



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 5

77 WEST JACKSON BOULEVARD

CHICAGO, IL 60604-3590

APR - 6 2018

REPLY TO THE ATTENTION OF:

ELECTRONIC SERVICE
VIA EMAIL

Mr. John Roiger
General Manager
Lac qui Parle Cooperative Oil Company
1324 Highway 212 West
Dawson, Minnesota 56232

Re: Lac qui Parle Cooperative Oil Company Dawson, Minnesota, Consent Agreement and
Final Order, Docket No CERCLA-05-2018-0004.

Dear Mr. Roiger:

Enclosed please find a copy of the fully executed Consent Agreement and Final Order (CAFO)
in resolution of the above case. The U.S. Environmental Protection Agency has filed the original
CAFO with the Regional Hearing Clerk on April 6, 2018.

Please pay the Comprehensive Environmental Response, Compensation and Liability Act civil
penalty in the amount of \$17,264 in the manner prescribed in paragraph 28, and reference your
check with the billing document number 2751830B003 and the docket
number CERCLA-05-2018-0004.

Your payment is due on May 7, 2018.

Please feel free to contact James Entzminger at (312) 886-4062 if you have any questions
regarding the enclosed document. Please direct any legal questions to Kris Vezner, Associate
Regional Counsel, at (312) 886-6827. Thank you for your assistance in resolving this matter.

Sincerely,

Michael E. Hans, Chief
Chemical Emergency Preparedness
and Prevention Section

Enclosure

cc: Steve Tomlyanovich (w/ enclosure)
Division of Homeland Security
and Emergency Management
444 Cedar Street, Suite 223
St. Paul, Minnesota 55101

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5



In the Matter of:) Docket No. CERCLA-05-2018-0004
)
Lac qui Parle Cooperative Oil Company) Proceeding to Assess a Civil Penalty Under
Dawson, Minnesota,) Section 109(b) of the Comprehensive
) Environmental Response, Compensation and
Respondent.) Liability Act

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), 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.

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

3. Respondent is Lac qui Parle Cooperative Oil Company, a corporation doing business in the State of Minnesota.

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 the terms of the CAFO.

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. 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 reportable quantity of the hazardous substance.

10. Section 103(a) of CERCLA, 42 U.S.C. § 9603(a), provides a mechanism to alert federal agencies that a response action may be necessary to prevent deaths or injuries to emergency responders, facility personnel and the local community. A delay or failure to notify could seriously hamper the government's response to an emergency and pose serious threats to human health and the environment.

11. Section 109(b) of CERCLA, 42 U.S.C. § 9609(b), authorizes U.S. EPA to assess a civil penalty of up to \$25,000 per day of violation of CERCLA Section 103. The Debt Collection Improvement Act of 1996, 31 U.S.C. § 3701 note, and its implementing regulations at 40 C.F.R. Part 19 increased these statutory maximum penalties to \$32,500 per day of violation that occurred after March 15, 2004, through January 12, 2009, and to \$37,500 per day of violation for violations that occurred after January 12, 2009.

Factual Allegations and Alleged Violations

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

13. At all times relevant to this CAFO, Respondent was in charge of a nurse tank located at Hamlin Township 5, Madison, Minnesota (facility).

14. Respondent’s facility consists of a storage container, motor vehicle, rolling stock, or any site or area where a hazardous substance has been deposited, placed, or otherwise come to be located.

15. Respondent’s facility is a “facility” as that term is defined under Section 101(9) of CERCLA, 42 U.S.C. § 9601(9).

16. 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).

17. 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.

18. On October 27, 2015, at or about 7:01 p.m., Central Time, a release occurred from Respondent’s facility of approximately 1,840 pounds of anhydrous ammonia (the release).

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

20. During the release, approximately 1,840 pounds of anhydrous ammonia leaked, emitted, emptied, discharged, or escaped into the ambient air.

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

22. Respondent had knowledge of the release on October 27, 2015, at approximately 7:01 p.m.

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

24. Respondent notified the NRC of the release on October 28, 2015, at 6:46 a.m.

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

26. 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).

Civil Penalty

27. Complainant has determined that an appropriate civil penalty to settle this action is \$17,264 for the CERCLA violation. In determining the penalty amount, Complainant considered the nature, circumstances, extent and gravity of the violation, and with respect to Respondent, its ability to pay, prior history of violations, economic benefit or savings resulting from the violation and any other matters as justice may require. Complainant also considered U.S. EPA's Enforcement Response Policy for Sections 304, 311 and 312 of the Emergency Planning and Community Right-to-Know Act and Section 103 of the Comprehensive Environmental Response Compensation and Liability Act, dated September 30, 1999 (EPCRA/CERCLA Enforcement Response Policy).

