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

SEP 23 2015

REPLY TO THE ATTENTION OF:

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Brian Wanzenried, Director of Environmental
The Gavilon Group, LLC
1331 Capitol Avenue
Omaha, Nebraska 68102-1106

Dear Mr. Wanzenried:

Enclosed is a file-stamped Consent Agreement and Final Order (CAFO) which resolves Clean Air Act violations at Gavilon Grain, LLC Abingdon, Illinois and Alexis, Illinois; and Gavilon Global Ag Holdings, LLC, Joliet, Illinois **CAA-05-2015-0060** As indicated by the filing stamp on its first page, we filed the CAFO with the Regional Hearing Clerk on 9/23/2015.

Pursuant to paragraph 69 of the CAFO, Gavilon Grain, LLC and Gavilon Global Ag Holdings, LLC must pay the civil penalty within 30 days of _____. Your check or electronic funds transfer must display must display the case name Gavilon Grain, LLC and Gavilon Global Ag Holdings, LLC and the docket number **CAA-05-2015-0060**.

Please direct any questions regarding this case to Andre Daugavietis, Attorney, at (312) 886-6663.

Sincerely,

Nathan Frank, Chief
Enforcement and Compliance Assurance Section (IL/IN)

Enclosure

cc: Regional Judicial Officer/C-14J
Regional Hearing Clerk/E-19J
Andre Daugavietis/C-14J
Eric Jones, IEPA

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UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5

In the Matter of:	)	**Docket No. CAA-05-2015-0060**
	)	
Gavilon Grain, LLC	)	**Proceeding to Assess a Civil Penalty**
Abingdon, IL	)	**Under Section 113(d) of the Clean Air Act,**
	)	**42 U.S.C. § 7413(d)**
Gavilon Grain, LLC	)	
Alexis, IL	)	
	)	
Gavilon Global Ag Holdings, LLC	)	
Joliet, IL	)	

REGIONAL HEARING CLERK
RECEIVED
SEP 23 2015
U.S. ENVIRONMENTAL PROTECTION AGENCY
REGION 5

Consent Agreement and Final Order

Preliminary Statement

1. This is an administrative action commenced and concluded under Section 113(d) of the Clean Air Act (the CAA), 42 U.S.C. § 7413(d), and Sections 22.1(a)(2), 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. Complainant is the Director of the Air and Radiation Division, U.S. Environmental Protection Agency (EPA), Region 5.

3. Respondents are Gavilon Grain, LLC and Gavilon Global Ag Holdings, LLC, Delaware LLC's doing business in Illinois (collectively referenced herein as "Gavilon").

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. Respondents consent to the assessment of the civil penalty specified in this CAFO and to the terms of this CAFO.

Jurisdiction and Waiver of Right to Hearing

7. Respondents admit the jurisdictional allegations in this CAFO and neither admit nor deny the factual allegations or allegations of violation in this CAFO.

8. Respondents waive their 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 110 of the CAA, 42 U.S.C. § 7410, requires each state to adopt and submit to EPA for approval a SIP that provides for the implementation, maintenance, and enforcement of the National Ambient Air Quality Standards (NAAQS).

10. On May 31, 1972, EPA approved Illinois Pollution Control Board (IPCB) Rule 103(a)(1) and (b)(1), as part of the federally-enforceable State Implementation Plan (SIP) for the State of Illinois. 37 Fed. Reg. 10842. Illinois has since revised and recodified IPCB Rule 103(a)(1) and (b)(1) at 35 Ill. Admin. Code §§ 201.142 and 201.143, respectively.

11. The Illinois SIP at Rule 103(a)(1) [35 Ill. Admin. Code § 201.142] provides that "[n]o person shall cause or allow the construction of any new emission source or any new air pollution control equipment, or cause or allow the modification of any existing emission source of air pollution equipment, without first obtaining a construction permit from the [Illinois Environmental Protection Agency (IEPA)]." The Illinois SIP at Rule 103(b)(1) [35 Ill. Admin. Code § 201.143] provides that "[n]o person shall cause or allow the operation of any emission source or new air pollution control equipment, for which a construction permit is required . . . , without first obtaining an operating permit from [IEPA]."

12. On February 21, 1980, EPA approved IPCB Rule 203 as part of the federally enforceable SIP for the State of Illinois. 45 Fed. Reg. 11493. IPCB Rule 203 is codified at 35 Ill. Admin. Code §§ 212.461 and 212.462.

