



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5
77 WEST JACKSON BOULEVARD
CHICAGO, IL 60604-3590

SEP 26 2008

REPLY TO THE ATTENTION OF:

WC-15J

CERTIFIED MAIL – 7001 0320 0005 8922 6449
RETURN RECEIPT REQUESTED

Mr. Garis Pugh
General Manager
Logan County Water Pollution Control
Indian Lake District
1015 Orchard Island Road, South
Russells Point, OH 43348

Re: Docket No: CWA-05-2007-0004
BD # 2750843W005

Dear Mr. Pugh:

I have enclosed one copy of the fully executed Consent Agreement and Final Order (CAFO) in the resolution of the above case. It was filed ~~SEP 26 2008~~ with the Regional Hearing Clerk.

The penalty amount agreed upon is \$40,000 which is due and payable 30 days after the effective date of this CAFO. **Please Note: The payment address on Page 3 Paragraph II of the CAFO is incorrect. A Certified or Cashier Check should be made payable to the "Treasurer, United States of America," at the following address:**

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

When submitting your check, **please be sure that the Case Docket No. and the Billing Docket No. (BD) is included at the bottom of your check.** As indicated in your (CAFO) a copy of the check or electronic transfer must be sent to:

Regional Hearing Clerk, (R-13J)
U.S. EPA
77 W. Jackson Blvd.
Chicago, IL 60604

Valdis Aistars, (WC-15J)
Sludge Program Manager
U.S. EPA
77 W. Jackson Blvd.
Chicago, IL 60604

Diana Embil (C-14J)
Associate Regional Counsel
U.S. EPA
77 West Jackson Blvd
Chicago, IL 60604

There is now an On Line Payment Option available through the Department of Treasury at <https://www.pay.gov>; which allows you to make payments using your credit card, checking or saving account. Using the Search Public Forms field (left side of page) enter "SFO 1.1" to access the EPA Miscellaneous Payments-Cincinnati Finance Center Form. Follow the instruction for payment.

If you have any questions, please contact Valdis Aistars, at (312) 886-0264.

Sincerely yours,



Sally K. Swanson, Chief
Water Compliance & Assurance Branch

Enclosure

cc: Michael Mann, OEPA ✓

RECEIVED
REGIONAL HEARING CLERK
US EPA REGION 5
SEP 26 AM 10:11

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5

IN THE MATTER OF:)
)
)
Logan County Water Pollution Control,)
Indian Lake District)
1015 Orchard Island Road, South)
Russells Point, Ohio 43348,)
)
)
Respondent.)
)
)
_____)

Docket No. CWA-05-2007-0004

Proceeding to Assess a
Class II Civil Penalty
Pursuant to § 309(g)
of the Clean Water Act,
33 U.S.C. § 1319(g).

CONSENT AGREEMENT AND FINAL ORDER

CONSENT AGREEMENT

Complainant, the Director of the Water Division, United States Environmental Protection Agency Region 5 (EPA), having filed the Complaint herein on April 17, 2007, against Respondent Logan County Water Pollution Control, Indian Lake District (Indian Lake); and Complainant and Respondent having agreed that settlement of this matter is in the public interest, and that entry of this Consent Agreement and Order without further litigation is the most appropriate means of resolving this matter;

NOW, THEREFORE, before the taking of any testimony, upon the pleadings, without adjudication of any issue of fact or law, and upon consent and agreement of the Parties, it is hereby Ordered and Adjudged as follows:

I. Preliminary Statement

1. EPA initiated this civil administrative proceeding for the assessment of a civil penalty pursuant to Section 309(g) of the Clean Water Act (CWA), 33 U.S.C. § 1319(g), and Sections 22.1(a) (6) and 22.38 of the *Consolidated Rules of Practice Governing the Administrative*

Assessment of Civil Penalties, and the Revocation/Termination or Suspension of Permits, 40 C.F.R. §§ 22.1(a) (6) and 22.38 (the Consolidated Rules).

