



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

APR - 4 2012

**CERTIFIED MAIL**  
**RETURN RECEIPT REQUESTED**

REPLY TO THE ATTENTION OF:

William (Bo) DeLong  
Vice President  
The DeLong Company, Inc.  
23551 West Bluff Road  
Channahon, IL 60410

Dear Mr. DeLong:

Enclosed is a file-stamped Consent Agreement and Final Order (CAFO) which resolves The DeLong Company, Inc. and \_\_\_\_\_. As indicated by the filing stamp on its first page, we filed the CAFO with the Regional Hearing Clerk on APR - 4 2012.

Pursuant to paragraph 43 of the CAFO, The DeLong Company, Inc. must pay the civil penalty within 30 days of APR - 4 2012. Your electronic funds transfer must display the case name The DeLong Company, Inc., the docket number, CAA-05-2012-0017, and the billing document number, 2751203A019.

Please direct any questions regarding this case to Jan Carlson, Associate Regional Counsel at (312)886-6059.

Sincerely,

Nathan A. Frank, P.E.

Chief

Air Enforcement and Compliance Assurance

IL/IN Section

Enclosure

cc: John Breslin, Regional Judicial Officer/C-14J  
Regional Hearing Clerk/E-19J  
Jan Carlson/C-14J  
Ray Pilapil, Illinois Environmental Protection Agency

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APR 04 2012

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 5

REGIONAL HEARING CLERK  
U.S. ENVIRONMENTAL  
PROTECTION AGENCY

In the Matter of:	)	Docket No. CAA-05-2012-0017
	)	
The DeLong Company	)	Proceeding to Assess a Civil Penalty
Channahon, Illinois,	)	Under Section 113(d) of the Clean Air Act
	)	42 U.S.C. § 7413(d)
Respondent.	)	
_____	)	

Consent Agreement and Final Order

Preliminary Statement

1. This is an administrative action commenced and concluded under Section 113(d) of the Clean Air Act (the Act), 42 U.S.C. § 7413(d), and Sections 22.1(a)(2), 22.13(b) and 22.18(b)(2) and (3) of the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits (Consolidated Rules), as codified at 40 C.F.R. Part 22.

2. Complainant is the Director of the Air and Radiation Division, U.S. Environmental Protection Agency (EPA), Region 5.

3. Respondent is The DeLong Company (DeLong), a corporation doing business in Illinois.

4. Where the parties agree to settle one or more causes of action before the filing of a complaint, the administrative action may be commenced and concluded simultaneously by the issuance of a consent agreement and final order (CAFO). 40 C.F.R. § 22.13(b).

5. The parties agree that settling this action without the filing of a complaint or the adjudication of any issue of fact or law is in their interest and in the public interest.

6. Respondent consents to the assessment of the civil penalty specified in this CAFO and to the terms of this CAFO.

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 2012 APR -4 PM 2:17

### **Jurisdiction and Waiver of Right to Hearing**

7. Respondent admits the jurisdictional allegations in this CAFO and neither admits nor denies the factual allegations in this CAFO.

8. Respondent waives its right to request a hearing as provided at 40 C.F.R. § 22.15(c), any right to contest the allegations in this CAFO and its right to appeal this CAFO.

### **Statutory and Regulatory Background**

9. On May 31, 1972, EPA approved Illinois Pollution Control Board (IPCB) Rules 101 and 103 as part of the federally enforceable State Implementation Plan (SIP) for Illinois. 37 Fed. Reg. 10842. IPCB Rule 101 is codified at 35 Illinois Administrative Code (IAC) § 201.102. IPCB Rule 103 is codified at 35 IAC §§ 201.142 and 201.143.

10. On February 21, 1980, EPA approved IPCB Rule 203 as part of the federally enforceable SIP for the State of Illinois, 45 Fed. Reg. 11493. IPCB Rule 203 is codified at 35 IAC §§ 212.461 and 212.462.

11. IPCB Rule 103(a)(1) [35 IAC 201.142] states that no person shall cause or allow the construction of any new emission source or any new air pollution control equipment, or cause or allow the modification of any existing emission source of air pollution equipment, without first obtaining a construction permit from the Illinois Environmental Protection Agency (IEPA).

12. IPCB Rule 103(b)(1) [35 IAC 201.143] states that no person shall cause or allow the operation of any emission source or new air pollution control equipment, for which a construction permit is required, without first obtaining an operational permit from IEPA.

13. IPCB Rule 203(d)(9)(B)(iii) [35 IAC 212.462(c)(3)] states that air contaminants collected from internal transferring operations for grain-handling facilities having a grain

through-put exceeding 2 million bushels per year and located in a major population area shall be conveyed through air pollution control equipment which has a rated and actual particulate removal efficiency of not less than 98% by weight prior to release into the atmosphere.

14. 35 IAC 211.3210 defines “internal transferring area” as “areas and associated equipment used for conveying grain among the various grain operations.”

15. 35 IAC 211.3610 defines “major population area” to include Will County, Illinois.

16. IPCB Rule 203(d)(9)(B)(ii) [35 IAC 212.462(b)] requires that: a) grain-handling operations apply induced draft to major dump pits and their associated equipment (including, but not limited to, boots, hoppers and legs) to such an extent that a minimum face velocity is maintained, at the effective grate surface, sufficient to contain particulate emissions generated in unloading operations; and b) means or devices (including, but not limited to, quick-closing doors, air curtains or wind deflectors) shall be employed to prevent a wind velocity in excess of 50% of the induced draft face velocity at the pit; provided, however, that such means or devices do not have to achieve the same degree of prevention when the ambient air wind exceeds 25 mph.

17. IPCB Rule 203(d)(9)(A) [35 IAC 212.461(b)(2) and (5)] states that all grain handling and grain-drying operations, regardless of size, are required to follow certain housekeeping practices including: keeping the yard and surrounding open area cleaned to prevent the accumulation of rotting grain, and keeping the yard and driveway of any facility “asphalted, oiled or equivalently treated to control dust.”