13. The Illinois SIP at Rule 203(d)(9)(A) [35 Ill. Admin. Code § 212.461(b)] sets forth certain housekeeping practices that all grain-handling and grain-drying operations must implement regardless of size. These include:

a. Air pollution control devices shall be checked daily and cleaned as necessary to insure proper operation.

b. Cleaning and Maintenance.

   i. Floors shall be kept swept and cleaned from boot pit to cupola floor. Roof or bin decks and other exposed flat surfaces shall be kept clean of grain and dust that would tend to rot or become airborne.

   ii. Cleaning shall be handled in such a manner as not to permit dust to escape to the atmosphere.

   iii. The yard and surrounding area, including but not limited to ditches and curbs, shall be cleaned to prevent the accumulation of rotting grain.

c. Dump pit.

   i. Aspiration equipment shall be maintained and operated.

   ii. Dust control devices shall be maintained and operated.

d. Head House. The head house shall be maintained in such a fashion that visible quantities of dust or dirt are not allowed to escape to the atmosphere.

e. Property. The yard and driveway of any source shall be asphalted, oiled, or equivalently treated to control dust.

f. Housekeeping Check List. Housekeeping check lists to be developed by the Agency shall be completed by the manager and maintained on the premises for inspection by Agency personnel.

14. The Illinois SIP at Rule 203(d)(9)(B) [35 Ill. Admin. Code § 212.462] provides that new and modified grain handling operations (for which construction or modification commenced on or after June 30 1975), with an annual grain through-put of 300,000 bushels or greater, shall, inter alia, apply for construction and operating permits pursuant to Rule 103 [35 Ill. Adm. Code §§ 201.142 and 201.143], and comply with the control equipment requirements of Rule 203(d)(9)(B) [35 Ill. Admin. Code § 212.462].

15. On May 31, 1972, EPA approved IPCB Rule 101 [35 Ill. Admin. Code § 201.102] as part of the federally-enforceable SIP for the State of Illinois. 37 Fed. Reg. 10862. The Illinois SIP at Rule 101 [35 Ill. Admin. Code § 201.102] defines "construction" as, "commencement of on-site fabrication, erection or installation of an emission source or of air pollution control equipment."

16. The Illinois SIP at Rule 203(d)(9)(B) [35 Ill. Admin. Code § 212.462] requires subject grain elevators to adhere to the following requirements:

a. Apply induced draft to major dump pits and associated equipment (including, but not limited to, boots, hoppers and legs) to such an extent that a minimum face velocity is maintained, at the effective grate surface, sufficient to contain particulate emissions generated in unloading operations. The minimum face velocity at the effective grate surface shall be at least 200 feet per minute which shall be determined in accordance with the formula provided. Illinois SIP at Rule 203(d)(9)(B)(ii)(a)(1) [35 Ill. Admin. Code § 212.462(b)(1)(A)].

b. Induced draft air stream is confined and conveyed through air pollution control equipment, which has an overall rated and actual particulate collection efficiency of not less than 90%, by weight. Illinois SIP at Rule 203(d)(9)(B)(ii)(a)(2) [35 Ill. Admin. Code § 212.462(b)(1)(B)]. The induced draft air stream for grain-handling sources having a grain through-put exceeding 2 million bushels per year and located in a major population area shall be confined and conveyed through air pollution control equipment which has an overall rated and actual particulate

collection efficiency of not less than 98 percent by weight. Illinois SIP Rule 203(c)(9)(B)(ii)(a)(3) [35 Ill. Admin. Code § 212.462(b)(1)(C)].

c. Means or devices (including, but not limited to, quick-closing doors, air curtains or wind deflectors) shall be employed to prevent a wind velocity in excess of 50% of the induced draft face velocity at the pit; provided, however, that such means or devices do not have to achieve the same degree of prevention when the ambient air wind exceeds 25 mph. Illinois SIP at Rule 203(d)(9)(B)(ii)(a)(4) [35 Ill. Admin. Code § 212.462(b)(1)(D)].

17. The Illinois SIP at Rule 203(d)(9)(B)(iv)(a) [35 Ill. Admin. Code § 212.462(d)(1)] requires truck and hopper car loading to "employ socks, sleeves or equivalent devices which extend six inches below the sides of the receiving vehicle."

