

4. As stated above, the parties have proposed a plan for permanently closing the subject disposal well. Grainland Cooperative has received notice that the plan has been accepted by the EPA.

PROPOSED CIVIL PENALTY

5. Grainland Cooperative respectfully submits that no civil penalty is appropriate in this matter. As will be shown at a hearing, there is no legitimate grounds for assessment of a civil penalty for numerous reasons, including, but not limited to, the following:

- a. If there was a violation of the Act, the extent of the violation was not serious and the consequences, if any, were negligible;
- b. Grainland Cooperative received no economic benefit from the alleged violation;
- c. Grainland Cooperative has no history of any such prior violations of the Act;
- d. Grainland Cooperative and the other respondent undertook efforts in good faith to comply with the requirements of the Act and with the Proposed Compliance Order;
- e. Any civil penalty will have a substantial impact on Grainland Cooperative, which is a cooperative corporation owned by and operated for the benefit of the farmers in the Phillips County, Colorado area.

WHEREFORE, Respondent Grainland Cooperative respectfully requests that this matter be decided in favor of Grainland Cooperative, that if the allegations of the Complaint are found adversely to Grainland Cooperative that the Presiding Officer find that no civil penalty is appropriate against Grainland Cooperative, and for such other and further relief as the Presiding Officer may find appropriate.

Dated this 27th day of September, 2010.

DEAN, DUNN & PHILLIPS LLC



Randy E. Dunn
650 South Cherry Street, Suite 620
Denver, Colorado 80246
Attorneys for Respondent
Grainland Cooperative

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on September 27, 2010, the original and one copy of the foregoing ANSWER TO PENALTY COMPLAINT BY GRAINLAND COOPERATIVE were hand delivered to the Regional Hearing Clerk, EPA Region 8, 1595 Wynkoop Street, Denver, Colorado 80202, and that a true copy of the same was sent via U.S. Mail, first class postage prepaid, to the following:

Harry P. Hassler II
Agent for Hassler Crop Insurance LLC
112 N. Sunflower Dr.
P.O. Box 55
Holyoke, Colorado 80734

and

Eduardo Quintana
U.S. EPA Region 8
1595 Wynkoop Street
Denver, Colorado 80202

and

Britta Copt
U.S. EPA Region 8
1959 Wynkoop Street
Denver, Colorado 80202



Randy E. Dunn
Attorney for Respondent
Grainland Cooperative

Subject: Closure Plan for Class V Well - Hassler/Grainland

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From Copt.Britta@epamail.epa.gov
 To Whassler <whassler@pctelcom.coop>
 Cc Quintana.Eduardo@epamail.epa.gov
 Subject Closure Plan for Class V Well - Hassler/Grainland
 Date 09-02-10 15:23:35

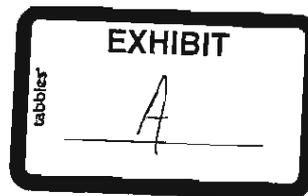
I have reviewed your plan to close the Class V Motor Vehicle Waste Disposal Well (floor drain) located at 112 North Sunflower Dr. in Holyoke, CO. I am approving your closure plan, please proceed as described. Once the drain is closed, please send documentation of the closure (photos and a short description) to me. If you have any further questions or issues please feel free to give me a call.

Britta Campbell Copt
 UIC Enforcement and Compliance
 US EPA, Region 8
 1595 Wynkoop Street
 Denver, CO 80202
 303/312-6229

Vice President
 AFGE Local 3607

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From: Whassler <whassler@pctelcom.coop>
 To: Britta Copt/R8/USEPA/US@EPA
 Date: 09/02/2010 03:04 PM
 Subject: Statement of agreement



I Harry P. Hassler 11, will be running concrete in the floor drain that is located in the shop area on 112 North Sunflower Dr. in Holyoke, Co., The drain will be permanently sealed.

Thank You Harry P. Hassler 11