and to include a description of the various dewatering activities used at the Site are violations of Respondent's NPDES Permit and, as such, of Sections 301(a) and 402(p) of the CWA, 33 U.S.C. §§ 1311(a) and 1342(p), and implementing regulations.

Failure to Implement SWPPP

56. Condition C.2 of the NPDES Permit provides that "[t]he permittee shall fully implement the provisions of the SWPPP . . . as a condition of [the] general permit throughout the term of the land disturbance project." Condition C.3.i of the NPDES Permit further provides that

"[t]he permittee shall ensure the BMPs are properly installed at the locations and relative times specified in the SWPPP."

57. Section 4 of the SWPPP and associated site plans identify erosion and sediment control BMPs that must be implemented at the Site. In particular, Section 4.2 requires preservation of existing vegetation and stream buffers in areas of the Site not necessary for rail loop slope construction and equipment operations; Section 4.4 requires installation of permanent structural BMPs, including rip-rap at the outlets of storm water transfer pipes; Section 4.5 requires installation of temporary structural BMPs, including silt fences, diversion dikes, rock and straw bale ditch checks, rock dams, and silt fence inlet protections at locations identified in the site plans; and Section 4.7 requires installation of temporary non-structural BMPs, including temporary erosion control blankets along the slope of the rail loop.

58. The EPA inspection revealed that Respondent did not implement the BMPs required by the SWPPP and associated site plans. Specifically, the inspector observed that vegetative buffer zones along unnamed intermittent tributaries were cleared in areas unaffected by rail loop construction at the Site; silt fence inlet protections and rip-rap were not in place at the inlets and outlets of storm water transfer pipes located in the western and northwestern portions of the Site; silt fences were not in place around two large soil stockpiles found on the northern portion of the Site; a temporary diversion dike was not constructed along the east side of the unnamed intermittent tributary located in the northwestern portion of the Site; ditch checks were not in place along the roadway ditch in the western portion of the Site, nor along any portion of the rail loop pathway; and erosion control blankets were not installed along the outer curve of the rail loop in the northwestern portion of the Site.

59. Respondent's failure to fully implement the provisions of the SWPPP and failure to ensure that BMPs are properly installed at the locations specified in the SWPPP are violations of Respondent's NPDES Permit and, as such, of Sections 301(a) and 402(p) of the CWA, 33 U.S.C. §§ 1311(a) and 1342(p), and implementing regulations.

Failure to Properly Implement, Maintain, and Design BMPs

60. Condition C.11 of the NPDES Permit, "Proper Operation and Maintenance," provides that "[t]he permittee shall at all times maintain all pollution control measures and systems in good order to achieve compliance with the terms of this general permit."

61. Section 4 of the SWPPP and associated site plans identify erosion and sediment control BMPs that must be implemented at the Site in accordance with the design specifications provided in the site plans. In particular, Section 4.4 requires installation of rip-rap at the outlets of storm water transfer pipes in accordance with the specifications at Sheet C5.03 of the site plans. Additionally, Section 4.5 requires installation of a rock check dams in accordance with the specifications at Sheet C5.05 the site plans. Section 4.5 of the SWPPP further requires that silt fences installed at the Site remain in place until the disturbed area draining to the fence is stabilized.

62. The EPA inspection revealed a number of improperly implemented, maintained, and designed BMPs at the Site. First, the EPA inspection revealed that the structural controls in place the receiving end of the storm water detention basin transfer pipe were not installed according to design specifications. Specifically, the inspector observed that rip-rap was placed along the outlet's outer edges but not within the channel bed, as required in the site plans. Additionally, the rock check dam in place along the upper stream bank of the receiving stream was installed in a manner that diverted storm water to the outer edge of the dam rather than through and over the middle of the structure. Sediment deposition was observed passing around the rock check dam, and a large scour had formed past the rock check dam down the receiving stream bank's slope. Second, the EPA inspection revealed that a small brush check dam was in place where the site plans required a rock check dam at the outlet of a second transfer pipe located south of the detention basin. Third, the Corps' inspection on July 14, 2015, and July 22, 2015, revealed that silt fences had been overwhelmed by sediment, allowing sediment to enter streams and wetlands. Fourth, the EPA inspection documented that Respondent had removed silt fences along the inner and outer sides of the rail loop on or about October 21, 2015, before the Site was stabilized. Finally, the EPA inspection revealed that the size of a transfer pipe through a temporary crossing on the unnamed intermittent tributary in the southeast portion of the property was prohibiting appropriate transfer along the tributary, creating a dam on the upstream side and causing water to flow over the crossing instead of through the culvert pipe.

63. Respondent's failure to maintain all pollution control measures and systems in good order is a violation of Respondent's NPDES Permit and, as such, of Sections 301(a) and 402(p) of the CWA, 33 U.S.C. §§ 1311(a) and 1342(p), and implementing regulations.