18. Box car loading must "employ means or devices to prevent the emission of particulate matter into the atmosphere to the fullest extent which is technologically and economically feasible." Illinois SIP at Rule 203(d)(9)(B)(iv)(b) [35 Ill. Admin. Code § 212.462(d)(2)].

19. The owner or operator of a new or existing affected facility was required to comply with the requirements of IPCB Rule 203 [35 Ill. Admin. Code §§ 212.461 and 212.462] by February 21, 1980.

Permit Background

20. On June 11, 2009, IEPA issued a Lifetime General Operating Permit for Grain Elevator – NSPS Source #76020050 for a grain elevator with various pieces of equipment located in Abingdon, Illinois (Abingdon Facility).

21. Condition 5b. of permit #76020050 provides, "The Permittee shall implement and perform the required housekeeping practices identified in 35 Ill. Adm. Code § 212.461(b)(1) through (b)(5) and maintain a housekeeping check list for the grain elevator pursuant to 35 Ill. Adm. Code § 212.461(b)(6)."

22. Condition 6b. ii. of permit #76020050 provides, "Each such dryer shall be inspected for any leaks in enclosures and proper operation of the external sheeting, on at least an annual basis prior to the harvest season." Condition 11a., of permit #76020050 requires the Permittee to maintain records of such inspections.

23. Condition 6c. ii. of permit #76020050 provides, "The grain elevator shall be inspected for presence of visible emissions from internal transfer and cleaning, while such activity is occurring, at least once each week when such activity is performed."

24. Condition 6d. i. of permit #76020050 provides, "Grain load-out shall be conducted with socks, sleeves or equivalent devices, extending to within at least 6 inches below the sides of the receiving vehicle except for topping off."

25. On June 11, 2009, IEPA issued a Lifetime General Operating Permit for Grain Elevator – NSPS Source #76010346 for a grain elevator with various pieces of equipment located in Alexis, Illinois (Alexis Facility).

26. Condition 5c. ii. of permit #76010346 provides, "The grain elevator shall be inspected for presence of visible emissions from internal transfer and cleaning, while such activity is occurring, at least once each week when such activity is performed."

27. Condition 5d. i. of permit #76010346 provides, "Grain load-out shall be conducted with socks, sleeves or equivalent devices, extending to within at least 6 inches below the sides of the receiving vehicle except for topping off."

28. Condition 5.d. ii. of permit #76010346 states, "Grain load-out socks, sleeves and equivalent devices shall be inspected for proper operation while load-out is occurring, at least once each week when grain load-out is performed."

29. On July 28, 2010, IEPA issued a construction permit, #10050023, for a "grain and DDG transloading terminal" in Joliet, Illinois (Joliet Facility). On July 26, 2013, IEPA issued to the Joliet Facility a construction permit, #13040004.

30. Paragraph 2e. of Permit #10050023 and paragraph 2e. of Permit #1304004 provide that, pursuant to 35 Ill. Admin. Code § 212.461(b), all grain handling operations at the Joliet Facility, regardless of size, must implement and use the housekeeping practices listed in 35 Ill. Admin. Code § 212.461(b).

31. Paragraph 2f. of permit #10050023 and paragraph 2f. of permit #13040004 provide that, pursuant to 35 Ill. Admin. Code § 212.462(b), (c), and (d), unless otherwise exempted pursuant to 35 Ill. Admin. Code § 212.461(b) or (d), or allowed to use alternate control according to 35 Ill. Admin. Code § 212.461(g), new or modified grain-handling operations for which construction or modification commenced on or after June 30, 1975 and with a total annual grain through-put of 300,000 bushels or more shall demonstrate compliance with the requirements of 35 Ill. Admin. Code § 212.462(b), (c), and (d).

32. Paragraph 6e. of permit #10050023 and paragraph 6f. of permit #13040004 provide that, "The Permittee shall, in accordance with manufacturer(s) and/or vendor(s) recommendations, perform periodic maintenance on the dust collector and bin vents such that the dust collector and bin vents are kept in proper working condition and not cause a violation of the Environmental Protection Act or regulations promulgated therein."

