

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

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SEP 01 2004

STATE OF ILLINOIS
Pollution Control Board

PEOPLE OF THE STATE OF ILLINOIS,)
 ex rel. LISA MADIGAN, Attorney)
 General of the State of Illinois)
)
 Complainant,)
)
 v.)
)
 ATKINSON GRAIN & FERTILIZER, INC.,)
 a Delaware Corporation,)
)
 Respondent.)

PCB 04-15
(Enforcement-Water)

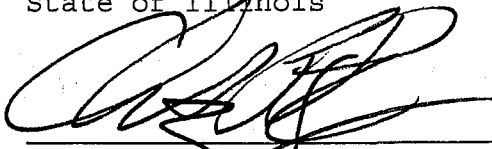
NOTICE OF FILING

TO: See Attached Service List

PLEASE TAKE NOTICE that on September 1, 2004, we filed with the Illinois Pollution Control Board the attached Stipulation and Proposal for Settlement and Motion for Relief From Hearing Requirement, true and correct copies of which are attached and hereby served upon you.

Respectfully submitted,

LISA MADIGAN
Attorney General
State of Illinois

BY: 
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 Environmental Bureau
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PEOPLE OF THE STATE OF ILLINOIS,)
ex rel. LISA MADIGAN, Attorney)
General of the State of Illinois,)
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Complainant,)
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v.) PCB 04-15
) (Enforcement-Water)
ATKINSON GRAIN & FERTILIZER, INC.,)
a Delaware corporation,)
)
Respondent.)

STIPULATION AND PROPOSAL FOR SETTLEMENT

Complainant, PEOPLE OF THE STATE OF ILLINOIS, by LISA MADIGAN, Attorney General of the State of Illinois, on her own motion, and at the request of the Illinois Environmental Protection Agency ("Illinois EPA"), and Respondent, ATKINSON GRAIN & FERTILIZER, INC. ("AGF"), do hereby submit this Stipulation and Proposal for Settlement. The parties agree that the Complainant's statement of facts contained herein is agreed to only for the purposes of settlement. The parties further state that neither the fact that a party has entered into this stipulation, nor any of the facts stipulated herein, shall be admissible into evidence, or used for any purpose in this, or any other proceeding, except to enforce the terms hereof, by the parties to this agreement. Notwithstanding the previous sentence, this Stipulation and Proposal for Settlement, and any Illinois Pollution Control Board ("Board") order accepting same, may be used as evidence of a past adjudicated violation of the Act as alleged herein, pursuant to Section 42(h) of the Illinois Environmental Protection Act ("Act"), 415 ILCS 5/42(h)(2002), in determining mitigation or aggravation of appropriate civil penalties for any future violations of the Act.

This Stipulation may also be used in any permitting action for the purposes of Section 39(i) of the Act, 415 ILCS 5/39(i) (2002). This Stipulation and Proposal for Settlement shall be null and void unless the Board approves and disposes of this matter on each and every one of the terms and conditions of the settlement set forth herein.

I.

JURISDICTION

The Board has jurisdiction of the subject matter herein and of the parties consenting hereto pursuant to the Act, 415 ILCS 5/1 et seq. (2002).

II.

AUTHORIZATION

The undersigned representatives for each party certify that they are fully authorized by the party whom they represent to enter into the terms and conditions of this Stipulation and Proposal for Settlement and to legally bind them to it.

III.

APPLICABILITY

This Stipulation and Proposal for Settlement shall apply to, and be binding upon, the Complainant and AGF, and any officer, agent, employee or servant of AGF, as well as the AGF's successors and assigns. AGF shall not raise as a defense to any enforcement action taken pursuant to this settlement the failure of its officers,

directors, agents, servants or employees to take such action as shall be required to comply with the provisions of this settlement.

IV.

STATEMENT OF FACTS

1. The Illinois EPA is an administrative agency of the State of Illinois, created pursuant to Section 4 of the Act, 415 ILCS 5/4 (2002), and is charged, *inter alia*, with the duty of enforcing the Act.

2. Respondent AGF, at all times relevant to the Complaint in this matter, was and is a Delaware corporation in good standing and authorized to conduct business in the State of Illinois.

3. Respondent AGF, at all times relevant to the Complaint in this matter, has owned and operated a facility located at 400 N. Spring Street, Atkinson, Henry County, Illinois ("facility").

V.

