



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

JUL 30 1999

REPLY TO THE ATTENTION OF  
(AE-17J)

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

Mr. Michael Sulzberger  
General Manager  
Prairie Central Cooperative  
Route 1, Box 230  
Chenoa, Illinois 61726

Re: In the Matter of Prairie Central Cooperative  
Weston, Illinois  
CAA Docket No. **CAA-5-99-021**

Dear Mr. Sulzberger:

Enclosed herein is an Administrative Complaint filed against Prairie Central Cooperative pursuant to Section 113(d) of the Clean Air Act (Act), 42 U.S.C. § 7413(d) and an executed original of the final Consent Agreement and Consent Order (CACO) resolving the claims cited in the Complaint. U.S. EPA filed the Complaint and the CACO simultaneously.

The CACO requires the payment of a civil penalty of \$69,000. Payment instructions are specified in paragraphs 11 through 14 of the CACO. Your check should display the case document number **CAA-5-99-021** and the billing document number BD # 056099008.

If you require any additional information or clarification of any issue regarding this matter, please contact Karl Karg, Assistant Regional Counsel (C-14J), 77 West Jackson Boulevard, Chicago, Illinois 60604-3590, (312) 886-7948, or Linda Hamsing,

Environmental Engineer (AE-17J), 77 West Jackson Boulevard,  
Chicago, Illinois 60604-3590, (312) 886-6810.

Sincerely yours,



Margaret M. Guerriero, Acting Director  
Air and Radiation Division

Enclosures

cc w/enc:

David Kolaz, Chief  
Compliance and Systems Management Section  
Illinois Environmental Protection Agency

Richard Jennings, Manager  
Region 2  
Illinois Environmental Protection Agency

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REGION 5

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 5

99 AUG -3 12:20

IN THE MATTER OF:

Prairie Central Cooperative, Inc.  
Weston, Illinois

)  
) DOCKET No. **CAA-5-99-021**  
)  
) Proceeding to Assess Administrative  
) Penalty under Section 113(d) of the  
) Clean Air Act 42 U.S.C. Section  
) 7413 (d)

**CONSENT AGREEMENT AND CONSENT ORDER**

Complainant, the Director of the Air and Radiation Division, United States Environmental Protection Agency, Region 5, (U.S. EPA) instituted this civil administrative proceeding for the assessment of a civil penalty pursuant to Section 113(d) of the Clean Air Act (CAA or Act), 42 U.S.C. § 7413(d), and Sections 22.01(a)(2) and 22.13 of the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and Revocation or Suspension of Permits, 40 C.F.R. Part 22, as amended by 57 Fed. Reg. 4316 (1992).

**I. PRELIMINARY STATEMENT**

1. Respondent Prairie Central Cooperative, Inc. (Prairie) is a corporation incorporated under the laws of the State of Illinois, with a grain handling facility located in Weston, Illinois.

2. The Complainant instituted this civil administrative proceeding for the assessment of a civil penalty by issuing an Administrative Complaint and Notice of Proposed Order Assessing a Penalty against the Respondent on

\_\_\_\_\_. The Complaint is filed concurrently with this Consent Agreement and Consent Order (CACO).

3. The Complaint alleged that the Respondent violated provisions of the Illinois State Implementation Plan (SIP) and, therefore, Section 113 of the CAA, 42 U.S.C. § 7413.

4. The Complaint proposed a civil penalty of \$69,547.00. The penalty amount set forth in the Complaint reflects the Agency's mitigation of the penalty amount due to Respondent's good faith in resolving this matter and other factors as justice required. The final penalty of \$69,000 has been agreed to by all the parties.

5. The parties agree that resolution of this matter through entry of this CACO is an appropriate means of resolving this matter.

## II. CONSENT AGREEMENT

6. Before taking any of the testimony, without adjudication of any issues of law or fact, the Complainant and Respondent consent to the entry of, and agree to comply with, the terms of this CACO.

7. The Respondent admits the jurisdictional allegations in the Complaint.

8. With the exception of the jurisdictional allegations, Respondent's execution of this CACO is not, and shall not be, an admission of any fact, nor an admission of liability by Respondent on any issue of fact or law alleged in the Complaint.