18. The Administrator of EPA (the Administrator) may assess a civil penalty of up to \$32,500 per day of violation up to a total of \$270,000 for violations that occurred after March 15,

2004 through January 12, 2009, and may assess a civil penalty of up to \$37,500 per day of violation up to a total of \$295,000 for violations that occurred after January 12, 2009, pursuant to Section 113(d)(1) of the Act, 42 U.S.C. § 7413(d)(1), and 40 C.F.R. Part 19.

19. Section 113(d)(1) of the Act limits the Administrator's authority to matters where the first alleged date of violation occurred no more than 12 months prior to initiation of the administrative action, except where the Administrator and Attorney General of the United States jointly determine that a matter involving a longer period of violation is appropriate for an administrative penalty action.

20. The Administrator and the Attorney General of the United States, each through their respective delegates, have determined jointly that an administrative penalty action is appropriate for the period of violations alleged in this CAFO.

#### **Factual Allegations**

21. From 2006 until the present, DeLong owned and operated a grain elevator facility with a total annual grain throughput of greater than 2 million bushels at 23551 West Bluff Road, in Channahon, Will County, Illinois (the Facility).

22. Will County, Illinois, is included within the definition of "major population area" in 35 IAC 211.3610.

23. The Facility processes corn, soybeans, corn gluten meal, soybean meal, corn gluten feed, dry distillers grains with solubles, and other feed/grain products.

24. The Facility has units that emit PM, PM-10 and/or PM 2.5, including major truck dump pits, container load-out units, cleaning operations and building, internal transfer areas and storage bin vents.

25. During 2006, DeLong constructed truck dump pits 1, 2 and 3, container loadout units 1 through 5, storage bins 1 through 5 and conveyors 1 and 2 of the internal transfer area, according to DeLong's application dated November 2010 for a Federally Enforceable State Operating Permit (FESOP).

26. On or about December 2, 2008, DeLong applied to IEPA for a construction permit and an operating permit regarding truck dump pits, five storage bins, two conveyors and one leg at its Facility.

27. On or about March 23, 2009, IEPA issued construction permit 08100008 to the Facility, which sets forth, among other things, the following air pollution control requirements:

- a. Paragraph 3.e. requires Housekeeping Practices to prevent the accumulation of rotting grain and to control dust on the yard and driveway of the Facility pursuant to 35 IAC 212.461(b)(2) and (5); and
- b. Paragraph 6.a. and b. requires construction of enclosures and baffles on the truck dump pits, doors on both ends of the enclosures and closure of these doors prior to unloading any truck to the associated dump.

28. On or about May 11, 2009, DeLong applied for construction and operating permits for additional emission units at the Facility, including two grain cleaners, one baghouse, nine conveyors, four grain legs, and three grain bins.

29. On or about July 21, 2009, IEPA issued construction permit 09050017 to the Facility, which sets forth, among other things, the following air pollution control requirements:

- a. Paragraph 3.e. requires Housekeeping Practices to prevent the accumulation of rotting grain and to control dust on the yard and driveway of the Facility pursuant to 35 IAC 212.461(b)(5);
- b. Paragraph 3.f.2. requires conveyance of air contaminants collected from internal transfer operations through air pollution control equipment, which has a rated and actual particulate removal efficiency of not less than 98% by weight prior to release into the atmosphere pursuant to 35 IAC 212.462(a) and (c); and

c. Paragraph 10.b. requires testing of fugitive emissions from the building enclosures, transfer equipment, and baghouse within 180 days of initial startup, which are representative of maximum emissions using U.S. EPA Method 9.

30. By 2010, DeLong had constructed storage bins 6, 7 and 8, conveyors 3 through 9 of the internal transfer area, grain legs 1 through 5 of the internal transfer area, grain cleaners 1 and 2 and a baghouse, according to DeLong's FESOP application.

31. On October 29, 2010, EPA personnel performed an inspection of the Facility and observed the following:

a. The internal transferring area contained conveyors that were open to the atmosphere, grains covered the floor and the conveyor equipment was not hooked up to an air pollution control device with a rated and actual particulate removal efficiency of not less than 98% by weight;

b. The enclosures on dump pit areas were open at both ends and were not equipped with doors, wind deflectors or curtains. A three foot wide pile of grain had accumulated on the floor grating of the dump pit and was slowly draining to the grated system beneath the floor;

c. The parking areas, yard and dirt driveways were dusty and scattered with grains;

d. The Facility had not received an operating permit as required by IPCB Rule 103(b)(1); and

e. Method 9 opacity test results of the building enclosure and baghouse were not available at the Facility.

32. On January 19, 2011, EPA issued to DeLong a Notice and Finding of Violation alleging that it violated certain provisions of the Illinois SIP and construction permits issued by the IEPA at the Facility.

33. On February 16, 2011, representatives of DeLong and EPA held a conference to discuss the Notice and Finding of Violation.

34. In a letter dated March 1, 2011, Respondent stated that it had installed a door for the grain pit entrance and that Respondent was working with Illinois EPA to develop appropriate

measures for the building exits. In 2011, Respondent completed Method 9 opacity testing. In 2011, Respondent employed wind deflectors on the grain pit exit, and later ducted emissions from the grain pit to a baghouse pursuant to a construction permit issued by Illinois EPA. In addition, Respondent ducted emissions from the feed pits to a dust collector and employs wind deflectors at the feed pit exit as a backup to the dust collector pursuant to a construction permit issued by Illinois EPA.

35. On December 20, 2011, Region 5 entered into an Administrative Consent Order (ACO) with Respondent pursuant to Sections 113(a)(1), (a)(3) and 114(a)(1) of the Act whereby Respondent agreed to take certain actions to come into compliance with the Illinois SIP. The ACO required Respondent to enclose the grain conveyors in the internal transferring area and vent them to a filtering system or a baghouse that has a rated and actual particulate removal efficiency of not less than 98% by weight prior to release into the atmosphere. The ACO also requires Respondent to wet dirt roads twice per day, except when precipitation is on the ground, and submit monthly reports to EPA documenting the watering.