28. Within 30 days after the effective date of this CAFO, Respondent must pay a \$17,264 civil penalty for the CERCLA violation. Respondent must pay the penalty by sending a cashier's or certified check, payable to "EPA Hazardous Substance Superfund," to:

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

For checks sent by express mail by sending a cashier's or certified check, payable to "EPA Hazardous Substance Superfund," to:

U.S. Bank
Government Lockbox 979076 U.S. EPA Superfund Payments
1005 Convention Plaza
Mail Station SL-MO-C2-GL
St. Louis, MO 63101

The check must note the following: Lac qui Parle Cooperative Oil Company, the docket number of this CAFO and the billing document number 2751830B003.

29. A transmittal letter, stating Respondent's name, the case name, Respondent's complete address, the case docket number and the billing document number, if any, must accompany the payment. Respondent must send a copy of the check and transmittal letter to:

Regional Hearing Clerk (E-19J)
U.S. EPA, Region 5
77 West Jackson Blvd.
Chicago, IL 60604

James Entzminger (SC-5J)
Chemical Emergency Preparedness
and Prevention Section
U.S. EPA, Region 5
77 West Jackson Blvd.
Chicago, IL 60604

Kris Vezner (C-14J)
Office of Regional Counsel
U.S. EPA, Region 5
77 West Jackson Blvd.
Chicago, IL 60604

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

31. If Respondent does not timely pay the civil penalty, 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.

32. Pursuant to 31 C.F.R. § 901.9, Respondent must pay the following on any amount overdue under this CAFO. 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 6 percent per year penalty on any principal amount 90 days past due.

General Provisions

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

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

35. Respondent certifies that it is complying with Section 103(a) of CERCLA, 42 U.S.C. § 9603(a).

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

37. This CAFO is a "final order" for purposes of U.S. EPA's EPCRA/CERCLA Enforcement Response Policy.

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

39. 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.

40. Each party agrees to bear its own costs and attorney's fees in this action.

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

42. Consistent with the Standing Order Authorizing E-Mail Service of Orders and Other Documents Issued by the Regional Administrator or Regional Judicial Officer under the Consolidated Rules, dated March 27, 2015, the parties consent to service of this CAFO by e-mail at the following valid e-mail addresses: Vezner.kris@epa.gov (for Complainant), and lqp2@frontiernet.net (for Respondent). The parties waive their right to service by the methods specified in 40 C.F.R. § 22.6.

Lac qui Parle Cooperative Oil Company, Respondent

March 17, 2018

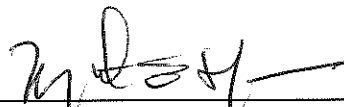
Date

John A. Roiger

John A. Roiger
General Manager
Lac qui Parle Cooperative Oil Company

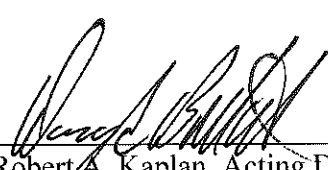
U.S. Environmental Protection Agency, Complainant

4-4-18
Date

Michael D. Hans for JEZ


Jason El-Zein, Chief
Emergency Response Branch 1
U.S. Environmental Protection Agency
Region 5

4/4/18
Date

for 

Robert A. Kaplan, Acting Director
Superfund Division
U.S. Environmental Protection Agency
Region 5


In the Matter of: Lac qui Parle Cooperative Oil Company, Dawson, Minnesota
Docket No. CERCLA-05-2018-0004

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. This Final Order concludes this proceeding pursuant to 40 C.F.R. §§ 22.18 and 22.31. IT IS SO ORDERED.

