



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

REPLY TO THE ATTENTION OF:

**MAY 2007**

WC-15J

**CERTIFIED MAIL 7001 0320 0005 8920 6090**  
**RETURN RECEIPT REQUESTED**

George Elmaraghy, Chief  
Division of Surface Water  
Ohio Environmental Protection Agency  
P.O. Box 1049  
Columbus, Ohio 43216-1049

Subject: Notice of Proposed Administrative Assessment of Class II Civil Penalty:  
Logan County Water Pollution Control, Indian Lake District  
Docket No. CWA-05-2007-0004

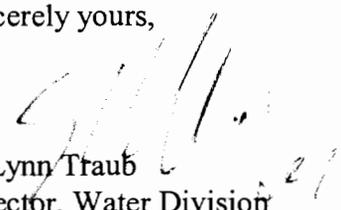
Dear Mr. Elmaraghy:

Enclosed is a copy of an Amended Administrative Complaint which the United States Environmental Protection Agency (U.S. EPA) has issued to Logan County Water Pollution Control, Indian Lake District for violations of Section 405(e) of the Clean Water Act (Act), 33 U.S.C. § 1345(e). Region 5 has issued the Amended Complaint to propose administrative assessment of a Class II civil penalty against Logan County Water Pollution Control, Indian Lake District for violations of Section 405 of the Clean Water Act. Because the violations occurred in Ohio, the U.S. EPA would like to offer you an opportunity to confer with us regarding the proposed assessment.

You may request a conference with the U.S. EPA any time within twenty (20) days of receipt of this letter. The conference may be in person or by telephone and may cover any matters relevant to the proposed assessment. A copy of USEPA's procedures governing the assessment of Class II civil penalties under the Act is also enclosed.

If you wish to request a conference or if you have any comments or questions regarding this matter, please call Valdis Aistars at (312) 886-0264. For questions regarding legal issues, please contact Diana Embil at (312) 886-7889.

Sincerely yours,



Jo Lynn Traub  
Director, Water Division

Enclosure

cc: Regional Hearing Clerk



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

REPLY TO THE ATTENTION OF:

10 MAY 2007

WC-15J

**CERTIFIED MAIL 7001 0320 0005 8920 6113**  
**RETURN RECEIPT REQUESTED**

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

Subject: Notice of Proposed Assessment of a Class II  
Administrative Penalty Pursuant to Section 309(g) of the Clean Water Act  
Docket No. CWA-05-2007-0004

Dear Mr. Pugh:

Enclosed is a copy of an Amended "Administrative Complaint," which I have filed against Logan County Water Pollution Control, Indian Lake District (ILWPCD), under the authority of Section 309(g) of the Clean Water Act ("Act"), 33 U.S.C. § 1319(g) and Rule 22.14(c) of the Consolidated Rules of Practice, 40 CFR § 22.14(c). In the Amended Complaint, the United States Environmental Protection Agency (U.S. EPA) alleges that the ILWPCD violated Section 405(e) of the Act. The Amended Complaint describes the alleged violations in Counts I through IV.

The ILWPCD may request a hearing regarding the violations alleged in the Amended Complaint and the proposed administrative civil penalty. I invite you to pay particular attention to the section of the Amended Complaint entitled "Notice of Opportunity to Request a Hearing." If the ILWPCD fails to request a hearing within 20 days of the Amended Complaint, the ILWPCD waives its right to a hearing and may become liable for the entire proposed civil penalty. If the ILWPCD requests a hearing, the ILWPCD may be represented by an attorney, or represent itself at any point in these proceedings.

The rules governing these proceedings are the "Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties, Issuance of Compliance or Corrective Action Orders, and the Revocation, Termination or Suspension of Permits," 40 C.F.R. Part 22, 64 Fed. Reg. 40,138 (July 23, 1999). I have enclosed a copy for your reference.

Whether or not the ILWPCD requests a hearing, I invite the ILWPCD to confer informally with U.S. EPA concerning the alleged violations and the amount of the proposed penalty. Again, the ILWPCD may be represented by an attorney at any conference, whether the meeting occurs in person or by telephone. U.S. EPA encourages all parties to pursue settlement during an informal conference. If the parties reach a satisfactory settlement, a mutually negotiated and executed Consent Agreement will resolve this matter. The issuance of such a Consent Agreement will constitute a waiver by the ILWPCD of its right to a hearing on, and judicial appeal of, the agreed civil penalty.

