



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 5

77 WEST JACKSON BOULEVARD
CHICAGO, IL 60604-3590

MAY 02 2007

REPLY TO THE ATTENTION OF:
SC-6J

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

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

Re: Hicksville Grain Company, Mark Center, Ohio, Consent Agreement and Final Order
Docket Nos. ~~EPCRA-05-2007-0016 CERCLA-05-2007-0008 AM-05-2007-0004~~

Dear Mr. Eisel:

Enclosed please find a fully executed Consent Agreement and Final Order (CAFO) in resolution of the above case. The U.S. EPA has filed the original CAFO with the Regional Hearing Clerk on MAY 02 2007.

Please pay the civil penalty in the amount of \$27,500 in the manner prescribed in paragraphs 83 through 85, and reference you check with the billing document number 2750730B010 and the docket number(s) ~~EPCRA-05-2007-0016 CERCLA-05-2007-0008~~.

Alternatively, Hicksville Grain Company can perform the supplemental environmental projects identified in paragraphs 89 through 107 of the CAFO.

If Hicksville Grain Company does make the penalty payment it is due on JUN 01 2007.

Please feel free to contact James Entzminger at (312) 886-4062 if you have any questions regarding the enclosed documents. Please direct any legal questions to Diedra Flannery Tanaka Associate Regional Counsel, at (312) 886-6730. Thank you for your assistance in resolving this matter.

Sincerely yours,

Mark J. Horwitz, Chief
Chemical Emergency Preparedness
And Prevention Section

Enclosure

cc: Regional Hearing Clerk
U.S. EPA Region 5

Diedra Flannery Tanaka (w/enclosure)
Office of Regional Counsel

Ms. Cindy DeWulf, Co-Chairperson (w/enclosure)
Ms. Nancy Dragani, Co-Chairperson (w/ enclosure)
Jeff Beattie (w/ enclosure)
Mel House (w/ enclosure)
OH SERC

Marcy Toney
Regional Judicial Officer

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

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5

CERCLA-05-2007-0008 ^{Jim}MM-05-2007-0004

IN THE MATTER OF:) Docket No. EPCRA-05-2007-0016
)
Hicksville Grain Company) Proceeding to Assess a Civil
Mark Center, Ohio) Penalty under Section 109(b) of
) the Comprehensive Environmental
Respondent.) Response, Compensation, and
) Liability Act, and 325(b)(2) of
) the Emergency Planning and
) Community Right-to-Know Act of
_____) 1986.

Consent Agreement and Final Order
Preliminary Statement

1. This is an administrative action commenced and concluded under Section 109(b) of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), as amended, 42 U.S.C. § 9609(b), Section(s) 325(b)(2) of the Emergency Planning and Community Right-To-Know Act of 1986 (EPCRA), 42 U.S.C. § 11045(b)(2), and Sections 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 (2005).

2. The Complainant is, by lawful delegation, the Branch Chief, Emergency Response Branch 1, Superfund Division, Region 5, United States Environmental Protection Agency (U.S. EPA).

3. Respondent is Hicksville Grain Company, a corporation, doing business in the State of Ohio.

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) (2005).

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 entry of this CAFO and the assessment of the specified civil penalty, and agrees to comply with the terms of the CAFO.

Jurisdiction and Waiver of Right to Hearing

7. Hicksville Grain Company admits the jurisdictional allegations in this CAFO and neither admits nor denies the factual allegations in this CAFO.

8. Hicksville Grain Company 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. Section 103(a) of CERCLA, 42 U.S.C. § 9603(a), requires any person in charge of a facility to immediately notify the National Response Center (NRC) as soon as that person has knowledge of any release of a hazardous substance from the facility in an amount equal to or greater than the hazardous substance's reportable quantity.

10. Section 304(a)(1) of EPCRA, 42 U.S.C. § 11004(a)(1), requires that the owner or operator of a facility must immediately provide notice, as described in Section 304 (b) of EPCRA, 42 U.S.C. § 11004(b), if a release of an extremely hazardous substance in quantities equal to or greater than a reportable quantity occurs from a facility at which hazardous chemicals

are produced, used, or stored and such release requires notice under Section 103(a) of CERCLA, 42 U.S.C. § 9603(a).

11. Under Section 304(b) of EPCRA, 42 U.S.C. § 11004(b), notice required under 304(a) of EPCRA, 42 U.S.C. § 11004(a), must be given immediately after the release by the owner or operator of a facility to the community emergency coordinator for the local emergency planning committee (LEPC) for any area likely to be affected by the release and to the state emergency planning commission (SERC) of any state likely to be affected by a release.