2. On May 10, 2007, Complainant moved to amend the Complaint and filed an Amended Complaint.

3. The Amended Complaint alleged that, for calendar years 2002 and 2003, Respondent violated Section 405(e) of the CWA, 33 U.S.C. § 1345(e) and 40 C.F.R. Part 503 regulations by failing to: (Count I) submit annual sludge reports to EPA as required by 40 C.F.R. § 503.18; (Count II) meet the Class B pathogen requirement in 40 C.F.R. § 503.32(b)(3) and comply with the pathogen requirements of 40 C.F.R. § 503.15(a)(1); (Count III) meet any of the vector attraction reduction requirements in 40 C.F.R. §§ 503.33(b)(1) through (b)(10) as required by 40 C.F.R. § 503.15(c)(1); and (Count IV) land apply its sewage sludge at an agronomic rate and comply with the agronomic rate land application requirements of 40 C.F.R. § 503.14(d). The Complaint proposed a civil penalty of one hundred thirty-seven thousand five hundred dollars (\$137,500).

4. On May 30, 2008, Respondent filed its Answer to the Amended Complaint and requested a hearing on the matter pursuant to 40 C.F.R. § 22.15 (c).

5. This Consent Agreement and Final Order (CAFO) shall apply to and be binding upon Respondent, its officers, directors, employees, successors and assigns, including, but not limited to, subsequent purchasers.

6. Respondent stipulates that the EPA has jurisdiction over the subject matter alleged in the Complaint and that the Complaint states a claim upon which relief can be granted. Respondent waives any defenses it might have as to jurisdiction and venue, and, without admitting or denying the factual allegations contained in the Complaint, consents to the terms of

this CAFO.

7. Respondent hereby waives its right to a judicial or administrative hearing or appeal on any issue of law or fact set forth in the Complaint.

II. Terms of Settlement

8. Pursuant to Section 309(g) of the CWA, 33 U.S.C. § 1319(g), and considering the nature, circumstances, extent and gravity of the alleged violations and, with respect to the alleged violator, the degree of culpability, economic benefit or savings resulting from the alleged violation, and such other matters as justice may require, Complainant has determined that an appropriate civil penalty to settle this action is forty thousand dollars (\$40,000).

9. Respondent consents to the issuance of this CAFO and consents for the purposes of settlement to the payment of the civil penalty cited above.

10. Respondent shall pay the civil penalty described in Paragraph 8, above, within thirty (30) calendar days of the date of Respondent's receipt of a fully executed copy of this CAFO. Payment shall be made by cashiers or certified check, paid to the order of the "Treasurer, United States of America," and sent to:

Region 5
U.S. Environmental Protection Agency
P.O. Box 70753
Chicago, Illinois 60673

Respondent shall provide a copy of the check to:

Regional Hearing Clerk
Mail Code R-19J
EPA, Region 5
77 West Jackson Blvd.
Chicago, Illinois 60604

And

Valdis Aistars
Environmental Engineer
Water Division
Mail Code WC-15J
EPA, Region 5
77 West Jackson Blvd.
Chicago, Illinois 60604

And

Diana Embil
Associate Regional Counsel
Office of the Regional Counsel
Mail Code C-14J
EPA, Region 5
77 West Jackson Blvd.
Chicago, Illinois 60604

Respondent shall designate on the face of the check the name and docket number of this action.

11. The penalty specified in Paragraph 8, above, shall represent civil penalties assessed by EPA and shall not be deductible for purposes of federal taxes.

12. Pursuant to 31 U.S.C. § 3717, EPA is entitled to assess interest and penalties on debts owed to the United States and a charge to cover the cost of processing and handling a delinquent claim. Therefore, interest will begin to accrue on the civil penalty sixty days after the date of Respondent's receipt of a fully executed copy of this CAFO. Interest will be assessed at the rate of the United States Treasury tax and loan rate in accordance with 4 C.F.R.

§ 102.13(c). In the event payment is not made within said sixty days, a charge will be assessed to cover the costs of debt collection, including processing and handling costs and attorneys fees incurred by the EPA in enforcing this Agreement. In addition, a non-payment penalty charge of six percent per year compounded annually will be assessed on any portion of the debt which

remains delinquent more than ninety days after payment is due. Any such non-payment penalty charge on the debt will accrue from the date the penalty payment becomes due and is not paid.
4 C.F.R. §§ 102.13(d) and (e).