36. Respondent certifies that it is in compliance with and is on a schedule to complete the projects required by the ACO dated December 20, 2011.

#### **Alleged Violations**

37. EPA alleges that from at least 2006 until 2011, DeLong operated the Facility without obtaining an operating permit in violation of Illinois Pollution Control Board (IPCB) Rule 103(b)(1) [35 IAC 201.143] and IPCB Rule 203(d)(9)(B) [35 IAC 212.462] of the Illinois SIP.



38. EPA alleges that from approximately March 23, 2009, until February 28, 2011, DeLong failed to place doors on both ends of the truck dump pit area in violation of Illinois construction permit no. 08100008 and IPCB Rule 203(d)(9)(B)(ii) [35 IAC 212.462(b)].

39. EPA alleges that from at least 2010, until December 2, 2011, DeLong failed to collect and convey air contaminants from certain internal transferring operations at the Facility through air pollution control equipment, which has a rated and actual particulate removal efficiency of not less than 98% by weight prior to release to the atmosphere in violation of Illinois construction permit 09050017 and IPCB Rule 203(d)(9)(B)(iii) [35 IAC 212.462(c)(3)] of the Illinois SIP.

40. EPA alleges that during inspections conducted on October 29, 2010 and October 4, 2011, EPA inspectors observed that DeLong failed to control dust in certain areas of the yard and driveways of the Facility in violation of Illinois construction permit no. 08100008 and IPCB Rule 203(d)(9)(A)(ii) and (v)[35 IAC 212.461(b)(2) and (5)] of the Illinois SIP.

41. EPA alleges that DeLong failed to conduct testing for fugitive emissions using opacity method 9 within 180 days of initial startup of the equipment controlled with building enclosures, transfer equipment and baghouse in violation of Illinois construction permit no. 09050017 and IPCB Rule 106(b) [35 IAC 201.282].

#### **Civil Penalty**

42. Based on analysis of the factors specified in Section 113(e) of the Act, 42 U.S.C. § 7413(e), the facts of this case, and Respondent's cooperation and agreement to perform supplemental projects, Complainant has determined that an appropriate civil penalty to settle this action is \$36,000.

43. Within 30 days after the effective date of this CAFO, Respondent must pay a \$36,000 civil penalty by electronic funds transfer, payable to "Treasurer, United States of America," and sent to:

Federal Reserve Bank of New York  
ABA No. 021030004  
Account No. 68010727  
33 Liberty Street  
New York, New York 10045  
Field Tag 4200 of the Fedwire message should read:  
"D68010727 Environmental Protection Agency"

In the comment or description field of the electronic funds transfer, state Respondent's name, the docket number of this CAFO and the billing document number.

44. Respondent must send a notice of payment that states Respondent's name, the docket number of this CAFO and the billing document number to the Compliance Tracker, Air Enforcement and Compliance Assurance Branch and to Janet R. Carlson, Associate Regional Counsel, at the following addresses when it pays the penalty:

Attn: Compliance Tracker, (AE-17J)  
Air Enforcement and Compliance Assurance Branch  
Air and Radiation Division  
U.S. Environmental Protection Agency, Region 5  
77 W. Jackson Boulevard  
Chicago, Illinois 60604

Janet R. Carlson (C-14J)  
Office of Regional Counsel  
U.S. Environmental Protection Agency, Region 5  
77 W. Jackson Boulevard  
Chicago, Illinois 60604

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

46. If Respondent does not pay timely the civil penalty under paragraph 43 or any stipulated penalties due under paragraph 60, EPA may request the Attorney General of the United States to bring an action to collect any unpaid portion of the penalty with interest,

nonpayment penalties and the United States enforcement expenses for the collection action under Section 113(d)(5) of the Act, 42 U.S.C. § 7413(d)(5). The validity, amount and appropriateness of the civil penalty are not reviewable in a collection action.

47. 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 pursuant to 26 U.S.C. § 6621(a)(2). Respondent must pay the United States enforcement expenses, including but not limited to attorneys fees and costs incurred by the United States for collection proceedings. In addition, Respondent must pay a quarterly nonpayment penalty each quarter during which the assessed penalty is overdue. 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. 42 U.S.C. § 7413(d)(5).

#### **Supplemental Environment Project**

48. Respondent must complete the following supplemental environmental projects (SEPs) designed to protect the public health and the environment by preventing or reducing the amount of particulate matter emissions at certain processes at the Facility.

49. By July 1, 2012, Respondent must complete a SEP to install, and thereafter maintain the following particulate matter controls at the soybean loadout area of the Facility:

- a. Install, and thereafter maintain, a wind deflector in the soybean loadout building to minimize the draft effect;
- b. Extend, and thereafter maintain, the roof and sides of the soybean loadout building another 30 feet to enhance capture of particulate matter;
- c. Lower the angle of the roof of the soybean loadout building to enhance capture of particulate matter;
- d. Install, and thereafter maintain, ductwork conveying particulate matter from the three soybean loadouts to the baghouse identified in Appendix A; and

e. Install, and thereafter maintain, a blower on the baghouse identified in Appendix A to treat particulate matter from both the internal transfer area and the soybean loadout building. A baghouse with 5,100 ACFM is required to treat the internal transfer area, 3,600 ACFM is required to treat the soybean loadout building and 4,000 ACFM is required to treat the grain dump pit.

50. By no later than July 1, 2012, Respondent shall provide, at a minimum, an asphalt cover over the driveway areas of the Facility identified in Appendix B, which include areas from the grain probe to and around the dump pit building and the main driveway that separates the two southerly rows of the container parking area. Respondent shall maintain the asphalt to prevent cracking and other problems that would lead to the accumulation of grain or the creation of dust. Respondent shall comply with the requirements of 35 IAC 212.461(b)(2) and (b)(5) notwithstanding anything in this paragraph.

51. Respondent must spend at least \$87,350 on the SEP set forth in paragraph 49 and at least \$72,663 on the SEP set forth in paragraph 50.