A request for an informal conference does not extend the 20 days during which the ILWPCD may request a hearing on the proposed penalty assessment. You may pursue the two procedures simultaneously. If the ILWPCD has any questions or wishes to discuss settlement of this matter, please contact Valdis Aistars, Water Division (WC-15J), USEPA, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, or telephone Mr. Aistars at (312) 886-0264. For questions regarding legal issues, please contact Diana Embil, Assistant Regional Counsel at (312) 886-7889.

We urge your prompt attention to this matter.

Sincerely yours,

Jo Lynn Traub  
Director, Water Division

Enclosures

cc: George Elmaraghy, OEPA  
Suzanne Matz, OEPA  
Sandy Liebfriz, OEPA  
Kevin P. Braig, Dinsmore & Shohl, LLP



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

REPLY TO THE ATTENTION OF:

10 MAY 2007

WC-15J

**CERTIFIED MAIL 7001 0320 0005 8920 6106**  
**RETURN RECEIPT REQUESTED**

Mr. Kevin P. Braig  
Dinsmore & Shohl LLP  
Attorney for Respondent  
One Dayton Centre  
One South Main Street, Suite 1300  
Dayton, OH 45402

Subject: Notice of Proposed Assessment of a Class II  
Administrative Penalty Pursuant to Section 309(g) of the Clean Water Act  
Docket No. CWA-05-2007-0004

Dear Mr. Braig:

Enclosed is a copy of an Amended "Administrative Complaint," which I have filed against Logan County Water Pollution Control, Indian Lake District (ILWPCD), under the authority of Section 309(g) of the Clean Water Act ("Act"), 33 U.S.C. § 1319(g) and Rule 22.14(c) of the Consolidated Rules of Practice, 40 CFR § 22.14(c). In the Amended Complaint, the United States Environmental Protection Agency (U.S. EPA) alleges that the ILWPCD violated Section 405(e) of the Act. The Amended Complaint describes the alleged violations in Counts I through IV.

The ILWPCD may request a hearing regarding the violations alleged in the Amended Complaint and the proposed administrative civil penalty. I invite you to pay particular attention to the section of the Amended Complaint entitled "Notice of Opportunity to Request a Hearing." If the ILWPCD fails to request a hearing within 20 days of the Amended Complaint, the ILWPCD waives its right to a hearing and may become liable for the entire proposed civil penalty. If the ILWPCD requests a hearing, the ILWPCD may be represented by an attorney, or represent itself at any point in these proceedings.

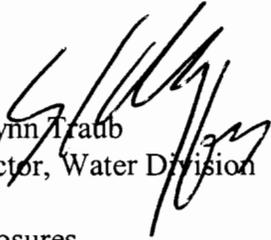
The rules governing these proceedings are the "Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties, Issuance of Compliance or Corrective Action Orders, and the Revocation, Termination or Suspension of Permits," 40 C.F.R. Part 22, 64 Fed. Reg. 40,138 (July 23, 1999). I have enclosed a copy for your reference.

Whether or not the ILWPCD requests a hearing, I invite the ILWPCD to confer informally with U.S. EPA concerning the alleged violations and the amount of the proposed penalty. Again, the ILWPCD may be represented by an attorney at any conference, whether the meeting occurs in person or by telephone. U.S. EPA encourages all parties to pursue settlement during an informal conference. If the parties reach a satisfactory settlement, a mutually negotiated and executed Consent Agreement will resolve this matter. The issuance of such a Consent Agreement will constitute a waiver by the ILWPCD of its right to a hearing on, and judicial appeal of, the agreed civil penalty.

A request for an informal conference does not extend the 20 days during which the ILWPCD may request a hearing on the proposed penalty assessment. You may pursue the two procedures simultaneously. If the ILWPCD has any questions or wishes to discuss settlement of this matter, please contact Valdis Aistars, Water Division (WC-15J), USEPA, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, or telephone Mr. Aistars at (312) 886-0264. For questions regarding legal issues, please contact Diana Embil, Assistant Regional Counsel at (312) 886-7889.

We urge your prompt attention to this matter.