4/5/18

Date


for Ann L. Coyle
Regional Judicial Officer
U.S. Environmental Protection Agency
Region 5

In the Matter of: Lac qui Parle Cooperative Oil Company, Dawson, Minnesota
Docket No. CERCLA-05-2018-0004

Certificate of Service

I certify that I sent a true and correct copy of the foregoing Consent Agreement and Final Order, which was filed on April 6, 2018 in the following manner to the addressees:

Copy by Certified Mail

Return Receipt Requested: Mr. John Roiger
General Manager
Lac qui Parle Cooperative Oil Company
1324 Highway 212 West
Dawson, Minnesota 56232
(320) 769-4306
lqp2@frontiernet.net

Copy by E-mail to

Attorney for Complainant: Kris Vezner
Vezner.kris@epa.gov

Copy by E-mail to

Regional Judicial Officer: Ann Coyle
Coyle.ann@epa.gov

Dated: April 6, 2018



LaDawn Whitehead
Regional Hearing Clerk
U.S. Environmental Protection Agency, Region 5

SUPERFUND ACCOUNTS RECEIVABLE STANDARD CONTROL FORM

PART I: TYPE OF RECEIVABLE

- | | |
|--|---|
| <input type="checkbox"/> ADMINISTRATIVE ORDER CONSENT (AOC)
<input type="checkbox"/> CONSENT DECREE (CD)
<input type="checkbox"/> OVERSIGHT BILL
<input type="checkbox"/> SUPERFUND STATE CONTRACT (SSC)
<input type="checkbox"/> STIPULATED PENALTIES | <input type="checkbox"/> UNILATERAL ADMINISTRATIVE ORDER (UAO)
<input type="checkbox"/> 107(a) DEMAND LETTER
<input type="checkbox"/> BANKRUPTCY PROOF OF CLAIM
<input checked="" type="checkbox"/> OTHER: CONSENT AGREEMENT AND FINAL ORDER
SPLIT WITH OTHER STATUTES <input type="checkbox"/> YES <input type="checkbox"/> NO |
|--|---|

NON-FEDERAL RECEIVABLE:
TIN NUMBER: _____

FEDERAL RECEIVABLE:
TAS NUMBER: _____

PART II: FUNDING INFORMATION

- | | |
|--|--|
| <input type="checkbox"/> TRUST FUND (HSCR68)
<input type="checkbox"/> SPECIAL ACCOUNT - PAST COSTS (TR2B)
<input type="checkbox"/> SPECIAL ACCOUNT - FUTURE COSTS (TR2)
<input type="checkbox"/> NON FEDERAL- SSC (TR1)
<input checked="" type="checkbox"/> SUPERFUND FINES & PENALTIES (HSFP68) | <input type="checkbox"/> TRUST FUND (HSCR68)
<input type="checkbox"/> SPECIAL ACCOUNT- PAST COSTS-FEDERAL (TR2B)
<input type="checkbox"/> SPECIAL ACCOUNT-FUTURE COSTS- FEDERAL (TR2A)
<input type="checkbox"/> SUPERFUND FINES & PENALTIES- FEDERAL (HSFP68) |
|--|--|

PART III: DEBTOR INFORMATION

DEBTOR NAME
 ADDRESS
 ADDRESS (CONT'D)
 CITY
 STATE
 ZIP

Mr. John Loiger
Lac qui Cooperative Oil Company
1324 Highway 212 West
Dawson
Minnesota
56232

PART IV: ACCOUNT INFORMATION

ASSIGNED BILL NUMBER (if applicable)
 TREASURY ACCOUNT SYMBOL (if applicable)
 REF. DOCKET NO.
 BILLING EFFECTIVE DATE
 BILLING PERIOD
 DUE IN (date or # of days)
 AMOUNT DUE

2751830B003
CERCLA-05-2018-0004
April 6, 2018
30 days
May 7, 2018
\$17,264

PART V: ACCOUNTING STRING

BBFY	FUND	ORG	PRC	SITE/PROJECT	AMOUNT
<i>2018</i>	HSFP68	05F		05ZZAC00	<i>17,264</i>

PART VI: REGIONAL POINTS OF CONTACTS

CREATED BY	LA DAWN WHITEHEAD	PHONE NO.	312-886-3713
COUNSEL CONTACT	<i>Kris Vezner</i>	PHONE NO.	<i>312 886-6827</i>
FINANCE CONTACT	LA DAWN WHITEHEAD	PHONE NO.	312-886-3713
PROGRAM CONTACT	<i>James Entzminger</i>	PHONE NO.	<i>312.886-4062</i>

PART VII: SPECIAL INSTRUCTIONS/NOTES (interest amount, installment schedule, bankruptcy info, etc.)

EMAIL THIS FORM WITH THE CAFO TO WEIDNER.LORI@EPA.GOV (LORI WEIDNER)

PART VIII: COMPLETE CERTIFIED MAIL TRACKING NUMBER

N/A via Email