52. Respondent certifies as follows:

I certify that The DeLong Company is not required to perform or develop the SEP by any law, regulation, order, or agreement or as injunctive relief as of the date that I am signing this CAFO. I further certify that The DeLong Company has not received, and is not negotiating to receive, credit for the SEP in any other enforcement action.

I certify that The DeLong Company is not a party to any open federal financial assistance transaction that is funding or could be used to fund the same activity as the SEP. I further certify that, to the best of my knowledge and belief after reasonable inquiry, there is no such open federal financial transaction that is funding or could be used to fund the same activity as the SEP, nor has the same activity been described in an unsuccessful federal financial assistance transaction proposal submitted to EPA within two years of the date that I am signing this CAFO (unless the project was barred from funding as statutorily ineligible). For purposes of this certification, the term "open federal financial assistance transaction" refers to a grant, cooperative agreement, loan, federally-guaranteed loan guarantee or other mechanism for providing federal financial assistance whose performance period has not expired.

53. EPA may inspect the facility at any time to monitor Respondent's compliance with this CAFO's SEP requirements.

54. Respondent must submit a SEP completion report to EPA by July 30, 2012. This report must contain the following information:

- a. Detailed description of the SEPs as completed;
- b. Description of any operating problems and the actions taken to correct the problems;
- c. Itemized cost of goods and services used to complete the SEPs documented by copies of invoices, purchase orders or cancelled checks that specifically identify and itemize the individual cost of the goods and services;
- d. Certification that Respondent has completed the SEPs in compliance with this CAFO; and
- e. Description of the environmental and public health benefits resulting from the SEPs (quantify the benefits and pollution reductions, if feasible).

55. Respondent must submit all electronic notices and reports required by this CAFO to the Compliance Tracker of the Air Enforcement and Compliance Assurance Branch at [r5airenforcement@epa.gov](mailto:r5airenforcement@epa.gov) and to Jennifer Wilson at [wilson.jennifera@epa.gov](mailto:wilson.jennifera@epa.gov).

56. In each report that Respondent submits as provided by this CAFO, it must certify that the report is true and complete by including the following statement signed by one of its officers:

I certify that I am familiar with the information in this document and that, based on my inquiry of those individuals responsible for obtaining the information, it is true and complete to the best of my knowledge. I know that there are significant penalties for submitting false information, including the possibility of fines and imprisonment for knowing violations.

57. Following receipt of the SEP completion report described in paragraph 54, above, EPA must notify Respondent in writing that:

- a. It has satisfactorily completed the SEP and the SEP report;

- b. There are deficiencies in the SEP as completed or in the SEP report and EPA will give Respondent 30 days to correct the deficiencies; or
- c. It has not satisfactorily completed the SEP or the SEP report and EPA will seek stipulated penalties under paragraph 59.

58. If EPA exercises option b above, Respondent may object in writing to the deficiency notice within 10 days of receiving the notice. The parties will have 30 days from EPA's receipt of Respondent's objection to reach an agreement. If the parties cannot reach an agreement, EPA will give Respondent a written decision on its objection. Respondent will comply with any requirement that EPA imposes in its decision. If Respondent does not complete the SEP as required by EPA's decision, Respondent will pay stipulated penalties to the United States under paragraph 59 below.

59. If Respondent violates any requirement of this CAFO relating to the SEP, Respondent must pay stipulated penalties to the United States as follows:

- a. Except as provided in subparagraph b, below, if Respondent did not complete the SEPs satisfactorily according to the requirements of this CAFO, including the schedule in paragraphs 49 and 50, Respondent must pay a penalty of \$73,000 for the SEP set forth in paragraph 50 and \$88,000 for the SEP set forth in paragraph 49.
- b. If Respondent did not complete the SEP satisfactorily, but EPA determines that Respondent made good faith and timely efforts to complete the SEP and certified, with supporting documents, that it spent at least 90 percent of the amount set forth in paragraph 51, Respondent will not be liable for any stipulated penalty under subparagraph a, above.
- c. If Respondent completed the SEP satisfactorily, but spent less than 90 percent of the amount set forth in paragraphs 49 and 51, Respondent must pay a penalty of \$7,300 for the SEP set forth in paragraph 50 and \$8,800 for the SEP set forth in paragraph 49.
- d. If Respondent did not submit timely the SEP completion report or any other report required by paragraph 54, Respondent must pay penalties in the following amounts for each day after the report was due until it submits the report:

<u>Penalty per violation per day</u>	<u>Period of violation</u>
\$200	1 <sup>st</sup> through 14 <sup>th</sup> day
\$400	15 <sup>th</sup> through 30 <sup>th</sup> day
\$800	31 <sup>st</sup> day and beyond

60. EPA's determinations of whether Respondent completed the SEP satisfactorily and whether Respondent made good faith and timely efforts to complete the SEP will bind Respondent.

61. Respondent must pay any stipulated penalties within 15 days of receiving EPA's written demand for the penalties. Respondent will use the method of payment specified in paragraph 43, above, and will pay interest and nonpayment penalties on any overdue amounts.

62. Any public statement that Respondent makes referring to the SEP must include the following language: "The DeLong Company undertook this project under the settlement of the United States Environmental Protection Agency's enforcement action against The DeLong Company for violations of the Illinois State Implementation Plan."

63. If an event occurs which causes or may cause a delay in completing the SEP as required by this CAFO:

- a. Respondent must notify EPA in writing within 10 days after learning of an event which caused or may cause a delay in completing the SEP. The notice must describe the anticipated length of the delay, its cause(s), Respondent's past and proposed actions to prevent or minimize the delay and a schedule to carry out those actions. Respondent must take all reasonable actions to avoid or minimize any delay. If Respondent fails to notify EPA according to this paragraph, Respondent will not receive an extension of time to complete the SEP.
- b. If the parties agree that circumstances beyond the control of Respondent caused or may cause a delay in completing the SEP, the parties will stipulate to an extension of time no longer than the period of delay.
- c. If EPA does not agree that circumstances beyond the control of Respondent caused or may cause a delay in completing the SEP, EPA will notify Respondent in writing of its decision and any delays in completing the SEP will not be excused.