12. Section 304(c) of EPCRA, 42 U.S.C. § 11004(c), requires that, as soon as practicable after a release which requires notice under Section 304(a) of EPCRA, 42 U.S.C. § 11004(a), the owner or operator of the facility must provide written follow-up emergency notice setting forth and updating the information required under Section 304(b), 42 U.S.C. § 11004(b).

13. Under 29 C.F.R. § 1910.1200(d)(3), chemicals listed in 29 C.F.R. § 1910, subpart Z are hazardous.

14. Under Section 109(b) of CERCLA, 42 U.S.C. § 9609(b) and Section 325(b) of EPCRA, 42 U.S.C. § 11045(b), the U.S. EPA Administrator may assess a civil penalty of up to \$25,000 per day of violation of CERCLA Section 103 and EPCRA Section 304. The Debt Collection Improvement Act of 1996, 31 U.S.C. § 3701, and its implementing regulations at 40 C.F.R. Part 19 increased these statutory maximum penalties to \$27,500 per day of violation that occurred from January 31, 1997 through March 15, 2004, and to \$32,500 per day of violation for violations that occurred after March 15, 2004.

Factual Allegations and Violations

15. Respondent is a "person" as that term is defined under Section 101(21) of CERCLA, 42 U.S.C. § 9601(21).

16. Respondent is a "person" as that term is defined under Section 329(7) of EPCRA, 42 U.S.C. § 11049(7).

17. At all times relevant to this CAFO, Respondent was an owner or operator of the Facility located at 9585 Main Street, Mark Center, Ohio 43536 (Facility).

18. At all time relevant to this CAFO, Respondent was in charge of the Facility.

19. Respondent's Facility consists of a building, structure, installation, equipment, pipe or pipeline, storage container, rolling stock, or any site or area where a hazardous substance has been deposited, stored, or placed, or otherwise come to be located.

20. Respondent's Facility is a "facility" as that term is defined under Section 101(9) of CERCLA, 42 U.S.C. § 9601(9).

21. Respondent's facility consists of buildings, equipment, structures, and other stationary items which are located on a single site or on contiguous or adjacent sites, and which are owned or operated by the same person.

22. Respondent's Facility is a "facility" as that term is defined under Section 329(4) of EPCRA, 42 U.S.C. § 11049(4).

23. Respondent owned or operated the facility on March 16, 2005.

24. At all times relevant to this CAFO, Respondent produced, used or stored a hazardous chemical at its Facility.

25. Anhydrous ammonia (CAS #7664-41-7) is a “hazardous substance” as that term is defined under Section 101(14) of CERCLA, 42 U.S.C § 9601(14).

26. Anhydrous ammonia (CAS #7664-41-7) has a reportable quantity of 100 pounds, as indicated at 40 C.F.R. Part 302, Table 302.4.

27. Anhydrous ammonia is listed as a toxic and hazardous substance under Occupational Safety and Health Administration (OSHA) regulations at 29 C.F.R. § 1910, subpart Z, § 1910.1000, Table Z-1.

28. Anhydrous ammonia (CAS #7664-41-7) is a “hazardous chemical” within the meaning of Section 311(e) of EPCRA, 42 U.S.C. §11021(e).

29. At all times relevant to this CAFO, anhydrous ammonia, acetochlor, atrazine, gyphosate-isopropylamine salt, and petroleum were produced, used or stored at Respondent’s Facility.

30. Anhydrous ammonia (CAS #07664-41-7) is an “extremely hazardous substance” according to Section 302 of EPCRA, 42 U.S.C. § 11002(a)(2).

31. Anhydrous ammonia (CAS #7664-41-7) has a reportable quantity of 100 pounds, as indicated at 40 C.F.R. Part 355, Appendix A.

32. On March 16, 2005, at or about 2:00 a.m, Respondent had knowledge that Respondent’s Facility released approximately 4,771 pounds of anhydrous ammonia (hereinafter referred to as “the release”).

33. In a 24 hour time period, the release of anhydrous ammonia exceeded 100 pounds.

34. During the release, approximately 4,771 pounds spilled, leaked, poured, emitted,

emptied, discharged, escaped, or dumped, into the ambient air and/or air.

35. The release is a “release” as that term is defined under Section 101(22) of CERCLA § 42 U.S.C. § 9601(22).

36. The release is a “release” as that term is defined under Section 329(8) of EPCRA § 42 U.S.C. § 11049(8).

37. Respondent had knowledge of the release on March 16, 2005 at approximately 2:00 a.m.

38. The release was one for which notice was required under Section 103(a) of CERCLA, 42 U.S.C. § 9603(a).

39. The release required notice under Section 304(a) of EPCRA, 42 U.S.C. § 11004(a).

40. The release was likely to affect Ohio.

41. At all times relevant to this CAFO, the Ohio State Emergency Response Commission was the state emergency response commission (SERC) for Ohio, under Section 301(a) of EPCRA, 42 U.S.C. § 11001(a).