Sincerely yours,

  
Jo Lynn Traub  
Director, Water Division

Enclosures

cc: George Elmaraghy, OEPA  
Suzanne Matz, OEPA  
Sandy Liebfriz, OEPA

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 5**

IN THE MATTER OF:	)	
	)	<b>Docket No. CWA-05-2007-0004</b>
Logan County Water Pollution	)	
Control, Indian Lake District	)	
1015 Orchard Island Road South,	)	Proceeding to Assess a
Russells Point, Ohio,	)	Class II Civil Penalty
	)	under Section 309(g)
	)	of the Clean Water Act,
Respondent.	)	33 U.S.C. § 1319(g).
	)	
	)	
	)	

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**MOTION TO AMEND ADMINISTRATIVE COMPLAINT**

1. On or about April 17, 2007, the Complainant in this action, U.S. EPA, Region 5, Director of the Water Division, filed the Administrative Complaint with the Regional Hearing Clerk.

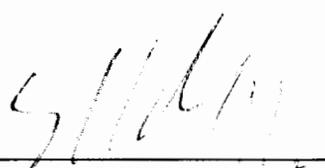
2. On or about April 17, 2007, the Complainant mailed a true and correct copy of the Administrative Complaint with a copy of the *Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation or Suspension of Permits* (Consolidated Rules) found at 40 C.F.R. Part 22, to Respondent's General Manager, Mr. Garis Pugh. (Attachment A)

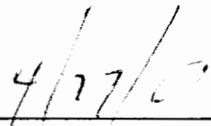
3. Pursuant to Rule 22.15 (a) of the Consolidated Rules, 40 C.F.R. § 22.15(a), Respondent's Answer to the Administrative Complaint must be filed within 30 days after service of the Complaint.

4. Pursuant to Rule 22.14 (c) of the Consolidated Rules, 40 C.F.R. § 22.14 (c), a complainant may amend the complaint once as a matter of right at any time before the answer is filed.

5. As of this date, Respondent has not filed its Answer to the Administrative Complaint.

**WHEREFORE**, Complainant moves to amend the Administrative Complaint and shall file the Amended Administrative Complaint instanter.

  
\_\_\_\_\_  
**Jo Lynn Traub, Director**  
**Water Division**  
**U.S. Environmental Protection Agency**  
**Region 5**

  
\_\_\_\_\_  
**Date**

## **ATTACHMENT A**

Copy of April 17, 2007, Notice of Proposed Assessment of Class II Administrative Penalty Pursuant to Section 309(g) of the Clean Water Act, Docket No. CWA-05-2007-0004, issued to: Mr. Garis Pugh, General Manager, Logan County Water Pollution Control, Indian Lake District, 1015 Orchard Island Road, Russells Point. OH 43348.

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

**CERTIFICATE OF SERVICE**

I hereby certify that the original and one copy of this Motion to Amend Administrative Complaint was filed with the Regional Hearing Clerk, U.S. Environmental Protection Agency, Region 5, on the date below, and that true and accurate copies were sent via certified mail to:

**CERTIFIED MAIL 7001 0320 0005 8920 6113  
RETURN RECEIPT REQUESTED**

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

**CERTIFIED MAIL 7001 0320 0005 8920 6106  
RETURN RECEIPT REQUESTED**

Mr. Kevin P. Braig  
Dinsmore & Shohl LLP  
Attorney for Respondent  
One Dayton Centre, One South Main Street, Suite 1300  
Dayton, OH 45402

**CERTIFIED MAIL 7001 0320 0005 8920 6090  
RETURN RECEIPT REQUESTED**

Mr. George Elmaraghy, Chief  
Division of Surface Water  
Ohio Environmental Protection Agency  
P.O. Box 1049  
Columbus, OH 43216-1049

*Denise Moore*  
Signature

U.S. Environmental Protection Agency  
Region 5  
77 West Jackson Blvd. (WC-15J)  
Chicago, Illinois 60604

7 0 MAY 2007  
Date

3

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 5**

IN THE MATTER OF:	)	
	)	<b>Docket No. CWA-05-2007-0004</b>
Logan County Water Pollution	)	
Control, Indian Lake District	)	
1015 Orchard Island Road South,	)	Proceeding to Assess a
Russells Point, Ohio,	)	Class II Civil Penalty
	)	under Section 309(g)
	)	of the Clean Water Act,
Respondent.	)	33 U.S.C. § 1319(g).
	)	
_____	)	

RECEIVED  
MAY 17 2007  
EPA REGION 5

**AMENDED ADMINISTRATIVE COMPLAINT**

**I. General Allegations**

1. This is an administrative action commenced by the United States Environmental Protection Agency (EPA) pursuant to Section 309(g) of the Clean Water Act (Act), 33 U.S.C. § 319(g), and Sections 22.01(a)(6) and 22.38 of the *Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation or Suspension of Permits*, 40 C.F.R. §§ 22.01(a) (6) and 22.38 (2007). The Administrator of EPA (Administrator) has delegated the authority to take this action to the Regional Administrator of Region 5, who has re-delegated the authority to the Water Division Director.

