



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 5

77 WEST JACKSON BOULEVARD

CHICAGO, IL 60604-3590

October 21, 2013

REPLY TO THE ATTENTION OF

E-19J

Honorable Susan L. Biro  
Office of Administrative Law Judges  
U. S. Environmental Protection Agency  
Ariel Rios Building, Mailcode: 1900L  
1200 Pennsylvania Ave., NW  
Washington, D.C. 20460

RE: In The Matter of: Mille Lacs Soil Service Association (Foreston, Minnesota)  
Docket No. CAA-05-2013-0033  
Complaint Date: July 22, 2013  
Total Proposed Penalty: \$50,000.00

Dear Judge Biro:

Enclosed is a copy of the Respondent's Answer to an Administrative Complaint and Request for Hearing.

Please assign an Administrative Law Judge to conduct this case.

If you have questions contact me at (312) 886-3713.

Sincerely,

A handwritten signature in blue ink that reads "La Dawn Whitehead".

La Dawn Whitehead  
Regional Hearing Clerk

Enclosure

cc: Thomas D. Jensen  
Attorney At Law  
Lind, Jensen, Sullivan & Peterson  
901 Marquette Avenue South, Suite 1300  
Minnesota, Minnesota 55402  
[thomas.jensen@lindjensen.com](mailto:thomas.jensen@lindjensen.com)  
(612) 333-3637

Mary McAuliffe  
Associate Regional Counsel  
Office Regional Counsel  
U.S. EPA, Region 5  
Chicago, Illinois 60604-3590  
(312) 886-6237

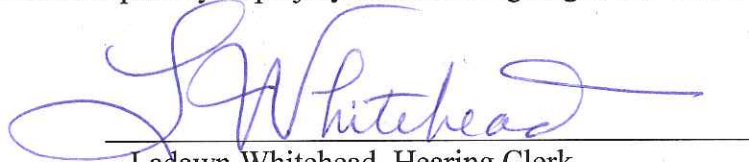
**CERTIFICATION OF THE ADMINISTRATIVE RECORD BEFORE  
EPA Region 5**

I, Ladawn Whitehead, am the Regional Hearing Clerk for EPA Region 5. My duties include maintenance of the official records for all adjudicatory oral arguments before .

I hereby certify that the attached index constitutes a true and correct index to the administrative record pertaining to the EPA's adjudication in the proceeding listed below.

I swear or affirm under penalty of perjury that the foregoing is true and correct.

Date: 10/21/2013



Ladawn Whitehead, Hearing Clerk  
EPA Region 5  
77 West Jackson Blvd, Chicago, IL 60604

**Docket Index for:  
Mille Lacs Soil Service Association (Foreston, Minnesota)  
CAA-05-2013-0033**

Filing Date	Filing #	Description	Originator
10/18/2013	3	Answer. Repondent's Answer	Thomas D. Jensen, Attorney for Respondent
9/20/2013	2	Motion/Response/Reply. Respondent's Motion for Extension of Time	Respondent
7/22/2013	1	Complaint. Administrative Complaint	EPA REGION 5

LIND JENSEN SULLIVAN & PETERSON  
ATTORNEYS AT LAW

A PROFESSIONAL ASSOCIATION

1300 AT&T TOWER · 901 MARQUETTE AVENUE SOUTH · MINNEAPOLIS, MN 55402  
TELEPHONE: (612) 333-3637 · FACSIMILE: (612) 333-1030 · LINDJENSEN.COM

(612) 746-0129

October 15, 2013  
Via Overnight UPS Service

Regional Hearing Clerk (E-19J)  
U.S. Environmental Protection Agency, Region 5  
77 W. Jackson Boulevard  
Chicago, IL 60604

RE: Mille Lacs Soil Service Association, Foreston, MN  
Docket No. CAA-05-2013-0033  
Our File No. 23509

Dear Regional Hearing Clerk:

Enclosed for filing you will find the original and one copy of Mille Lacs Soil Service Association's answer to administrative complaint. By copy of this letter Associate Regional Counsel Mary McAuliffe is served.

Thank you.

Very truly yours,

Lind, Jensen, Sullivan & Peterson  
A Professional Association



Thomas D. Jensen  
[thomas.jensen@lindjensen.com](mailto:thomas.jensen@lindjensen.com)



TDJ/bal

Enclosures

cc: Mary McAuliffe (C-14J), w/enc., via Overnight UPS Service  
Steve Scherek, Manager, MLSSA, via U.S. Mail

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 5



---

In the Matter of: )

Docket No. CAA-05-2013-0033 )

Mille Lacs Soil Service Association )  
Foreston, Minnesota, )

**Proceeding to Assess a Civil Penalty  
Under Section 113(d) of the Clean Air  
Act, 42 U.S.C. § 7413(d)**

Respondent. )

---

**ANSWER TO ADMINISTRATIVE COMPLAINT**

---

Mille Lacs Soil Service Association, by its undersigned counsel, responds to the administrative complaint as follows.