III. General Provisions

13. This CAFO constitutes a settlement by Complainant of all claims for civil penalties made pursuant to § 309(g) of the Clean Water Act, 33 U.S.C. § 1319(g), for the violations alleged in the Complaint and Amended Complaint against Respondent, its officers, directors, employees, successors and/or assigns. Nothing in this CAFO is intended, nor shall be construed to operate in any way to resolve any criminal liability of the Respondent. Compliance with this CAFO shall not be a defense to any actions subsequently commenced pursuant to federal laws and regulations administered by the EPA, and it is the responsibility of Respondent to comply with such laws and regulations.

14. Respondent certifies also that, to the best of its knowledge and belief, it is in compliance with the regulations at 40 C.F.R. § 503 and Section 405 of the Act, 33 U.S.C. § 1345.

15. This CAFO shall not relieve Respondent of its obligation to comply with all applicable provisions of federal, state or local law, nor shall it be construed to be a ruling on, or determination of, any issue related to any federal, state or local permit.

16. The penalty specified in Paragraph 8, above, shall represent civil penalties assessed by the EPA and shall not be deductible for purposes of federal taxes.

17. Complainant and Respondent agree that this CAFO does not constitute any admission of fact or legal claim, wrongdoing or liability by Respondent for the violations alleged in this CAFO.

18. This CAFO shall apply to and be binding upon Respondent and its officers, directors, servants, employees, agents, successors and assigns, including, but not limited to, any subsequent purchaser of any ownership interest in Respondent.

19. Each undersigned representative of the Parties to this CAFO certifies that he or she is fully authorized by the Party represented to enter into the terms and conditions of this CAFO and to execute and legally bind that Party to it.

20. Each Party shall bear its own costs and attorneys fees in connection with the action resolved by this CAFO.

21. This CAFO constitutes the entire agreement between the Parties.

22. This CAFO constitutes a Final Order pursuant to § 309(g) (5) of the Act, 33 U.S.C. § 1319 (g) (5).

23. The effective date of this CAFO shall be the day that it is filed with the Regional Hearing Clerk.

24. This CAFO shall terminate when Respondent has satisfied all of the terms and conditions of this CAFO as set forth above.

**In the Matter of
Logan County Water Pollution Control,
Indian Lake District, Russells Point, Ohio
Docket No. CWA-05-2007-0004**

For Complainant:

Sally K. Snarr
for Timothy Henry, Acting Director
Water Division
Region 5
U.S. Environmental Protection
Agency

Date: 9-17-08

For Respondent:

Logan County Water Pollution Control,
Indian Lake District

By Garis Pugh
Garis Pugh
General Manager
Logan County Water Pollution
Control, Indian Lake District

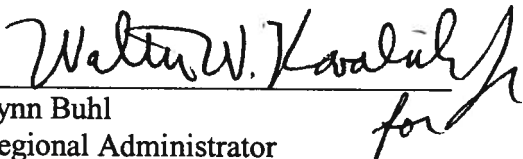
Date: 09/03/08

**In the Matter of
Logan County Water Pollution Control,
Indian Lake District, Russells Point, Ohio
Docket No. CWA-05-2007-0004**

ORDER

The foregoing Consent Agreement is hereby approved and incorporated by reference into this Order. The Respondent is hereby ordered to comply with all of the terms and conditions of the Consent Agreement, effective immediately.

Date: 9/22 2008



Lynn Buhl
Regional Administrator
Region 5
U.S. Environmental Protection Agency
77 West Jackson Blvd.
Chicago, Illinois 60604-3590

Facility Name: Duininck Brothers, Inc.
Location: Prinsburg, MN
Docket No: CWA-05-2008-0005
BD No: 2750843W004

CERTIFICATE OF SERVICE

I hereby certify that the original and one copy of this Administrative Complaint was filed with the Regional Hearing Clerk on September 23, 2008. The above referenced document was sent Certified Mail to:

CERTIFIED MAIL 7001 0320 0005 8922 6449
RETURN RECEIPT REQUESTED

Mr. Donald Walser
Kraft, Walser, Hettig, Honsey & Kleiman
131 Main Street South
Hutchinson, MN 55350

CERTIFIED MAIL 7004 2510 0000 9556 1783
RETURN RECEIPT REQUESTED

Ms. Ann Foss, North District Manager
Minnesota Pollution Control Agency
520 Lafayette Road
St. Paul, MN 55155-4194

Denise Moore Denise Moore
Title: Program Assistant
Date: 9-26-08

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