2. Respondent Logan County Water Pollution Control, Indian Lake District is a "municipality" within the meaning of Section 502(4) of the Act, 33 U.S.C. § 1362 (4), and 40 C.F.R. § 503.9(o) (2002).

3. Respondent is a "person," as defined in Section 502(5) of the Act, 33 U.S.C. § 1362(5), and 40 C.F.R. § 503.9(q).

4. At all times relevant to this Amended Complaint, Respondent owned and operated a device or system used to treat "domestic sewage," as defined at 40 C.F.R. § 503.9(g).

5. Respondent's system is a publicly owned "treatment works," (POTW) as defined at 40 C.F.R. §§ 503.9(aa) and 501.2.

6. Respondent's POTW is located at 1015 Orchard Island Road South in Russells Point, Ohio.

7. Pursuant to Sections 405(d) and (e) of the Act, 33 U.S.C. §§ 1345(d) and (e), the Administrator promulgated and published "Standards for the Use or Disposal of Sewage Sludge," beginning at 58 F.R. 9248 ( February 19, 1993). These Rules are codified at 40 C.F.R. Part 503 (Part 503 regulations or Part 503). The Part 503 regulations became effective March 22, 1993.

8. Respondent generated "sewage sludge," as defined at 40 C.F.R. § 503.9(w), at its POTW.

9. Respondent is a "person who prepares sewage sludge," as defined at 40 C.F.R. § 503.9(r).

10. At all times relevant to this Amended Complaint, Respondent did not sell that sewage sludge or give it away in bags or other containers for application to the land.

11. The sewage sludge was "bulk sewage sludge," as defined at 40 C.F.R. § 503.11(e).

12. Respondent's method of disposing of the bulk sewage sludge that it generated was by "land application," as defined at 40 C.F.R. § 503.11(h).

13. Respondent applied sewage sludge to the land. (*See* 40 C.F.R. § 503.9(a).)

14. Pursuant to 40 C.F.R. §§ 503.1(b)(1),(2) and (4), Part 503 applies to Respondent, its bulk sewage sludge, and the land to which it was applied by Respondent.

15. Under Section 405(e) of the Act, 33 U.S.C. § 1345(e), it is unlawful for any person to dispose of sludge from a POTW or any other treatment works treating domestic sewage for any use for which the Part 503 regulations were established, except in accordance with those regulations.

16. Rule 40 C.F.R. § 503.3(b) additionally provides that no person shall use or dispose of sewage sludge through any practice for which the Part 503 requirements were established, except in accordance with those requirements.

17. Section 309(g) of the Act, 33 U.S.C. § 1319(g), authorizes the Administrator to assess a Class II civil penalty under Section 309(g)(2)(B) of the Act, 33 U.S.C. § 1319(g)(2)(B), after consultation with the State, when the Administrator finds, on the basis of any information available, that a person has violated Section 405 of the Act, 33 U.S.C. § 1345.

18. At all times relevant to this Amended Complaint, the State of Ohio operated a National Pollutant Discharge Elimination System (NPDES) permit program designed to authorize the discharge of pollutants into waters of the United States.

19. In 2005, the Administrator delegated sewage sludge management under 40 C.F.R. Part 503 to the State of Ohio as part of the State's NPDES permit program.

20. Prior to 2005, the State of Ohio did not administer and enforce a sewage sludge management program under 40 C.F.R. Part 503.

21. The violations alleged herein and the underlying conduct or omissions giving rise to such allegations occurred prior to 2005.

22. For purposes of the sewage sludge management violations alleged herein and the underlying conduct or omissions giving rise to such allegations, EPA is the "permitting authority," as defined at 40 C.F.R. § 503.9(p).

## **II. Alleged Violations**

### **Count I - Failure to Report**

23. Paragraphs 1 through 22 are re-alleged here as if set forth in full.

24. Respondent's POTW has a total design flow rate equal to or greater than one million gallons per day and/or that serves more than 10,000 people. (40 C.F.R. § 503.18 (a).)