42. The release was likely to affect Defiance County, Ohio.

43. At all times relevant to this CAFO, the Defiance County Local Emergency Planning Committee was the local emergency planning committee (LEPC) for Defiance County, Ohio under Section 301(c) of EPCRA, 42 U.S.C. § 11001(c)

44. Respondent notified the NRC of the release on March 16, 2005, at 7:50 a.m.

45. Respondent did not immediately notify the NRC as soon as Respondent had knowledge of the release.

46. Respondent's failure to immediately notify the NRC of the release is a violation of Section 103(a) of CERCLA, 42 U.S.C. § 9603(a).

47. Respondent notified the Ohio SERC of the release on March 16, 2005, at 7:44 a.m.

48. Respondent did not immediately notify the SERC after Respondent had knowledge of the release.

49. Respondent failure to immediately notify the SERC of the release is a violation of Section 304(a) of EPCRA, 42 U.S.C. § 11004(a).

50. Respondent notified the LEPC of the release on March 16, 2005, at 7:37 a.m.

51. Respondent did not immediately provide notice to the LEPC after Respondent had knowledge of the release.

52. Respondent's failure to immediately notify the LEPC of the release is a violation of Section 304(a) of EPCRA, 42 U.S.C. § 11004(a).

53. Respondent provided written follow-up emergency notice of the release to the SERC on April 6, 2005.

54. Respondent did not provide the SERC written follow-up emergency notice of the release as soon as practicable after the release occurred.

55. Respondent's failure to provide a written follow-up emergency notice to the SERC as soon as practicable after the release occurred is a violation Section 304(c) of EPCRA, 42 U.S.C. § 11004(c).

56. Respondent provided written follow-up emergency notice to the LEPC on March 28, 2005.

57. Respondent did not provide the LEPC with written follow-up emergency notice of the release as soon as practicable after the release occurred.

58. Respondent's failure to provide a written follow-up emergency notice to the LEPC as soon as practicable after the release occurred is a violation of Section 304(c) of EPCRA, 42 U.S.C. § 11004(c).

Civil Penalty

82. In consideration of Respondent's agreement to perform a supplemental environmental project, Respondent's cooperation and willingness to quickly resolve this matter, and Respondent's inability to pay a penalty, U.S. EPA has determined that an appropriate civil penalty to settle this action is \$27,500.

83. Respondent must pay either the cash penalty of \$27,500 as the civil penalty for the violations within 30 days after the effective date of this CAFO, or Respondent must complete the supplemental environmental projects as detailed in paragraphs 89 to 107. Respondent must pay the cash penalty by sending a cashier's or certified check, payable to "EPA Hazardous Substance Superfund," to:

U.S. EPA - Region 5
ATTN: Superfund Receivable
P.O. Box 371531
Pittsburgh, PA 15251-7531

The check must note the case title of this matter: Hicksville Grain Company, the docket number of this CAFO and the billing document number 2750730B010.

84. A transmittal letter, stating the case title, Respondent's complete address, the case docket number and the billing document number must accompany each payment. Respondent

must send a copy of the checks and transmittal letter to:

Regional Hearing Clerk, (E-13J)
U.S. Environmental Protection Agency, Region 5
77 West Jackson Boulevard
Chicago, Illinois 60604-3511

James Entzminger, (SC-6J)
Chemical Emergency Preparedness
and Prevention Section
U.S. Environmental Protection Agency, Region 5
77 West Jackson Boulevard
Chicago, Illinois 60604-3511

Deirdre Flannery Tanaka, (C-14J)
Office of Regional Counsel
U.S. Environmental Protection Agency, Region 5
77 West Jackson Boulevard
Chicago, Illinois 60604-3511

85. Alternatively, Respondent may pay by wire transfer to Federal Reserve Bank, Routing/ABA Number 021030004 for Account Number 68010727, U.S. EPA. The wire payment must have the billing document number 2750730B010.

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

87. If Respondent does not timely pay the civil penalty, or any stipulated penalties due under paragraph 101, below, U.S. EPA may bring an action to collect any unpaid portion of the penalty with interest, handling charges, nonpayment penalties and the United States' enforcement expenses for the collection action. The validity, amount and appropriateness of the civil penalty are not reviewable in a collection action.