- d. Respondent has the burden of proving that circumstances beyond its control caused or may cause a delay in completing the SEP. Increased costs for completing the SEP will not be a basis for an extension of time under subparagraph b, above. Delay in achieving an interim step will not necessarily justify or excuse delay in achieving subsequent steps.

64. For federal income tax purposes, Respondent will neither capitalize into inventory or basis, nor deduct any costs or expenditures incurred in performing the SEP.

### **General Provisions**

65. This CAFO resolves only Respondent's liability for federal civil penalties for the violations alleged in this CAFO.

66. The effect of the settlement described in paragraph 65, above, is conditioned upon the accuracy of Respondent's representations to EPA, as memorialized in paragraphs 34, 35 and 36 of this CAFO.

67. The CAFO does not affect the rights of EPA or the United States to pursue appropriate injunctive or other equitable relief or criminal sanctions for any violation of law.

68. This CAFO does not affect Respondent's responsibility to comply with the Act and other applicable federal, state and local laws. Except as provided in paragraph 65, above, compliance with this CAFO will not be a defense to any actions subsequently commenced pursuant to federal laws administered by EPA.

69. This CAFO constitutes an "enforcement response" as that term is used in EPA's Clean Air Act Stationary Civil Penalty Policy to determine Respondent's "full compliance history" under Section 113(e) of the Act, 42 U.S.C. § 7413(e).

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

71. 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.

72. Each party agrees to bear its own costs and attorneys fees in this action.




73. This CAFO constitutes the entire agreement between the parties.

74. List of Appendices:

Appendix A: Baghouse  
Appendix B: Driveway Areas

**The DeLong Company, Respondent**

MAR. 29, 2012  
Date

  
William DeLong, Vice President  
The DeLong Company

Consent Agreement and Final Order  
In the Matter of: The DeLong Company  
Channahon, Illinois  
Docket No. CAA-05-2012-0017 *JR*.

United States Environmental Protection Agency, Complainant

03/30/12  
Date

*JR* Mary P. Tyson  
George T. Czerniak  
Acting Director  
Air and Radiation Division  
U.S. Environmental Protection Agency  
Region 5

**Consent Agreement and Final Order**  
**In the Matter of: The DeLong Company**  
**Docket No. CAA-05-2012-0017**

**RECEIVED**  
APR 04 2012

REGIONAL HEARING CLERK  
U.S. ENVIRONMENTAL  
PROTECTION AGENCY

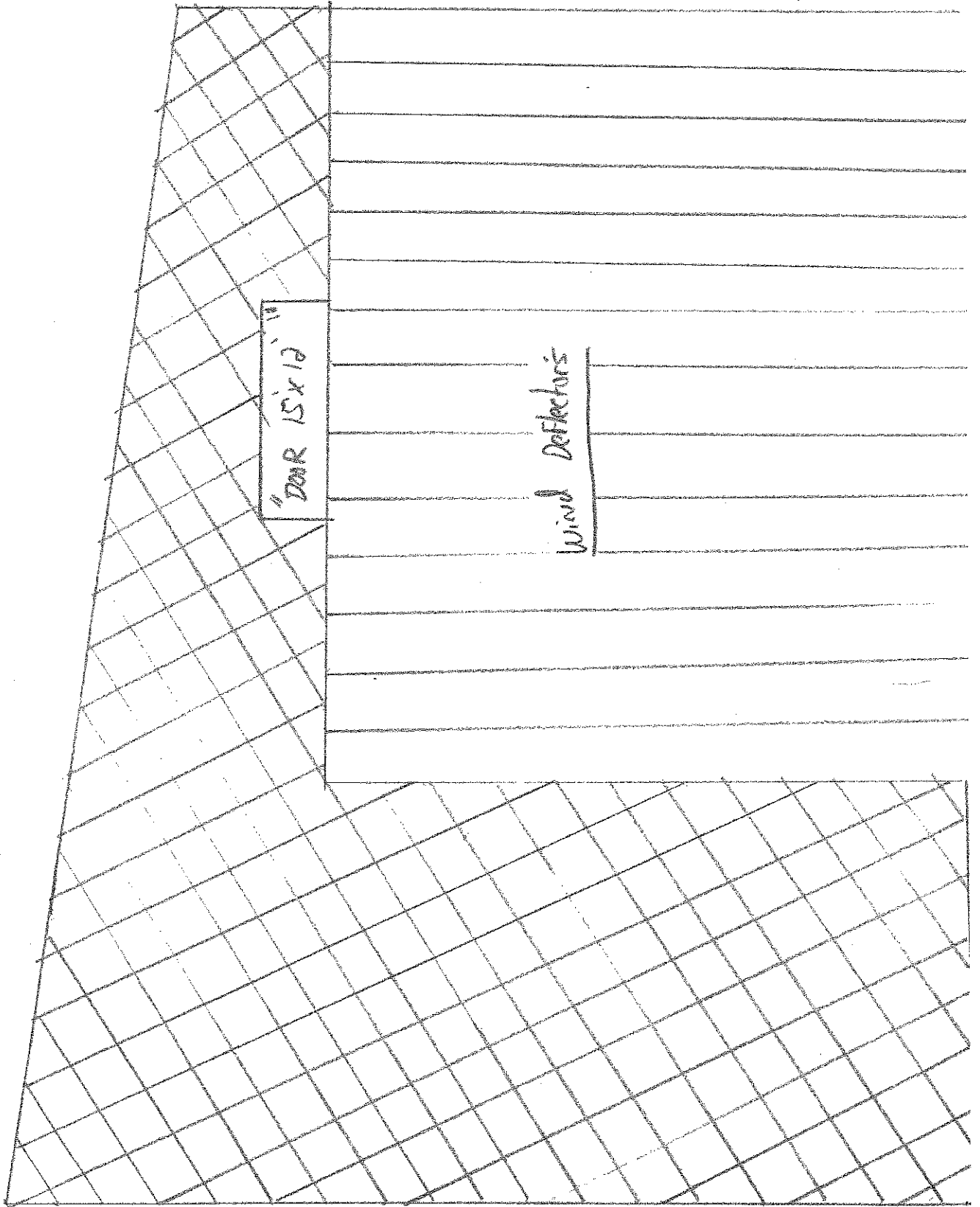
**Final Order**

This Consent Agreement and Final Order, as agreed to by the parties, shall become effective immediately upon filing with the Regional Hearing Clerk. This Final Order concludes this proceeding pursuant to 40 C.F.R. §§ 22.18 and 22.31. IT IS SO ORDERED.