9. The Respondent consents to assessment of civil penalties provided in the Order below.

10. The Respondent withdraws its request for a hearing and waives any and all rights under any provisions of law to a hearing on the allegations in the Complaint or to challenge the terms and conditions of this CACO.

**III. CONSENT ORDER**

IT IS HEREBY ORDERED AND ADJUDGED as follows:

11. Respondent Prairie Central Cooperative, Inc. shall pay the United States a civil penalty in the amount of \$69,000.00. Prairie shall pay the \$69,000.00 in 7 monthly payments of \$9,857.14, with the first payment due on or before June 30, 1999, and each subsequent payment due on or before the 30<sup>th</sup> day of each month.

12. The civil penalties payable hereunder shall be made by certified, cashier's, or corporate check or money order, payable to "Treasurer, United States of America," and mailed to:

U.S. Environmental Protection Agency  
Region 5  
P.O. Box 70753  
Chicago, Illinois 60673

A transmittal letter, indicating the Respondent's name, complete address, and the case docket number must accompany each payment. The case docket number shall also be included on the face of the check. The Respondent shall send a

copy of the check and transmittal letter to:

- a. Regional Hearing Clerk  
U.S. Environmental Protection Agency, Region 5  
77 West Jackson Boulevard (R-19J)  
Chicago, Illinois 60604-3590; and
- b. Linda Hamsing  
Air and Radiation Division  
U.S. Environmental Protection Agency, Region 5  
77 West Jackson Boulevard (AE-17J)  
Chicago, Illinois 60604-3590; and
- c. Karl A. Karg  
Assistant Regional Counsel  
Office of Regional Counsel  
U.S. Environmental Protection Agency, Region 5  
77 West Jackson Boulevard (C-14J)  
Chicago, Illinois 60604-3590.

13. The Respondent's failure to comply with any provision of this CACO may subject it to a civil action pursuant to Section 113(d)(5) of the CAA, 42 U.S.C. § 7413(d)(5), to collect any unpaid portion of the civil penalty, together with interest, handling charges and nonpayment penalties as set forth in Paragraph 14 below. In any such collection action, the validity, amount and appropriateness of this order or the penalty assessed hereunder are not subject to review.

14. Pursuant to 42 U.S.C. § 7413(d)(5) and 31 U.S.C. § 3731, the Respondent shall pay the following amounts if the civil penalty is not paid pursuant to the terms of this CACO:

- a. Interest. Any unpaid portion of the assessed penalty shall bear interest at the rate established pursuant to 26 U.S.C. § 6621(a)(2) from the

date a fully executed copy of this CACO is received by the Respondent provided, however, that no interest shall be payable on any portion of the assessed penalty that is paid within the times described in Paragraph 11 above.

b. Handling Charge. Pursuant to 31 U.S.C. § 3717(e)(1), a monthly handling charge of \$15 shall be paid for each month that any portion of the assessed penalty is more than 30 days past due.

c. Attorneys' Fees, Collection Costs, Nonpayment Penalty. Pursuant to 42 U.S.C. § 7413(d)(5), should the Respondent fail to pay on a timely basis the full amount due under this CACO, including interest and handling charges, the Respondent shall pay the United States' enforcement and collection expenses, including but not limited to attorneys' fees and costs incurred by the United States for collection proceedings, and a quarterly nonpayment penalty for each quarter during which such failure to pay persists. Such nonpayment shall be ten percent (10%) of the aggregate amount of the Respondent's outstanding or overdue penalties and nonpayment penalties accrued from the beginning of such quarter.

#### IV. GENERAL PROVISIONS

15. The Respondent certifies that the violations of law alleged in the Complaint have been remedied in accordance with the Clean Air Act and that Prairie's Weston facility is now in compliance with the provisions of the Clean Air Act and the Illinois State Implementation Plan.

16. This CACO constitutes a settlement of all claims for civil penalties pursuant to Section 113 of the Clean Air Act for the civil violations alleged in the Complaint. Nothing in this CACO is intended to nor shall be construed to resolve any criminal liability of the Respondent, nor shall it be construed to resolve any other civil liability arising outside the scope of the Complaint. Compliance with the terms of this CACO shall not be a defense to any actions subsequently commenced pursuant to Federal law and regulations administered by Complainant, with the exception of the allegations set forth in the Complaint, and it is the responsibility of the Respondent to comply with such laws and regulations.