88. Interest will accrue on any amount overdue from the date the payment was due at a rate established pursuant to 31 U.S.C. § 3717. Respondent must pay a \$15 handling charge each month that any portion of the penalty is more than 30 days past due. In addition, U.S. EPA

will assess a six percent per year penalty on any principal amount not paid within 90 days of the date that this CAFO has been entered by the Regional Hearing Clerk.

Supplemental Environmental Projects

89. Respondent must complete supplemental environmental projects (SEP) designed to protect the environment or public health by installing a concrete pad and containment tank for the liquid handling capabilities, installing lights and poles for improved security lighting, installing a concrete pad for the dry fertilizer handling, and installing a concrete pad for the liquid handling area.

90. Respondent must complete the SEP as follows:

a. By August 31, 2007, Respondent will install at its Mark Center facility, a 12 foot by 50 foot concrete pad that is 8 inches thick and a 1,500 gallon septic tank to contain any spills from semi trailers during unloading.

b. By August 31, 2007, Respondent will install at its Mark Center facility, two poles and five directional lights to improve site security.

c. By August 31, 2007, Respondent will install at its Hicksville facility, a 20 foot by 20 foot concrete pad at the dry product handling area.

d. By August 31, 2007, Respondent will install at its Hicksville facility, a 20 foot by 20 foot concrete pad at the liquid product handling area.

91. Respondent must spend at least \$5,637.00 on the upgrades to the truck unloading area, \$7,250.00 on the lighting project, \$9,760.00 on the dry product handling area improvements, and \$3,760.00 on the liquid product handling area improvements.

92. Respondent must continuously use or operate the equipment installed as the SEP for one year following its installation.

93. Respondent certifies that it is not required to perform or develop the SEP by any

law, regulation, grant, order, or agreement, or as injunctive relief as of the date it signs this CAFO. Respondent further certifies that it has not received, and is not negotiating to receive, credit for the SEP in any other enforcement action.

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

95. Respondent must maintain copies of the data for all reports submitted to U.S. EPA according to this CAFO. Respondent must provide the documentation of any data to U.S. EPA within seven days of U.S. EPA's request for the information.

96. Respondent must submit a SEP completion report to U.S. EPA by September 30, 2007. This report must contain the following information:

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

97. Respondent must submit all notices and reports required by this CAFO by first class mail to:

James Entzminger (SC-6J)
Chemical Emergency Preparedness
and Prevention Section
U.S. Environmental Protection Agency, Region 5
77 West Jackson Boulevard
Chicago, Illinois 60604-3511

98. 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, the information 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.

99. Following receipt of the SEP completion report described in paragraph 97 above, U.S. 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 U.S. EPA will give Respondent 30 days to correct the deficiencies; or
- c. It has not satisfactorily completed the SEP or the SEP report and U.S. EPA will seek stipulated penalties under paragraph 101.

100. If U.S. 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 U.S. EPA's receipt of Respondent's objection to reach an agreement. If the parties cannot reach an agreement, U.S. EPA will give Respondent a written decision on its objection. Respondent will comply with any requirements that U.S. EPA imposes in its decision. If Respondent does not complete the SEP as required by U.S. EPA's decision, Respondent will pay stipulated penalties

to the United States under paragraph 101 below.

101. If Respondent violates any requirement of this CAFO relating to the SEP,

Respondent must pay stipulated penalties to the United States as follows:

a. If Respondent has spent less than the amount set forth in paragraph 91, above, Respondent 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.

b. If Respondent has completed the SEP, but the SEP is not satisfactory, Respondent must pay \$5,281.40, in addition to any penalty required under Subparagraph a, above.

c. If Respondent halts or abandons work on the SEP, the Respondent must pay a stipulated penalty of \$13,203.50, in addition to the penalty required under Subparagraph a, above. Such penalties will accrue as of the date for completing the SEP or the date performance ceases, whichever is earlier.

d. If Respondent fails to comply with the schedule in paragraph 90 for implementing the SEP, fails to submit timely the SEP completion report, Respondent must pay Stipulated Penalties for each failure to meet an applicable milestone, as follows:

<u>Penalty Per Violation Per Day</u>	<u>Period of Noncompliance</u>
\$ 500	1st through 14th day
\$1,000	15th through 30th day
\$1,500	31st day and beyond

These penalties will accrue from the date Respondent was required to meet each milestone, until it achieves compliance with the milestone.

102. U.S. EPA's determinations of whether Respondent satisfactorily completed the SEP and whether it made good faith, timely efforts to complete the SEP will bind Respondent.

103. Respondent must pay any stipulated penalties within 15 days of receiving U.S. EPA's written demand for the penalties. Respondent will use the method of payment specified in paragraphs 83-85, above, and will pay interest, handling charges, and nonpayment penalties on

any overdue amounts.