33. Paragraph 12a. of permit #10050023 and paragraph 12a. of permit #13040004 state: "The Permittee shall maintain records of the following terms so as to demonstrate compliance with the conditions of this permit:

a. Records of housekeeping checklists
b. ...

c. Records addressing use of good operating practices for the dust collector and bin vents;

i. Records for periodic inspection of the dust collector and bin vents with date, individual performing the inspection, and nature of the inspection; and;

ii. Records for prompt repair of defects, with identification and description of defect, effect on emissions, date identified, date repaired, and nature of repair…

34. The Administrator of EPA (the Administrator) may assess a civil penalty of up to $37,500 per day of violation up to a total of $295,000 for violations that occurred between January 13, 2009 and December 6, 2013 and $37,500 per day of violation, with a maximum of $320,000 for violations that occurred after December 6, 2013, under Section 113(d)(1) of the CAA, 42 U.S.C. § 7413(d)(1), and 40 C.F.R. Part 19.

35. Section 113(d)(1) limits the Administrator's authority to matters where the first alleged date of violation occurred no more than 12 months prior to initiation of the administrative action, except where the Administrator and the Attorney General of the United States jointly determine that a matter involving a longer period of violation is appropriate for an administrative penalty action.

36. The Administrator and the Attorney General of the United States, each through their respective delegates, have determined jointly that an administrative penalty action is appropriate for the period of violations alleged in this CAFO.

Factual Allegations and Alleged Violations

Abingdon Facility Factual Allegations

37. Gavilon Grain, LLC owns and operates a grain elevator located at 306 Knox Road 650 N, Abingdon, Knox County, Illinois 61410 (the Abingdon Facility).

38. The Facility handles soybeans and corn with the aid of trucks, dump pits, belt conveyors, cleaners, two dryers, truck load-outs, and storage bins in a manner that creates particulate matter.

39. On September 27-28, 2012, EPA representatives performed an inspection of the Facility. On November 29, 2012, EPA issued a Request for Information to the Facility (which was returned and then re-sent to the Gavilon Galesburg facility on December 7, 2012). On December 17, 2012, EPA received Gavilon's response to EPA's Request for Information.

40. In its Request for Information, EPA asked Gavilon to provide copies of information from any inspections of the dryers conducted in the last two years to meet the requirement of Gavilon's Lifetime Operating Permit # 76020050 Condition 6b.ii. In response to this request, Gavilon stated: "Gavilon facility personnel conduct a variety of dryer inspections, and related maintenance as appropriate, before harvest, during use (harvest) and after harvest. For each dryer, the facility has a list of inspection items and routine maintenance tasks that indicate the appropriate frequency for each inspection and task...The facility has written dryer inspection procedures..." In its response to EPA's Request for Information, Gavilon submitted copies of its dryer inspection items indicating frequencies of inspection tasks and its dryer inspection procedures.

41. During the September 27-28, 2012 inspection, EPA representatives observed the following:

a. Loadout Areas: A sock, sleeve or equivalent device did not extend six inches below the side of a truck that was next to the load out area at the Facility. The Facility stated that truck loadouts did not have sleeves that extend six inches into the vehicles.

b. Facility Cleaning and Housekeeping: Loose grains and dust were scattered on the yard and surrounding area of the facility and on exposed flat surfaces; some of the loose grains and dust were in piles; the gravel driveways were dusty; visible

emissions were present while trucks were driving on the roadways; and the facility stated that it did not use water or oil to treat its gravel roadways.

c. The Facility provided copies of its September 2012 "Grain Closing Time Inspection Report,"; copies of its "Weekly Housekeeping Inspection Log" documents for 7/6/12 through 7/20/12; copies of its "Weekly Plant Inspection Report" documents for 8/10/12 through 9/21/12; and copies of its "Weekly Plant Inspection and Housekeeping Report" documents for 7/27/12 through 9/21/12. The checklists did not include checks of the internal transferring area.

Abingdon Facility Violation Allegations

42. By not inspecting the internal transferring area of the Abingdon Facility once per week Gavilon Grain, LLC was in violation of Condition 6c.ii. of operating permit #76020050.

43. By failing to keep grounds and other exposed flat surfaces at the Abingdon Facility clean of grain and dust that would tend to rot or become airborne, Gavilon Grain, LLC was in violation of Illinois SIP at Rule 203(d)(9)(A) [35 Ill. Admin. Code § 212.461(b)] and Condition 5b. of operating permit #76020050.

44. By failing to asphalt, oil or equivalently treat the yard and driveway to control dust at the Abingdon Facility, Gavilon Grain, LLC was in violation of Illinois SIP at Rule 203(d)(9)(A) [35 Ill. Admin. Code § 212.461(b)] and Condition 5b. of operating permit #76020050.