Failure to Properly Conduct and Document Site Inspections

64. Condition C.10 of the NPDES Permit, "Site Inspection Reports," provides that "[t]he permittee (or a representative of the permittee) shall conduct regularly scheduled inspections at least once per seven calendar days. . . . Any structural or maintenance problems shall be noted in an inspection report and corrected within seven calendar days of the inspection. If a rainfall causes stormwater runoff to occur on-site, the BMPs must be inspected within a reasonable time period after the rainfall event has ceased. These inspections must occur within 48 hours after the rain event has ceased during a normal work day and within 72 hours if the rain event ceases during a non-work day such as a weekend or holiday. . . . The inspection report is to include the following minimum information: a. Inspector's name; b. Date of inspection; c. Observations relative to the effectiveness of the BMPs; d. Actions taken or necessary to correct the observed problem; and e. Listing of areas where land disturbance operations have permanently or temporarily stopped."

65. The EPA inspection revealed that the notes maintained by the self-inspector did not include all of the required information, and that self-inspections were not conducted following each of 39 different rainfall events during 2015 that would have potentially created a runoff event on the Site.

66. Respondent's failure to properly conduct and document regularly scheduled inspections of all installed BMPs at least once per seven calendar days and after rainfall events is a violation of Respondent's permit and, as such, violates Sections 301(a) and 402(p) of the CWA, 33 U.S.C. §§ 1311(a) and 1342(p), and implementing regulations.

Failure to Update and Amend SWPPP

67. Condition C.8 of the NPDES Permit, "Amending/Updating the SWPPP," provides that "[t]he permittee shall amend the SWPPP at a minimum whenever the . . . design, operation, or maintenance of BMPs is changed."

68. The EPA inspection revealed that Respondent elected not to install certain BMPs and/or installed other BMPs and failed to update the SWPPP to reflect these changes.

69. Respondent's failure to amend the SWPPP to reflect changes in actual design, operation, or maintenance of BMPs at the Site is a violation of Respondent's permit and, as such, violates Sections 301(a) and 402(p) of the CWA, 33 U.S.C. §§ 1311(a) and 1342(p), and implementing regulations.

Failure to Notify On-Site Workers of SWPPP

70. Condition C.12 of the NPDES Permit, "Notification to All Contractors," provides that "[t]he permittee shall be responsible for notifying each contractor or entity (including utility crews and city employees or their agents) who will perform work at the site of the existence of the SWPPP and what action or precautions shall be taken while on-site to minimize the potential for erosion and the potential for damaging any BMP."

71. The EPA inspection revealed that Respondent met with subcontractors for a preconstruction meeting on November 20, 2014, to discuss areas of the Site that the SWPPP would cover and affect, however the SWPPP had not yet been drafted. The information communicated at this subcontractor meeting was not documented, and it is not clear whether the required information was discussed with utility crews either.

72. Respondent's failure to notify each contractor or entity that performed work at the Site of the existence of the SWPPP and the actions or precautions necessary to minimize the potential for erosion and for damaging BMPs is a violation of Respondent's NPDES Permit and, as such, of Sections 301(a) and 402(p) of the CWA, 33 U.S.C. §§ 1311(a) and 1342(p), and implementing regulations.

CONSENT AGREEMENT

73. Respondent admits the jurisdictional allegations set forth in this CA/FO and agrees to not contest EPA's jurisdiction in this proceeding or in any subsequent proceeding to enforce the terms of the Final Order portion of this CA/FO.

74. Respondent neither admits nor denies the factual allegations set forth in this CA/FO.

75. Respondent waives its right to contest the allegations set forth in this CA/FO and its right to appeal the Final Order portion of this CA/FO, except those rights reserved in paragraph 84.

76. Respondent and Complainant each agree to bear their respective costs and attorneys' fees incurred as a result of this action.

77. Nothing contained in this CA/FO shall alter or otherwise affect Respondent's obligations to comply with all applicable federal, state, and local environmental statutes and regulations and applicable permits.

78. The undersigned representative of Respondent certifies that he or she is fully authorized to enter into the terms and conditions of this CA/FO and to execute and legally bind Respondent to this CA/FO.

79. Respondent certifies by the signing of this CA/FO that, to the best of its knowledge, Respondent is in compliance with all of the requirements of Sections 301, 402, and 404 of the CWA, 33 U.S.C. §§ 1311, 1342, and 1344.

Effect of Settlement

80. Payment of the entire civil penalty shall resolve all civil and administrative claims of the United States alleged in the Allegations of Violation.

81. The effect of settlement described in Paragraph 80 above is conditioned upon the accuracy of Respondent's representations to EPA, as memorialized in Paragraph 79 above.

Reservation of Rights

82. EPA reserves the right to enforce the terms of this CA/FO by initiating a judicial or administrative action pursuant to Section 309 of the CWA, 33 U.S.C. § 1319.