25. Under 40 C.F.R. § 503.18, Respondent's POTW is required to submit to the permitting authority in February of each year an annual "sewage sludge report" for the preceding calendar year, containing, *inter alia*, a certification of compliance with Part 503 requirements and other information about such compliance as set out and applicable in 40 C.F.R. § 503.17(a).

26. Pursuant to 40 C.F.R. § 503.18 and 40 C.F.R. § 503.17(a)(4), Respondent was required, in its annual sludge reports to EPA for calendar years 2002 and 2003, to certify that it had prepared information used to determine compliance with the applicable pathogen reduction requirements and vector attraction reduction requirements in accordance with Part 503 regulations and provide descriptions of how such requirements were met.

27. Respondent's POTW failed to submit annual sludge reports to EPA for calendar years 2002 and 2003.

28. For calendar years 2002 and 2003, respondent failed to certify that it prepared information to determine compliance with the applicable pathogen reduction requirements and vector attraction reduction requirements in accordance with Part 503 regulations and failed to provide descriptions of how such requirements were met.

29. Respondent's repeated failures to comply with the reporting requirements found at 40 C.F.R. § 503.18, constitute unlawful acts under Section 405(e) of the Act, 33 U.S.C. § 1345(e).

#### Count II - Failure to Meet Pathogen Reduction Requirements

30. Paragraphs 1 through 22 are re-alleged here as if set forth in full.

31. Agricultural land," is defined at 40 C.F.R. § 503.11 (a), as land on which a food crop, a feed crop, or a fiber crop is grown. Agricultural land includes "range land" and land used as "pasture," as defined at 40 C.F.R. §§ 503.11(k) and (m).

32. At all times relevant to this Amended Complaint, Respondent disposed of its bulk sewage sludge by applying it to agricultural land or forest located adjacent to its POTW.

33. Pursuant to 40 C.F.R. § 503.15(a)(1), when bulk sewage is applied to agricultural land, forest, a public site, or a reclamation site, the Class A pathogen requirements in 40 C.F.R. § 503.32(a) or Class B pathogen requirements and site restrictions in 40 C.F.R. § 503.32(b) must be met.

34. During calendar years 2002 and 2003, Respondent's POTW did not meet the Class A pathogen requirements in 40 C.F.R. § 503.32(a).

35. Rule 40 C.F.R. § 503.32(b)(1)(I), provides that one of the alternative requirements of either 40 C.F.R. §§ 503.32(b)(2),(3) or (4), must be met (“Class B pathogen requirements”) for a sewage sludge to be classified Class B with respect to pathogens.

36. During calendar years 2002 and 2003, Respondent’s POTW did not meet the Class B pathogen requirements in either 40 C.F.R. §§ 503.32(b)(2) or (4).

37. The Class B pathogen requirement in 40 C.F.R. § 503.32(b)(3), provides that sewage sludge that is used or disposed shall be treated in one of the “Processes to Significantly Reduce Pathogens” described in appendix B to Part 503 (“pathogen reduction treatment processes”).

38. Respondent indicated that its sewage sludge would undergo the pathogen reduction treatment process known as “anaerobic digestion.”

39. Appendix B to Part 503 describes “anaerobic digestion” as “[s]ewage sludge is treated in the absence of air for a specific mean cell residence time at a specific temperature. Values for the mean cell residence time and temperature shall be between 15 days at 35 to 55 degrees Celsius and 60 days at 20 degrees Celsius.”

40. During calendar years 2002 and 2003, Respondent failed to maintain its pathogen reduction treatment process for the mean cell residence time and temperature between 15 days at 35 to 55 degrees Celsius and 60 days at 20 degrees Celsius.

41. During calendar years 2002 and 2003, Respondent failed to meet the Class B pathogen requirement in 40 C.F.R. § 503.32(b)(3).

42. During calendar years 2002 and 2003, Respondent failed to comply with the pathogen requirements of 40 C.F.R. § 503.15(a)(1).

43. Respondent's repeated failures to comply with the pathogen requirements of 40 C.F.R. § 503.15(a)(1), constitute unlawful acts under Section 405(e) of the Act, 33 U.S.C. § 1345(e).

**Count III - Failure to Meet  
Vector Attraction Reduction Requirements**

44. Paragraphs 1 through 22 are re-alleged here as if set forth in full.

45. Rule 40 C.F.R. § 503.15(c)(1), provides that one of the vector attraction reduction requirements in 40 C.F.R. §§ 503.33(b)(1) through (b)(10), must be met when bulk sewage sludge is applied to agricultural land, forest, a public contract site, or a reclamation site.