45. By failing to use socks or sleeves or equivalent devices that extend six inches below the sides of vehicles during loading at the Abingdon Facility, Gavilon Grain, LLC was in violation of Condition 6d.i. of operating permit #76020050.

46. By failing to inspect the Abingdon Facility's dryers for leaks in the enclosures and proper operation of the external sheeting on at least an annual basis prior to the harvest season and to maintain records of such inspections, Gavilon Grain, LLC was in violation of Conditions 6b. ii. and 11a. of permit #76020050.

47. On January 11, 2013, EPA issued a Notice of Violation (NOV) to the Abingdon Facility including notice of each of the above alleged violations.

Alexis Facility Factual Allegations

48. Gavilon Grain, LLC owns and operates a grain elevator located at 400 East Palmer Avenue, Alexis, Warren County, Illinois 61412 (the Alexis Facility).

49. The Alexis Facility handles soybeans and corn with the aid of trucks, dump pits, belt conveyors, cleaners, screeners, dryers, and storage bins in a manner that creates particulate matter.

50. EPA representatives performed an inspection at the Alexis Facility on September 28, 2012, and observed the following:

a. Loadout Area: Some of the load-out sleeves at the Alexis Facility were torn.

b. Facility Cleaning and Housekeeping: Grains were scattered on the yard and roads of the Facility. Driveways were dusty and this resulted in particulate matter pollution as trucks drove over them. A representative of the Facility said that roads are not watered.

c. Housekeeping Checklists: The Alexis Facility provided copies of its housekeeping checklists from July 30, 2012 to September 24, 2012. The checklists were completed weekly and did not include checks of the internal transferring area, the cleaning area, or the load-out sleeves.

Alexis Facility Violation Allegations

51. By not inspecting the internal transferring area and cleaning area of the Alexis Facility once per week Gavilon Grain, LLC was in violation of Condition 5c. ii. of permit #76010346.

52. By not inspecting the load-out area of the Alexis Facility once per week, Gavilon Grain, LLC was in violation of Condition 5.d. ii. of permit #76010346.

53. By failing to keep grounds and other exposed flat surfaces at the Alexis Facility clean of grain and dust that would tend to rot or become airborne, Gavilon Grain, LLC was in violation of Illinois SIP at Rule 203(d)(9)(A) [35 Ill. Admin. Code § 212.461(b)].

54. By failing to asphalt, oil or equivalently treat the yard and driveway to control dust at the Alexis Facility, Gavilon Grain, LLC was in violation of Illinois SIP at Rule 203(d)(9)(A) [35 Ill. Admin. Code § 212.461(b)].

55. By failing to use socks or sleeves or equivalent devices that extend six inches below the sides of vehicles during loading at the Alexis Facility, Gavilon Grain, LLC was in violation of Condition 5d.i. of operating permit #76010346.

56. On January 11, 2013, EPA issued a NOV to the Alexis Facility including notice of each of the above alleged violations.

Joliet Facility Factual Allegations

57. Gavilon Global Ag Holdings, LLC owns and operates the Joliet Facility, a "grain and DDG transloading terminal" located at 1955 Patterson Road, Joliet, Will County, Illinois 60436, that completed construction in or around May or June 2011.

58. The Joliet Facility is located in Joliet, Will County, Illinois, and thus is located in a "major population area," as defined in the Illinois SIP at Part 211 (M words) [35 Ill. Admin. Code § 211.3610].

59. The Joliet Facility receives, transfers, handles, stores and loads soybeans, dried distillers grain, corn gluten meal and other grain and feed ingredients with the aid of trucks, dump pits, belt conveyors, load-outs, and storage containers in a manner that creates particulate matter.

60. On July 9, 2012, EPA representatives performed an inspection of the Joliet Facility.

61. Based on information Gavilon submitted to EPA on July 9, 2012, and after the inspection through electronic mail, the Joliet Facility had inbound shipments of grain totalling 148,874 tons and outbound shipments totalling 148,874 tons for the period June 2011 through May 2011. Using a conversion factor of 56 pounds per bushels, this translates to 5,316,928 bushels.