17. The Respondent knowingly and explicitly waives its rights, including those pursuant to Section 113(d)(2) and (4) of the CAA, 42 U.S.C. § 7413(d)(2) and (4), to a judicial or administrative hearing on any issue of law or fact set forth in the Complaint or this CACO.

18. This document constitutes an "enforcement response" as that term is used in the Clean Air Act Civil Penalty Policy for the purposes of determining Respondent's "full compliance history" as addressed in Section 113(e) of the Clean Air Act. 42 U.S.C. § 7413(e).

19. The provisions of this CACO shall be binding on the Respondent, its officers, directors, employees, agents, servants, authorized representatives, successors and assigns, and upon Complainant.

20. Each party shall bear its own costs, attorney's fees, fees and disbursements in this action.

21. The parties certify that they are duly authorized to execute this CACO and that the persons signing this CACO on their respective behalfs are duly authorized to bind them to the terms of this document.

22. The parties agree to issuance of the accompanying Final Order.

23. This CACO constitutes the entire agreement between the parties.

24. Consent Order EPA-5-98-113(a)-IL-19, issued September 28, 1998, shall terminate upon execution of this CACO by Respondent.

25. This CACO shall terminate upon payment of the final installment by Respondent of the penalty amount specified in paragraph 11 above.

In the Matter of: Prairie Central Cooperative, Inc.  
Docket No.

The foregoing Consent Agreement is Hereby Stipulated, Agreed, and Approved for Entry:

**U.S. ENVIRONMENTAL PROTECTION AGENCY,  
COMPLAINANT**

Date: 7/30/99

By:   
Margaret M. Guerriero, Acting Director  
Air and Radiation Division  
Region 5  
U.S. Environmental Protection Agency

**PRAIRIE CENTRAL COOPERATIVE, INC.  
RESPONDENT**

Date: 6-28-99

By:   
Michael Sulzburger, General Manager  
Prairie Central Cooperative, Inc.

In the Matter of: Prairie Central Cooperative, Inc.  
Docket No.

CONSENT ORDER

The foregoing Consent Agreement is hereby approved and incorporated by reference into this Consent Order. The Respondent, Prairie Central Cooperative, Inc., is hereby ORDERED to comply with all of the terms of the foregoing Consent Agreement, effective immediately upon filing of this Consent Agreement and Consent Order with the Regional Hearing Clerk. This Order disposes of this matter pursuant to 40 C.F.R. § 22.18(c).

Dated:

August 2, 1999



*fx*  
Francis X. Lyons  
Regional Administrator  
Region 5

U.S. Environmental Protection Agency

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CERTIFICATE OF SERVICE AUG -3 12:21

I, Betty Williams, do hereby certify that the original of the foregoing Administrative Complaint and a original of the foregoing Consent Agreement and Consent Order (CACO), was hand delivered to the Regional Hearing Clerk, Region 5, United States Environmental Protection Agency, and that correct copies, along with a copy of the "Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation or Suspension of Permits," 40 C.F.R. Part 22, and a copy of the Penalty Policy (described in the Compliant) was mailed first-class, postage prepaid, certified mail, return receipt requested, to the Respondent and Respondent's Counsel by placing it in the custody of the United States Postal Service addressed as follows:

Michael Sulzberger, General Manager  
Prairie Central Cooperative  
Route 1, Box 230  
Chenoa, Illinois 61726

Rick Saines  
Gardner Carton & Douglas  
321 N. Clark  
Chicago, Illinois 60610

David Kolaz, Manager  
Compliance and Systems Management Section  
Bureau of Air  
Illinois Environmental Protection Agency  
1021 North Grand Avenue East  
Springfield, Illinois 62702

Richard Jennings, Regional Manager  
Region II  
Illinois Environmental Protection Agency  
5415 North University Avenue  
Peoria, Illinois 61614

on the 3rd day of August, 1999.

  
Betty Williams, Secretary  
AECAS (IL/IN)

CERTIFIED MAIL RECEIPT NUMBER: P140779156