46. Rule 40 C.F.R. § 503.33(b)(1) provides that the mass of volatile solids in the sewage sludge shall be reduced by a minimum of thirty-eight (38) percent.

47. During calendar years 2002 and 2003, Respondent did not 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).

48. Respondent's repeated failures to comply with the vector attraction reduction requirements of 40 C.F.R. § 503.15(c)(1), constitute unlawful acts under Section 405(e) of the Act, 33 U.S.C. § 1345(e).

**Count IV - Failure to Land Apply  
Sewage Sludge at Agronomic Rate**

49. Paragraphs 1 through 22 are re-alleged here as if set forth in full.

50. Rule 40 C.F.R. § 503.14 sets out management practices that must be followed concerning bulk sewage sludge that is applied to land.

51. Rule 40 C.F.R. § 503.14(d), in relevant part, requires that bulk sewage be applied to agricultural land and forest at a whole sludge application rate equal to or less than the agronomic rate for the bulk sewage sludge.

52. “Annual whole sludge application rate” is defined at 40 C.F.R. § 503.11(d), as the maximum amount of sewage sludge (dry weight basis) that can be applied to a unit area of land during a 365 day period.

53. “Agronomic rate” is defined at 40 C.F.R. § 503.11(b), as the whole sludge application rate (dry weight basis) designed: (1) to provide the amount of nitrogen needed by the food crop, feed crop, fiber crop, cover crop, or vegetation grown on the land; and (2) to minimize the amount of nitrogen in the sewage sludge that passes below the root zone of the crop or vegetation grown on the land to the ground water.

54. Calculation of the agronomic rate at which sewage sludge is applied to land depends, among other things, on the amount of acreage used for the application and the type of crop or vegetation grown on the land.

55. During calendar years 2002 and 2003, Respondent failed to land apply its sewage sludge at an agronomic rate.

56. Respondent’s repeated failures to comply with the agronomic rate land application requirements of 40 C.F.R. § 503.14(d), constitute unlawful acts under Section 405(e) of the Act, 33 U.S.C. § 1345(e).

### **III. Notice of Proposed Penalty Assessment**

Based upon the foregoing findings of violations and pursuant to Section 309(g)(2)(B) of the Act, 33 U.S.C. § 1319(g)(2)(B), the Administrator may assess a Class II civil penalty not to exceed ten thousand dollars (\$10,000.00) per day for each day during which the violations continue, to a maximum administrative civil penalty of one hundred twenty five thousand dollars (\$125,000.00) for violations of the Act. The Federal Civil Penalties Inflation Act of 1990, 28 U.S.C. § 2461, as amended by the Debt Collection Improvement Act of 1996, 31 U.S.C. § 3701, and the regulations promulgated thereto at 40 C.F.R. §§ 19 and 27 (*see* 61 F.R. 69360-69366 and 62 F.R. 13414-13517) increased these amounts to eleven thousand dollars (\$11,000) and one hundred, thirty-seven thousand, five hundred dollars (\$137,500) for violations occurring after January 30, 1997. As the violations alleged in this Amended Complaint all occurred after this date, the amended statutory limits apply.

Based upon the facts alleged in this Amended Complaint, and upon the nature, circumstances, extent, and gravity of the violations alleged, as well as Respondent's ability to pay, prior history of such violations, degree of culpability, economic benefit or savings (if any) resulting from the violations, and such other matters as justice may require, EPA hereby proposes to issue a Final Order assessing a civil penalty against Respondent in the amount of one hundred, thirty-seven thousand, and five hundred dollars (\$137,500.00) for violations of: (1) regulations at 40 C.F.R. § 503.18, and Section 405(e) of the Act, 33 U.S.C. § 1345(e) (annual sludge reporting requirements); (2) regulations at 40 C.F.R. § 503.15(a)(1), and Section 405(e) of the Act, 33 U.S.C. § 1345(e) (pathogen reduction requirements); (3) regulations at 40 C.F.R. §

503.15(c)(1), and Section 405(e) of the Act, 33 U.S.C. § 1345(e) (vector attraction reduction requirements); and (4) regulations at 40 C.F.R. § 503.14(d) and Section 405(e) of the Act, 33 U.S.C. § 1345(e) (agronomic rate requirement for land application of bulk sewage sludge).