62. During the July 9, 2012 inspection, EPA representatives made observations including following:

a. Facility Cleaning and Housekeeping: Loose grains and particulate matter were scattered on the yard and surrounding area of the Joliet Facility and on exposed flat surfaces; some of the loose grains and dust were in piles; the gravel driveways were dusty; visible emissions were present while trucks were driving on the internal roadways; and the Facility did not have any housekeeping records.

b. The Joliet Facility provided copies of its "Dust System Inspection" report which it uses to document monthly inspections of the dust system (baghouse). The checklists did not show the air pollution control system (baghouse) being checked daily.

Joliet Facility Violation Allegations

63. By failing to check air pollution control devices at the Joliet Facility daily to insure proper operation and failing to keep records of such daily checks, Gavilon Global Ag Holdings was in violation of the Illinois SIP at Rule 203(d)(9)(A) [35 Ill. Admin. Code § 212.461(b)] and Paragraphs 2e. and 12a. of construction permit #10050023.

64. By failing to keep grounds and other exposed flat surfaces clean of grain and dust that would tend to rot or become airborne, Gavilon Global Ag Holdings was in violation of the Illinois SIP at Rule 203(d)(9)(A) [35 Ill. Admin. Code § 212.461(b)] and Paragraph 2e. of construction permit #10050023.

65. By failing to adequately asphalt, oil or equivalently treat the yard and driveway to control dust, Gavilon Global Ag Holdings was in violation of the Illinois SIP at Rule 203(d)(9)(A) [35 Ill. Admin. Code § 212.461(b)] and Paragraph 2e. of construction permit #10050023.

66. By failing to maintain housekeeping checklists, Gavilon Global Ag Holdings was in violation of the Illinois SIP at Rule 203(d)(9)(A) [35 Ill. Admin. Code § 212.461(b)] and Paragraphs 2e. and 12a. of construction permit #10050023.

67. On March 26, 2013, EPA issued a NOV to the Joliet Facility including notice of each of the above alleged violations.

Civil Penalty

68. Based on analysis of the factors specified in Section 113(e) of the CAA, 42 U.S.C. § 7413(e), the facts of this case and Respondents' co-operation and willingness to take steps to come into compliance, Complainant has determined that an appropriate civil penalty to settle this action is $ 268,000.00. Respondents agree to pay this amount to settle these matters.

69. Within 30 days after the effective date of this CAFO, Respondents must pay a $ 268,000.00 civil penalty by cashier's or certified check, by electronic funds transfer, by Automated Clearinghouse (ACH) (also known as REX or remittance express), or online. If payment is made by cashier's or certified check, make the check payable to "Treasurer, United States of America," to:

U.S. EPA
Fines and Penalties
Cincinnati Finance Center
P.O. Box 979077
St. Louis, Missouri 63197-9000

For checks sent by express mail (non-U.S. Postal Service which won't deliver mail to P.O. Boxes) send a casher's or certified check, payable to "Treasurer, United States of America," to:

U.S. Bank
Government Lockbox 979077
U.S. EPA Fines and Penalties
1005 Convention Plaza
Mail Station SL-MO-C2-GL
St. Louis, Missouri 63101

The check must note Respondents' names, and the docket number of this CAFO.

For an electronic funds transfer, make payable to "Treasurer, United States of America," and send to:

Federal Reserve Bank of New York
ABA No. 021030004
Account No. 68010727
33 Liberty Street
New York, New York 10045

Field Tag 4200 of the Fedwire message should read:
"D68010727 Environmental Protection Agency"

In the comment or description field of the electronic funds transfer, state Respondents' names, and the docket number of this CAFO.

For ACH, also known as REX or remittance express, make ACH electronic funds transfer payable to "Treasurer, United States of America," and send to:

US Treasury REX/Cashlink ACH Receiver
ABA: 051036706
Account Number: 310006, Environmental Protection Agency
CTX Format Transaction Code 22-checking

In the comment area of the electronic funds transfer, state Respondents' names, and the docket number of this CAFO.

To pay on-line, go to www.pay.gov. Use the Search Public Forms option on the tool bar and enter SFO 1.1 in the search field. Open the form and complete the required fields.