1. Respondent admits the allegations set forth in paragraphs 1 through 13 of the administrative complaint.
2. Respondent has no knowledge relating to the allegations set forth in paragraph 14 of the administrative complaint.
3. Respondent admits the allegations set forth in paragraphs 15 through 23 of the administrative complaint.
4. Respondent alleges in response to paragraph 24 of the administrative complaint that its September 16, 2011 letter speaks for itself and is the best evidence of its terms.
5. Respondent alleges in response to paragraph 25 of the administrative complaint that although the co-op has been in business since 1965, the anhydrous ammonia plant has operated since 1982.
6. Respondent admits the allegations set forth in paragraphs 26 through 29 of the administrative complaint.

7. Respondent alleges in response to paragraph 30 of the administrative complaint that on April 5, 2013 it filed its Risk Management Plan (“RMP”) with complainant.

8. Respondent alleges in response to paragraph 31 of the administrative complaint that no answer is due to the same.

9. Respondent admits the allegations set forth in paragraphs 32 through 34 of the administrative complaint.

10. Respondent lacks knowledge of the allegations set forth in paragraphs 35 and 36 of the administrative complaint.

11. Respondent admits the allegations set forth in paragraph 37 of the administrative complaint.

12. Respondent alleges in response to paragraph 38 of the administrative complaint that it denies it failed to submit a single Risk Management Plan, and admits that it has not updated its plan inasmuch as no update is required with respect to its April 5, 2013 plan.

13. Respondent denies that a civil penalty in the amount of \$50,000.00 is proper in this case because: (a) respondent derived no economic benefit associated with any alleged delay in filing its RMP, (b) the cost of filing its RMP with respondent totaled \$1,048.59, (c) no threat to human health or the environment was presented inasmuch as risk management policies were in place at all material times regardless of the RMP filing status, (d) respondent’s staff have received training in accident release prevention and emergency response protocols from the Minnesota Department of Agriculture and local fire department personnel, (e) respondent is a relatively small cooperative located in rural Minnesota whose management is unsophisticated in the procedures of EPA, (f) environmental damage has not resulted from respondent’s anhydrous ammonia facility, (g) the anhydrous ammonia facility is located in a sparsely populated area, (h)

respondent has not achieved a competitive advantage through delay in posting of its RMP, (i) respondent has not been heretofore cited for violations affecting the environment, (j) any alleged violation has a low probability of reoccurrence inasmuch as respondent has engaged a certified environmental consultant to assist with its RMP policies and furthermore respondent is in the process of attempting to sell its anhydrous ammonia facility, (k) payment of \$50,000.00 would adversely affect the co-op's financial circumstances, (l) respondent's management believed that by its April 5, 2013 posting of its RMP that it had complied with regulations and was no longer at risk, (m) respondent's certified environmental consultant provided training on April 5, 2013 to respondent's employees over the course of three (3) hours on right to know and hazardous material regulations and safety, (n) respondent's employees routinely take safety and hazardous material training sessions offered through the Minnesota Department of Agriculture, (o) respondent employs merely seven (7) employees full-time (a few more in the spring) and its business is limited to fertilizer sales, crop spraying, and the buying and selling of soybeans, and (p) respondent is inspected by the Minnesota Department of Agriculture, Milaca, Minnesota Fire Department, and Foreston, Minnesota Fire Department at regular intervals.


14. Respondent tentatively requests a hearing in this matter.

Respectfully submitted,

Dated: October 15, 2013

Lind, Jensen, Sullivan & Peterson  
A Professional Association



  
\_\_\_\_\_  
Thomas D. Jensen, State Bar No. 50179  
Attorneys for Respondent  
901 Marquette Avenue South, Suite 1300  
Minneapolis, Minnesota 55402  
(612) 333-3637

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 5

In the Matter of: )  
) Docket No. CAA-05-2013-0033  
)  
Mille Lacs Soil Service Association )  
Foreston, Minnesota, ) **Proceeding to Assess a Civil Penalty**  
) **Under Section 113(d) of the Clean Air**  
) **Act, 42 U.S.C. § 7413(d)**  
)  
Respondent. )

CERTIFICATE OF SERVICE



STATE OF MINNESOTA )  
)SS  
COUNTY OF HENNEPIN )

Barbara A. Larsien of the City of Plymouth, County of Hennepin, State of Minnesota, being duly sworn, says that on October 15, 2013 she served the annexed:

Respondent's Answer to Administrative Complaint

upon the following person(s) in this action, by Overnight UPS Service to said person(s) a copy thereof, enclosed in an envelope, postage prepaid, and by depositing the same in the post office at Minneapolis, Minnesota, directed to said person(s) as follows:

Original and One Copy to:  
  
Regional Hearing Clerk (E-19J)  
U.S. Environmental Protection Agency, Region 5  
77 W. Jackson Boulevard  
Chicago, IL 60604

One Copy to:  
  
Mary McAuliffe (C-14J)  
Associate Regional Counsel  
U.S. Environmental Protection Agency, Region 5  
77 West Jackson Boulevard  
Chicago, IL 60604

*Barbara A. Larsien*  
Barbara A. Larsien

Subscribed and sworn to before me  
on October 15, 2013.

*Nicky Woolhouse*  
Notary Public