Respondent shall pay this penalty by certified or cashier's check payable to "Treasurer, the United States of America," and shall send it by regular US postal services mail, with a transmittal letter identifying the Amended Complaint, to:

U.S. Environmental Protection Agency  
Box 371099M  
Pittsburgh, PA 15251

Respondent shall send a copy of the payment check and the transmittal letter to:

Diana Embil  
Office of the Regional Counsel (C-14J)  
EPA, Region 5  
77 West Jackson Boulevard  
Chicago, Illinois 60604

and

Valdis Aistars  
Water Enforcement and Compliance Assurance  
Branch (WC-15J)  
EPA, Region 5  
77 West Jackson Boulevard  
Chicago, Illinois 60604

The proposed penalty may be adjusted if Respondent establishes a *bona fide* issue of ability to pay, or other affirmative defenses relevant to the determination of any final penalty. The proposed civil penalty has been determined in accordance with the Clean Water Act based on the best information available to the Agency at the time, and in consideration of the nature,

circumstances, extent, and gravity of the alleged violations. With respect to Respondent, other factors may mitigate calculation of the final penalty, including ability to pay, prior history of such violations, culpability, economic benefit or savings (if any) resulting from the violations, and such other matters as justice may require.

#### **IV. Notice of Opportunity to Request a Hearing**

As provided in Section 309(g) of the Act, 33 U.S.C. § 1319(g), Respondent has the right to request a hearing regarding the Amended Complaint, to contest any material fact contained in the Amended Complaint, and/or to contest the appropriateness of the amount of the proposed penalty. In order to request a hearing, Respondent must specifically make such a request in the Answer, which is discussed below.

Any hearing that Respondent requests regarding this Amended Complaint will be held and conducted in accordance with the provisions of the "Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation or Suspension or Permits," 40 C.F.R. Part 22, a copy of which accompanies this Amended Complaint.

#### **V. Answer**

If Respondent wishes to avoid being found in default, Respondent must file a written Answer to this Amended Complaint with the Regional Hearing Clerk (E-19J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois, 60604, within twenty (20) calendar days of receipt of this Amended Complaint.

In accordance with the "Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation or Suspension of Permits," found at 40 C.F.R.

Part 22, the Answer must clearly and directly admit, deny, or explain each of the factual allegations contained in the Amended Complaint with respect to which Respondent has any knowledge, or clearly state that Respondent has no knowledge as to particular factual allegations in the Amended Complaint. The Answer must also state:

1. The circumstances or arguments that are alleged to constitute grounds of defense;
2. The facts which Respondent intends to place at issue; and
3. Whether Respondent requests a hearing.

Respondent's failure to deny any of the factual allegations in this Amended Complaint constitutes admission of the un-denied allegations.

A copy of the Answer and any subsequent documents filed in this action should be sent to Diana L. Embil, Associate Regional Counsel, Office of the Regional Counsel (Mail Code C-14J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604. Ms. Embil may be contacted at (312) 886-7889.

If Respondent fails to file a written Answer within 20 calendar days of service of this Amended Complaint, a Default Order may be issued by the Presiding Officer. Respondent's default constitutes a binding admission of all allegations made in the Amended Complaint and a waiver of Respondent's right to a hearing under the Act. Such Default Order, which constitutes the initial decision of the Presiding Officer, may become the Final Order of the Environmental Appeals Board within forty-five (45) calendar days after its service. The civil penalty proposed herein shall then become due and payable without further proceedings sixty (60) calendar days after a Final Order issued upon default. Respondent's failure to fully pay the entire proposed

penalty, assessed by the Default Order, by its due date will result in a civil action to collect the assessed penalty, plus interest, attorney's fees, costs of collection proceedings and an additional quarterly nonpayment penalty pursuant to Section 309(g)(9) of the Act, 33 U.S.C. § 1319(g)(9).

In addition, the default penalty is subject to the provisions relating to imposition of interest, penalty and handling charges set forth in the Federal Claims Collection Act, 31 U.S.C. § 3717. Interest shall accrue on the default penalty at the rate established by the Secretary of the Treasury pursuant to 31 U.S.C. § 3717. EPA will impose a late payment handling charge of fifteen dollars (\$15.00) after thirty (30) calendar days, with an additional charge of \$15.00 for each subsequent 30 calendar day period over which an unpaid balance remains. In addition, EPA will apply a six percent (6%) per annum penalty on any principal amount not paid within ninety (90) calendar days of the effective date of the Default Order.