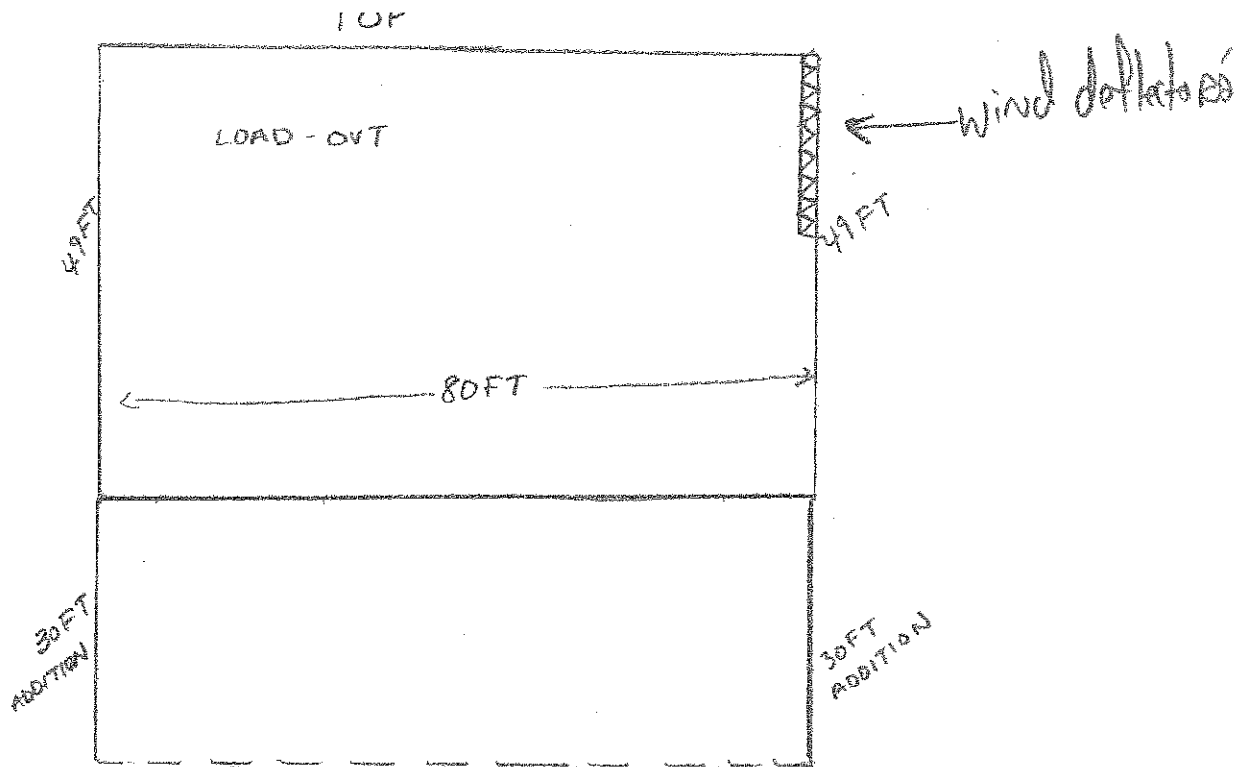
4-2-12  
Date

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

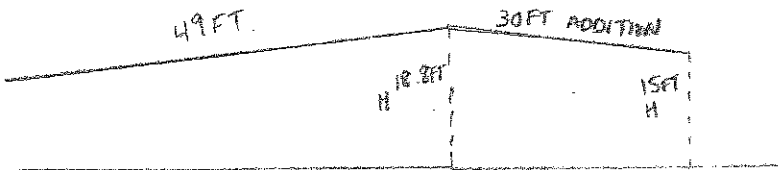
EAST View of lead out Building



Appendix A  
Item (a)