83. With respect to matters not addressed in this CA/FO, EPA reserves the right to take any enforcement action pursuant to the CWA, or any other available legal authority, including, without limitation, the right to seek injunctive relief, monetary penalties and punitive damages.

84. Respondent reserves the right to appeal all permits and jurisdictional determinations issued for the Site under Sections 401 and 404 of the CWA, 33 U.S.C. §§ 1341 and 1344, past, current, and future.

Payment of Penalty

85. Respondent agrees that in settlement of the claims alleged in this CA/FO, Respondent shall pay a civil penalty of One Hundred Sixty-Six Thousand Nine Hundred and Fourteen Dollars ($166,914) within thirty (30) days of the effective date of this CA/FO and as directed in Paragraphs 86 and 87 below.

86. Respondent shall pay the penalty by cashier's or certified check, by wire transfer, or online. The payment shall reference the Docket Number on the check or wire transfer. If made by cashier's or certified check, the check shall be made payable to "United States Treasury" and remitted to:

United States Environmental Protection Agency
Fines and Penalties
Cincinnati Finance Center
Post Office Box 979077
St. Louis, Missouri 63197-9000.

Wire transfers shall be directed to the Federal Reserve Bank of New York as follows:

Federal Reserve Bank of New York
ABA = 021030004
Account = 68010727
SWIFT address = FRNYUS33
33 Liberty Street
New York, New York 10045
Field Tag 4200 of the Fedwire message should read
"D 68010727 Environmental Protection Agency"

On-line payments are available through the Department of Treasury:

www.pay.gov
Enter "sfo 1.1" in the search field.
Open the form and complete required files.

87. A copy of the check, transfer, or online payment confirmation shall be sent simultaneously to the following:

Regional Hearing Clerk
United States Environmental Protection Agency, Region 7
11201 Renner Boulevard
Lenexa, Kansas 66219;

and to:

Jared Pessetto
Assistant Regional Counsel
United States Environmental Protection Agency, Region 7
11201 Renner Boulevard
Lenexa, Kansas 66219.

General Provisions

88. No portion of the civil penalty or interest paid by Respondent pursuant to the requirements of this CA/FO shall be claimed by Respondent as a deduction for federal, state, or local income tax purposes.

89. Respondent consents to the issuance of the Final Order hereinafter recited.

90. Respondent and Complainant shall bear their own costs and attorneys' fees incurred as a result of this matter.

91. Should the civil penalty not be paid as provided above, interest will be assessed at the annual rate established by the Secretary of the Treasury pursuant to 31 U.S.C. § 3717. The interest will be assessed on the overdue amount from the due date through the date of payment.

92. This CA/FO shall apply to and be binding upon Respondent, its agents, successors, and assigns. Respondent shall ensure that any directors, officers, employees, contractors, consultants, firms or other persons or entities acting under or for him with respect to matters included herein, comply with the terms of this CA/FO.

93. The effective date of this CA/FO shall be the date on which it is filed by the Regional Hearing Clerk for EPA, Region 7.

RESPONDENT:
CENTRAL MISSOURI AGRISERVICE, LLC

Date: 8-16-16

Signature

John Fletcher

Name

General Manager

Title

COMPLAINANT:
U.S. ENVIRONMENTAL PROTECTION AGENCY

Date: 2/13/17

Karen A. Flournoy
Director
Water, Wetlands and Pesticides Division
U.S. Environmental Protection Agency, Region 7

Date: 2/8/17

Jared Pessetto
Office of Regional Counsel
U.S. Environmental Protection Agency, Region 7
11201 Renner Boulevard
Lenexa, Kansas 66219
Office: (913) 551-7793
pessetto.jared@epa.gov

FINAL ORDER

Pursuant to Section 309(g) of the CWA, 33 U.S.C. § 1319(g), and the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits, 40 C.F.R. Part 22, the foregoing Consent Agreement resolving this matter is hereby ratified and incorporated by reference into this Final Order.

The Respondent is ORDERED to comply with all of the terms of the Consent Agreement. In accordance with 40 C.F.R. § 22.31(b), the effective date of the foregoing Consent Agreement and this Final Order is the date on which this Final Order is filed with the Regional Hearing Clerk.

IT IS SO ORDERED.

Date: Feb. 14, 2017

Karina Borromeo
Signature

KARINA BORROMEO
REGIONAL JUDICIAL OFFICER
Name

Title

IN THE MATTER Of Central Missouri Agriservice, LLC, Respondent
Docket No. CWA-07-2016-0018

CERTIFICATE OF SERVICE

I certify that a true and correct copy of the foregoing Order was sent this day in the following manner to the addressees:

Copy via Email to Attorney for Complainant:

pessetto.jared@epa.gov

Copy via First Class Mail to Respondent:

Mr. David A. Shorr
Lathrop & Gage LLP
314 East High Street
Jefferson City, Missouri 65101

Dated: 2/14/17

Kathy Robinson
Hearing Clerk, Region 7