



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

MAY 29 2008

REPLY TO THE ATTENTION OF:

SC-6J

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Randall T. Eisel, General Manager
Hicksville Grain Company
9585 Main Street
P.O. Box 9
Mark Center, OH 43536

Re: Hicksville Grain Company, Mark Center, OH, Consent Agreement and Final Order Docket Nos. EPCRA-05-2007-0016; CERCLA-05-2007-0008; and MM-05-2007-0004 Notice of Satisfactory Completion of SEPs and the SEP Report; and Demand for Payment of Stipulated Penalties

Dear Mr. Eisel:

This letter is in response to your submission of the "S.E.P. Completion Report" to the U.S. Environmental Protection Agency (EPA) as required by paragraph 96 of the above-referenced Consent Agreement and Final Order (CAFO). After reviewing your report, the EPA has determined that the supplemental environmental projects (SEPs) listed in the CAFO (and as modified through subsequent agreement), have been satisfactorily completed and that there are no deficiencies in any of the SEPs or in your report. The EPA congratulates Hicksville Grain Company on its efforts to successfully complete these SEPs. Your report also included a "S.E.P. Expense Data" page which calculated that Hicksville Grain Company owes the EPA is \$8,273 as a stipulated penalty. However, for the reasons explained below, the EPA is demanding, through this letter, that Hicksville Grain Company pay a stipulated penalty of only \$7,180.

Paragraph 82 of the CAFO specified that "U.S. EPA has determined that an appropriate civil penalty to settle this action is \$27,000." However, pursuant to paragraph 83 of the CAFO, Hicksville Grain Company had the option of either paying the \$27,500 civil penalty or completing "the supplemental environmental projects as detailed in paragraphs 89 to 107." Paragraphs 89 and 90 of the CAFO listed four SEPs which Hicksville Grain Company could complete in lieu of paying the \$27,500 civil penalty; and paragraph 91 specified that Hicksville Grain Company's expenditures for those four SEPs must total at least \$26,407 (\$5,637 + 7,250 + 9,760 + 3,760) to avoid paying a stipulated penalty.

Paragraph 101(a) of the CAFO states that if Hicksville Grain Company spends "less than the amount set forth in paragraph 91, [then Hicksville Grain Company] must pay a stipulated penalty equal to the difference between the amount it spent on the SEP and the amount set forth in paragraph 91." Therefore, since Hicksville Grain Company spent \$19,227 on the four SEPs, the EPA is demanding \$7,180 in stipulated penalties (\$26,407 minus \$19,227), not \$8,273.

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Finally, paragraph 103 of the CAFO states that Hicksville Grain Company shall pay any stipulated penalties owed within fifteen (15) days of receiving a demand letter such as this, and that such payment will be made as specified in the CAFO. However, since the start of the federal government's new fiscal year on October 1, the EPA has new addresses for which to send penalty payments. Please disregard the addresses listed in paragraphs 83 and 85 of the CAFO, and send your payment to one of the addresses listed on the enclosed "Payment Addresses as of October 1, 2007."

Please do not hesitate to contact Terry Stanuch, at either "stanuch.terry@epa.gov" or at (312) 886-8044, if you have any questions regarding this letter. Thank you for working with the EPA to resolve this matter.

Sincerely,



Linda M. Nachowicz, Chief
Emergency Response Branch 2

Enclosure

cc: Douglas G. Hayman, Esq.
Schumaker, Loop & Kendrick, LLP
1000 Jackson Street
Toledo, OH 43604 (certified)

Terry Stanuch (C-14J)

Regional Hearing Clerk (E-13J)

Joe Poetter
Cincinnati Financial Center

PAYMENT ADDRESSES AS OF OCTOBER 1, 2007

Check Payments:

U.S. Environmental Protection Agency
Superfund Payments
Cincinnati Finance Center
P.O. Box 979076
St. Louis, MO 63197-9000

Wire Transfers:

Wire transfers should be directed to the Federal Reserve Bank of New York

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

Overnight Mail:

U.S. Bank
1005 Convention Plaza
Mail Station SL-MO-C2GL
St. Louis, MO 63101

Contact: Natalie Pearson
314-418-4087

ACH (also known as REX or remittance express)

Automated Clearinghouse (ACH) for receiving United States currency
PNC Bank
808 17th Street, NW
Washington, DC 20074
Contact - Jesse White 301-887-6548
ABA = 051036706
Transaction Code 22 - checking
Environmental Protection Agency
Account 310006
CTX Format

On-Line Payment:

There is now an On Line Payment Option, available through the U.S. Department of Treasury. This payment option can be accessed from this website: www.pay.gov.

Enter "sfo 1.1" in the search field, open the form and complete the required fields.