SIDE

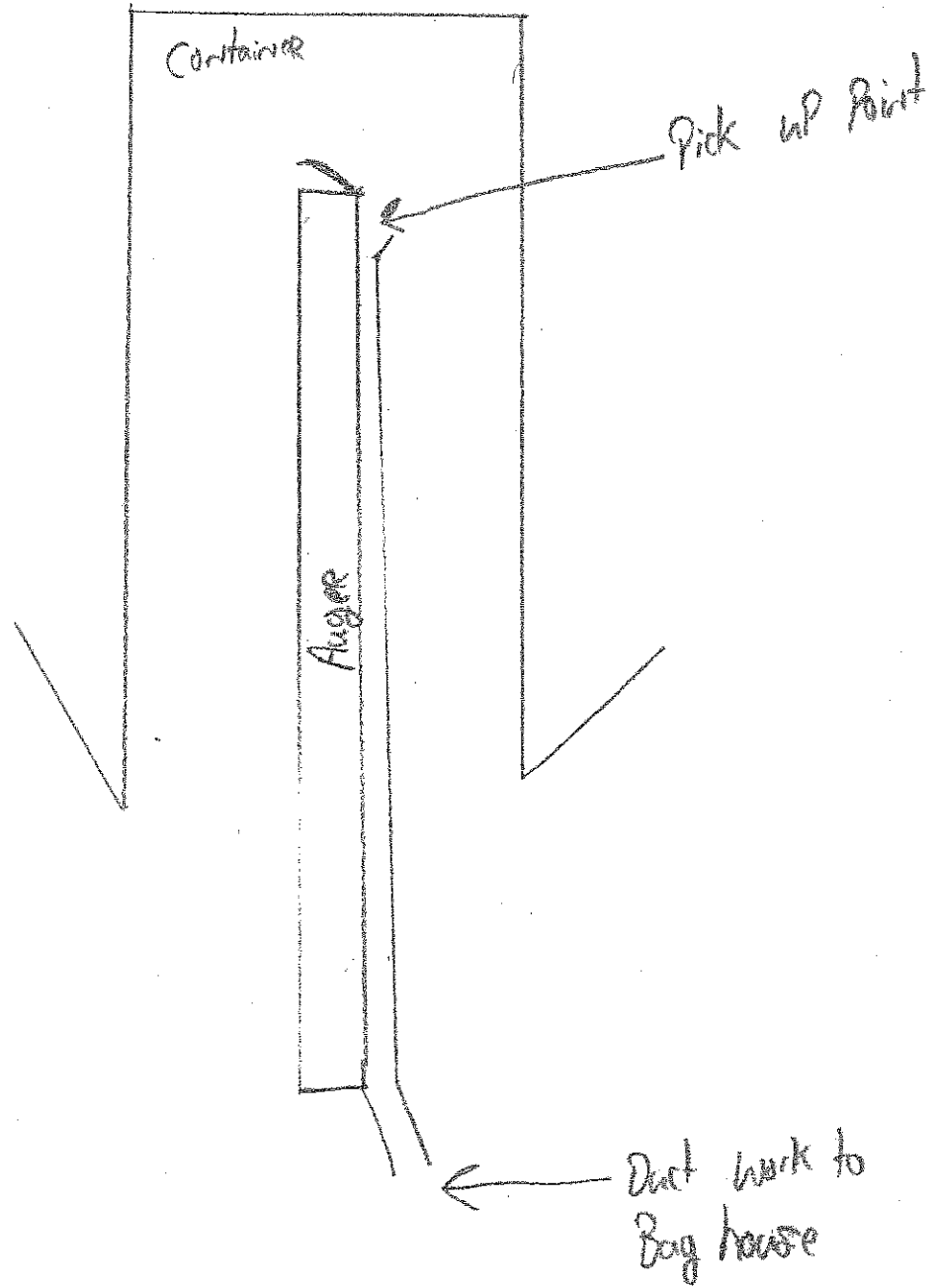


"Building extension"

Appendix A  
Items (a)-(c)

Closed Auger

TOP view

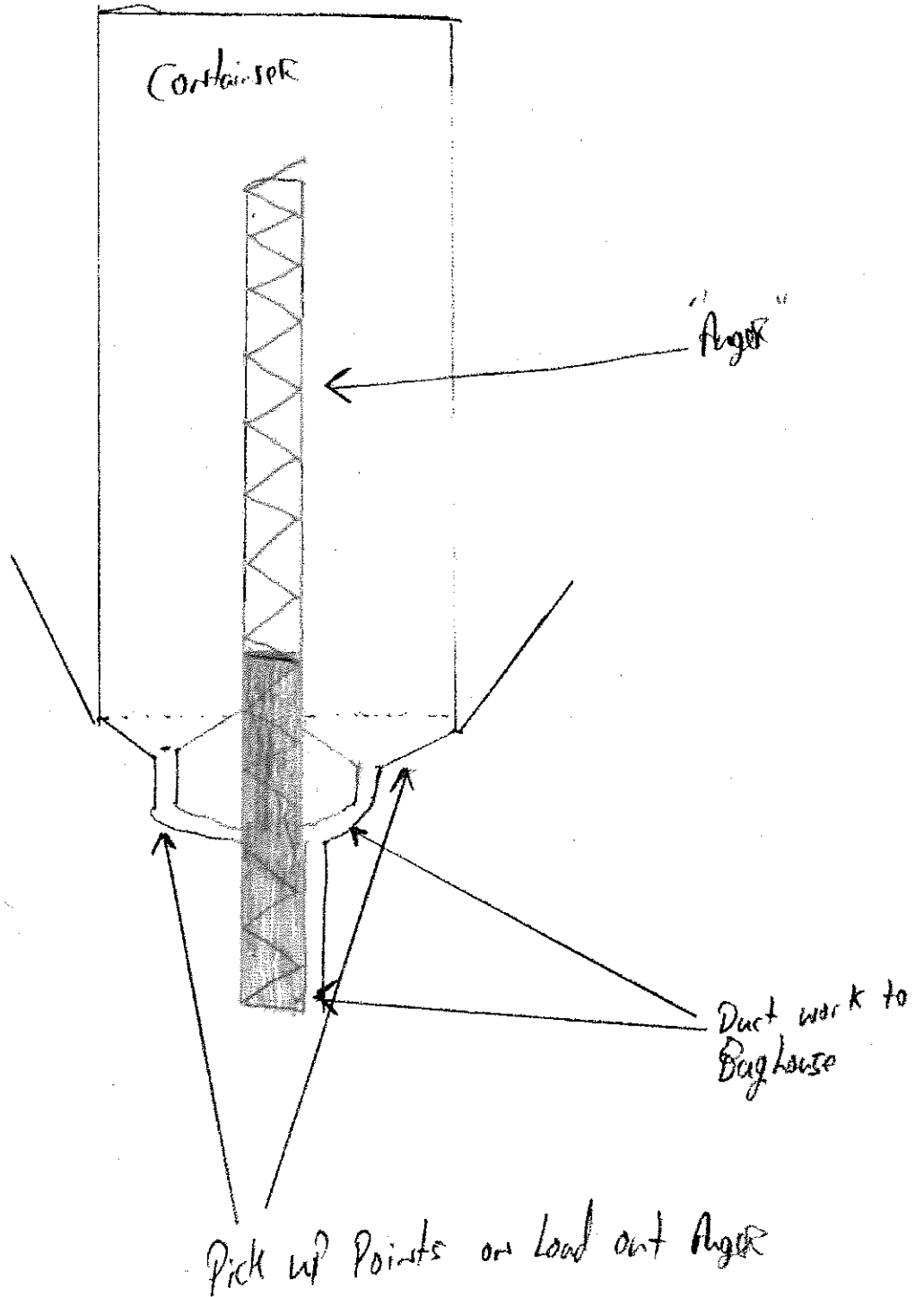


Appendix A

Item (d)