70. Respondents must send a notice of payment that states Respondents' names, and the docket number of this CAFO, to EPA at the following addresses when it pays the penalty:

Attn: Compliance Tracker (AE-17J)
Air Enforcement and Compliance Assurance Branch
Air and Radiation Division
U.S. Environmental Protection Agency, Region 5
77 W. Jackson Boulevard
Chicago, Illinois 60604

Andre Daugavietis (C-14J)
Office of Regional Counsel
U.S. Environmental Protection Agency, Region 5
77 W. Jackson Boulevard
Chicago, Illinois 60604

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

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

72. If Respondents do not timely pay the civil penalty, EPA may request the Attorney General of the United States to bring an action to collect any unpaid portion of the penalty with interest, nonpayment penalties and the United States enforcement expenses for the collection action under Section 113(d)(5) of the CAA, 42 U.S.C. § 7413(d)(5). The validity, amount and appropriateness of the civil penalty are not reviewable in a collection action.

73. Respondents must pay the following on any amount overdue under this CAFO. Interest will accrue on any overdue amount from the date payment was due at a rate established by the Secretary of the Treasury pursuant to 26 U.S.C. § 6621(a)(2). Respondents must pay the United States enforcement expenses, including but not limited to attorney's fees and costs incurred by the United States for collection proceedings. In addition, Respondents must pay a quarterly nonpayment penalty each quarter during which the assessed penalty is overdue. This

nonpayment penalty will be 10 percent of the aggregate amount of the outstanding penalties and nonpayment penalties accrued from the beginning of the quarter. 42 U.S.C. § 7413(d)(5).

74. Respondents must submit all notices and reports required by this CAFO by first-class mail to the Compliance Tracker of the Air Enforcement and Compliance Assurance Branch at the address provided in paragraph 70, above.

75. In each report that a 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, it 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.

General Provisions

76. This CAFO resolves only Respondents' liability for federal civil penalties for the violations alleged in this CAFO, and the NOVs issued to the three facilities by EPA, as described above, dated January 11, 2013, and March 26, 2013.

77. In entering into the settlement described in this document, EPA relies upon the accuracy of Respondents' representations to EPA regarding compliance measures the Respondents have taken and are taking, as memorialized in Respondents' letters dated May 15, 2013, and an electronic mail message dated October 21, 2014.

78. The CAFO does not affect the rights of EPA or the United States to pursue appropriate injunctive or other equitable relief or criminal sanctions for any violation of law.

79. This CAFO does not affect Respondents' responsibility to comply with the CAA and other applicable federal, state and local laws. Except as provided in paragraph 76, above,

compliance with this CAFO will not be a defense to any actions subsequently commenced pursuant to federal laws administered by EPA.

80. Each Respondent certifies that it is complying fully with the Illinois SIP and its permits issued thereunder, at the Alexis Facility, Abingdon Facility and Joliet Facility.

81. This CAFO constitutes an "enforcement response" as that term is used in EPA's Clean Air Act Stationary Civil Penalty Policy to determine Respondent's "full compliance history" under Section 113(e) of the CAA, 42 U.S.C. § 7413(e).

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

83. 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.

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

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

Gavilon Grain, LLC, Respondent

9-11-15
Date

B. [illegible] VP Ops
Name, Title
Gavilon Grain, LLC

Gavilon Global Ag Holdings, LLC, Respondent

9-11-15
Date

B. [illegible] VP Ops
Name, Title
Gavilon Global Ag Holdings, LLC

United States Environmental Protection Agency, Complainant

9/18/15
Date

[illegible] for
George T. Czerniak
Director
Air and Radiation Division
U.S. Environmental Protection Agency, Region 5

Consent Agreement and Final Order
In the Matter of: Gavilon Grain, LLC and Gavilon Global Ag Holdings, LLC
Docket No. CAA-05-2015-0060

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.

21 September 2015
Date

Susan Hedman
Regional Administrator
U.S. Environmental Protection Agency
Region 5

In the matter of:
Docket Number: **CAA-05-2015-0060**

CERTIFICATE OF SERVICE

I certify that I served a true and correct copy of the foregoing ***Consent Agreement and Final Order***, which was filed on September 23, 2015, in the following manner to the addressees:

Copy by Certified Mail
Return-receipt:

Brian Wanzenrie, Director of Environmental
The Gavilon Group
1331 Capitol Avenue
Omaha, Nebraska 68101-1106

Copy by E-mail to
Attorney for Complainant:

Andre Daugavietis
daugavietis.andre@epa.gov

Copy by E-mail to
Regional Judicial Officer:

Ann Coyle
coyle.ann@epa.gov

Dated: September 23, 2015

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

CERTIFIED MAIL RECEIPT NUMBER(S): 7011 1150 0000 2640 4871