Should Respondent request a hearing on the proposed penalty amount, members of the public who have exercised their right to comment and to whom EPA is obligated to give notice of this proposed action, will have a right under Section 309(g)(4)(B) of the Act, 33 U.S.C. § 1319(g)(4)(B), to present evidence on the appropriateness of the penalty assessment. If Respondent does not request a hearing, EPA will issue a Final Order assessing administrative penalties and only members of the public who commented on this proposal during the 30 calendar day period following receipt of this document will have an additional 30 calendar days to petition EPA to set aside the Final Order assessing administrative penalties and to hold a hearing thereon. EPA will grant the petition and hold the hearing only if the petitioner's

evidence is material and was not considered by EPA in the issuance of the Final Order assessing administrative penalties.

#### **VI. Settlement Conference**

Whether or not Respondent requests a hearing, Respondent may request an informal conference in order to discuss the facts of this case and to arrive at a settlement. To request a settlement conference, please write to Diana L. Embil, Associate Regional Counsel, Office of the Regional Counsel (Mail Code C-14J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604.

Respondent's request for an informal settlement conference will not extend the 20 calendar day period during which the Respondent must submit a written Answer and Request for Hearing. Respondent may, however, pursue the informal conference procedure simultaneously with the adjudicatory hearing procedure. EPA encourages all parties against whom a civil penalty is proposed to pursue settlement through an informal conference. EPA, however, will not reduce the penalty simply because such a conference is held. Any settlement that may be reached as a result of such conference shall be embodied in a Consent Agreement and Final Order. Respondent's consent to a Consent Order shall constitute a waiver of the right to request a hearing on any matter stipulated to therein.

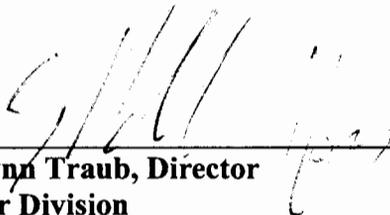
#### **VII. Notice to the State and Public**

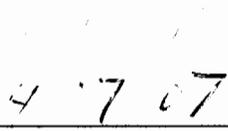
EPA has consulted with the Ohio Environmental Protection Agency (OEPA) regarding this action by mailing a copy of this Amended Complaint to Mark Mann, P.O. Box 1049, Ohio Environmental Protection Agency, Columbus, Ohio 43216-1049, and by offering the State an

opportunity to comment on the proposed penalty assessment. EPA, contemporaneously with the issuance of this Amended Complaint, caused a public notice to be published in a local newspaper regarding this action.

**VIII. Continuing Obligation to Comply**

Neither assessment nor payment of any administrative civil penalty pursuant to Section 309(g) of the Act, 33 U.S.C. § 1319(g), shall affect Respondent's continuing obligation to comply with the Act, or with any other Federal, State, or local law or regulation, with every term and condition of an NPDES permit, or with any Compliance Order issued under Section 309(a) of the Act, 33 U.S.C. § 1319(a).

  
\_\_\_\_\_  
**Jo Lynn Traub, Director**  
**Water Division**  
**U.S. Environmental Protection Agency**  
**Region 5**

  
\_\_\_\_\_  
**Date**

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

**CERTIFICATE OF SERVICE**

I hereby certify that the original and one copy of this Amended Administrative Complaint was filed with the Regional Hearing Clerk, U.S. Environmental Protection Agency, Region 5, on the date below, and that true and accurate copies along with copies of the Consolidated Rules of Practice were sent via certified mail to:

**CERTIFIED MAIL 7001 0320 0005 8920 6113**  
**RETURN RECIEPT REQUESTED**

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

**CERTIFIED MAIL 7001 0320 0005 8920 6106**  
**RETURN RECIEPT REQUESTED**

Mr. Kevin P. Braig  
Dinsmore & Shohl LLP  
Attorney for Respondent  
One Dayton Centre, One South Main Street, Suite 1300  
Dayton, OH 45402

**CERTIFIED MAIL 7001 0320 0005 8920 6090**  
**RETURN RECIEPT REQUESTED**

Mr. George Elmaraghy, Chief  
Division of Surface Water  
Ohio Environmental Protection Agency  
P.O. Box 1049  
Columbus, OH 43216-1049

*Dennis Moore*  
Signature  
U.S. Environmental Protection Agency  
Region 5  
77 West Jackson Blvd. (WC-15J)  
Chicago, Illinois 60604

10 MAY 2007  
Date

REC'D  
MAY 10 2007  
10:29