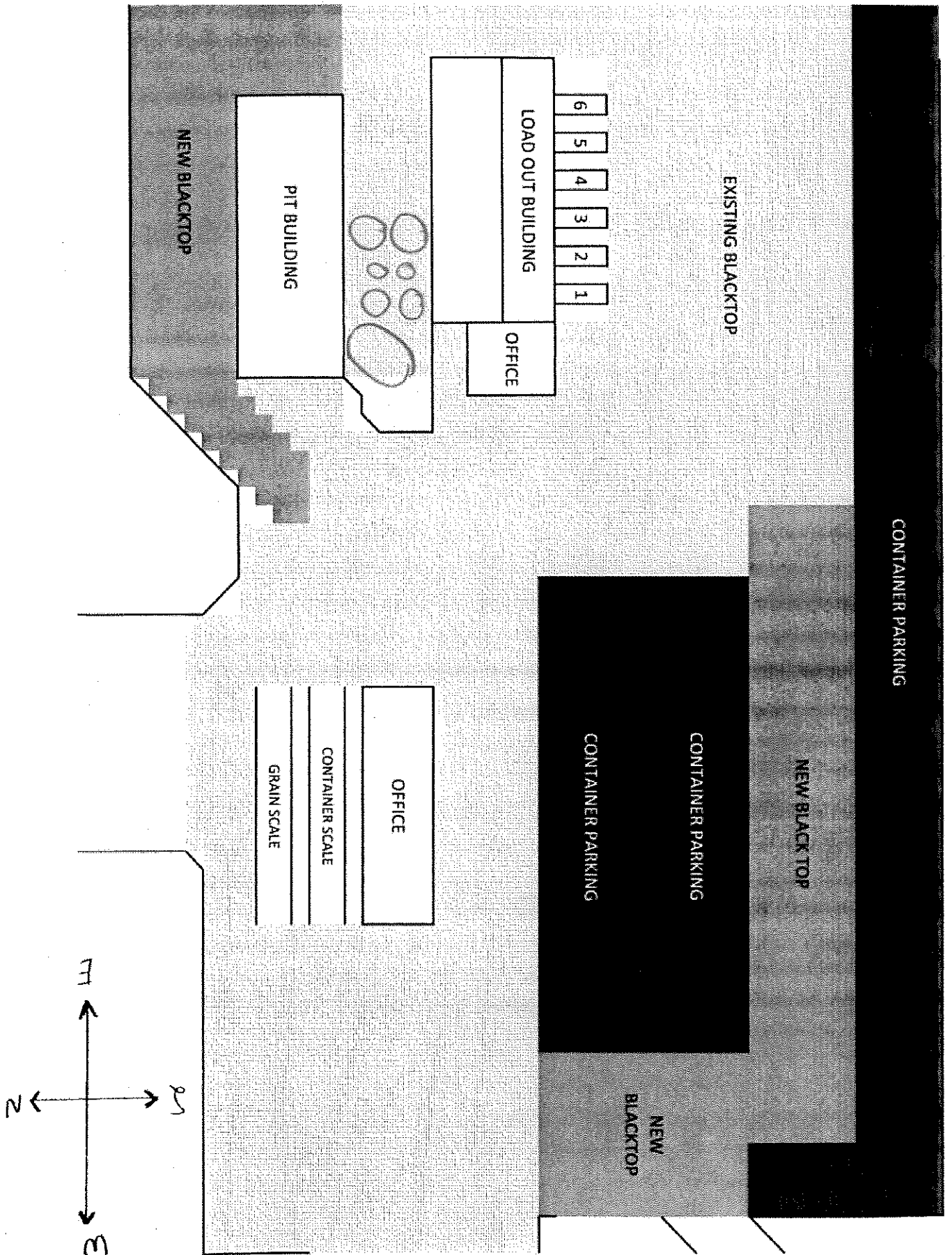
TOP VIEW

"Open Auger type"



Appendix A

Item (d)



Appendix B



RECEIVED

APR 04 2012

REGIONAL HEARING CLERK  
U.S. ENVIRONMENTAL  
PROTECTION AGENCY

**Consent Agreement and Final Order**  
**In the Matter of: The DeLong Company, Inc.**  
**Docket No. CAA-05-2012-0017**

**Certificate of Service**

I certify that I filed the original and one copy of the Consent Agreement and Final Order (CAFO), docket number CAA-05-2012-0017 with the Regional Hearing Clerk (E-19J), United States Environmental Protection Agency, Region 5, 77 W. Jackson Boulevard, Chicago, Illinois 60604, and that I mailed the second original copy to Respondent by first-class, postage prepaid, certified mail, return receipt requested, by placing it in the custody of the United States Postal Service addressed as follows:

William (Bo) DeLong  
Vice President, The DeLong Company  
23551 West Bluff Road  
Channahon, IL 60410

I certify that I delivered a correct copy of the CAFO by intra-office mail, addressed to:

John Breslin, Regional Judicial Officer  
U.S. Environmental Protection Agency  
77 W. Jackson Boulevard / Mail Code C-14J  
Chicago, Illinois 60604

I also certify that I mailed a correct copy of the CAFO by first-class mail to:

Ray Pilapil, Manager  
Bureau of Air, Compliance and Enforcement Section  
Illinois Environmental Protection Agency  
1201 Grand Avenue East  
Springfield, Illinois 62702

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On the 4 day of April 2012.

*Loretta Shaffer*  
Loretta Shaffer  
Administrative Program Assistant  
AECAB, PAS

CERTIFIED MAIL RECEIPT NUMBER: 7009 1680 0000 7673 9559