104. Any public statement that Respondent makes referring to the SEP must include the following language, "Respondent undertook this project under the settlement of the United States Environmental Protection Agency's enforcement action against Respondent for violations of CERCLA Section 103 and EPCRA Section 304."

105. If an event occurs which causes or may cause a delay in completing the SEP as required by paragraphs 89 and 90 of this CAFO:

- a. Respondent must notify U.S. 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 U.S. 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 U.S. EPA does not agree that circumstances beyond the control of Respondent caused or may cause a delay in completing the SEP, U.S. 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.

106. Nothing in this CAFO is intended to nor will be construed to constitute U.S. EPA approval of the equipment or technology installed by Respondent in connection with the SEP under the terms of this Agreement.

107. Respondent must make the following certification to the U.S. EPA at the time it submits its tax returns for the taxable year 2007 to the IRS:

“Under penalties of perjury, I declare that I have examined the tax returns pertaining to the year 2007. To the best of my knowledge and belief, these tax returns do not contain deductions or depreciation for any supplemental environmental project expenses my company has incurred.”

Respondent should send the certification to:

James Entzminger, (SC-6J)
Chemical Emergency Preparedness
and Prevention Section
U.S. Environmental Protection Agency, Region 5
77 West Jackson Boulevard
Chicago, Illinois 60604-3511

108. The cost of the SEPs are not deductible or depreciable for federal tax purposes.

General Provisions

109. This CAFO resolves only Respondent’s liability for federal civil penalties for the violations alleged in the CAFO.

110. This CAFO does not affect the right of the U.S. EPA or the United States to pursue appropriate injunctive or other equitable relief or criminal sanctions for any violations of law.

111. This CAFO does not affect Respondent’s responsibility to comply with CERCLA, EPCRA, and other applicable federal, state and local laws, and regulations.

112. This CAFO is a "final order" for purposes of U.S. EPA’s Enforcement Response Policy for Section 103 of CERCLA and EPCRA Section 304.

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

114. Each person signing this consent agreement certifies that he or she has the

authority to sign this consent agreement for the party whom he or she represents and to bind that party to its terms.

115. Each party agrees to bear its own costs and fees, including attorneys' fees, in this action.

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

U.S. Environmental Protection Agency, Complainant

Date: 4/16/07

By: Beverly Kinsler
William J. Bowen, Branch Chief
Emergency Response Branch 1
Superfund Division
U.S. EPA Region 5

Date: 4/19/07

By: Richard C. Karl
Richard C. Karl, Director
Superfund Division
U.S. EPA Region 5

Hicksville Grain Company, Respondent

Date: 3-29-07

Signature: [Signature]
Print Name: Randall T. Eisele
Title: General Manager
Hicksville Grain Company

Consent Agreement and Final Order

IN THE MATTER OF:

Hicksville Grain Company

9585 Main Street

Mark Center, OH 43536

Docket No. EPCRA-05-2007-0016 CERCLA-05-2007-0008 MM-05-2007-0004

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. IT IS SO ORDERED.

Date: 4-30-07

By: 
Mary A. Gade
Regional Administrator
U.S. Environmental Protection
Agency, Region 5
77 West Jackson Boulevard
Chicago, Illinois 60604

Consent Agreement and Final Order

IN THE MATTER OF:

Hicksville Grain Company

9585 Main Street

Mark Center, OH 43536

Docket No. EPCRA-05-2007-0016

CERCLA-05-2007-0008

MM-05-2007-0004

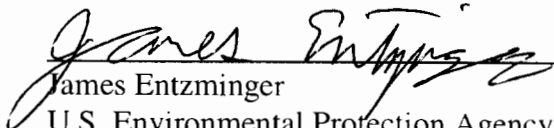
Certificate of Service

I, James Entzminger, certify that I hand delivered the original of the Consent Agreement and Final Order, docket number EPCRA-05-2007-0016 CERCLA-05-2007-0008 MM-05-2007-0004 to the Regional Hearing Clerk, Region 5, United States Environmental Protection Agency, personally served a copy on the Regional Judicial Officer, and mailed correct copies by first-class, postage prepaid, certified mail, return receipt requested, to Hicksville Grain Company's Counsel by placing them in the custody of the United States Postal Service addressed as follows:

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

Douglas G. Hayman, Esq.
Schumaker, Loop & Kendrick, LLP
1000 Jackson Street
Toledo, OH 436624

on the 2 day of May, 2007.


James Entzminger
U.S. Environmental Protection Agency
Region 5