VIOLATIONS

The Complaint alleges the following violations:

Count I: WATER POLLUTION; violation of Section 12(a) of the Act, 415 ILCS 5/12(a) (2002). Respondent caused, threatened or allowed water pollution in the State of Illinois as the result of a fertilizer spill on May 1, 2002.

Count II: CREATION OF A WATER POLLUTION HAZARD; violation of Section 12(d) of the Act, 415 ILCS 5/12(d) (2002). Respondent created a

water pollution hazard as the result of a fertilizer spill on May 1, 2002.

Count III: VIOLATION OF WATER QUALITY STANDARDS; violation of Section 12(a) of the Act and 35 Ill. Adm. Code 302.203, 302.208(g) and 302.212(a). Respondent caused levels of contaminants in waters of the State of Illinois to exceed water quality standards.

Count IV: DISCHARGE OF CONTAMINANTS WITHOUT NPDES PERMIT; violation of Section 12(f) of the Act, 415 ILCS 5/12(f), and 35 Ill. Adm. Code 309.102(a). Respondent discharged contaminants into waters of the State of Illinois without a permit from the Illinois EPA.

VI.

NATURE OF RESPONDENT'S OPERATIONS

Respondent owns and operates an agricultural chemical and supply business, in the course of which it manages agricultural chemicals, including fertilizers.

VIII.

FUTURE PLANS OF COMPLIANCE

AGF shall comply with all requirements of the Act, 415 ILCS 5/1 et seq. (2002), and the Illinois Pollution Control Board Regulations, 35 Ill. Adm. Code Subtitles A through H. AGF has adopted contingency and spill response plans and will diligently follow those plans. See Exhibit 1, which is hereby incorporated into this Stipulation and

Proposal for Settlement.

IX.

IMPACT ON THE PUBLIC RESULTING FROM ALLEGED NON-COMPLIANCE

Section 33(c) of the Act, 415 ILCS 5/33(c) (2002), provides as follows:

In making its orders and determinations, the Board shall take into consideration all the facts and circumstances bearing upon the reasonableness of the emissions, discharges, or deposits involved including, but not limited to:

1. the character and degree of injury to, or interference with the protection of the health, general welfare and physical property of the people;
2. the social and economic value of the pollution source;
3. the suitability or unsuitability of the pollution source to the area in which it is located, including the questions of priority of location in the area involved;
4. the technical practicability and economic reasonableness of reducing or eliminating the emissions, discharges or deposits resulting from such pollution source; and
5. any subsequent compliance.

In response to these factors, the parties state as follows:

1. Plaintiff contends that the impact to the public resulting from AGF's noncompliance was that the incident resulted in excessive levels of contaminants in waters of the State as alleged in the Complaint.

2. AGF's operations that are the subject of the Complaint have social and economic value.

3. The AGF activity that is the subject of the Complaint, i.e., the management of agricultural chemicals, is suitable to the area in which it is located.

4. Complying with the requirements of the Act and the Board Regulations is both technically practicable and economically reasonable.

5. AGF achieved compliance by removing the contaminated sediments from the spill site.

X.

CONSIDERATION OF SECTION 42(h) FACTORS

Section 42(h) of the Act, 415 ILCS 5/42(h) (2002), provides as follows:

In determining the appropriate civil penalty to be imposed under subdivisions (a), (b) (1), (b) (3), or (b) (5) of this Section, the Board is authorized to consider any matters of record in mitigation or aggravation of penalty, including but not limited to the following factors:

1. the duration and gravity of the violation;
2. the presence or absence of due diligence on the part of the violator in attempting to comply with the requirements of this Act and regulations thereunder or to secure relief therefrom as provided by this Act;
3. any economic benefits accrued by the violator because of delay in compliance with requirements;

4. the amount of monetary penalty which will serve to deter further violations by the violator and to otherwise aid in enhancing voluntary compliance with this Act by the violator and other persons similarly subject to the Act; and
5. the number, proximity in time, and gravity of previously adjudicated violations of this Act by the violator.
6. whether the respondent voluntarily self-disclosed, in accordance with subsection (i) of this Section, the non-compliance to the Agency;
7. whether the respondent has agreed to undertake a "supplemental environmental project," which means an environmentally beneficial project that a respondent agrees to undertake in settlement of an enforcement action brought under this Act, but which the respondent is not otherwise legally required to perform.

In response to these factors, the parties state as follows:

1. Complainant contends that the violations that are the subject of the Complaint occurred over as long as an approximately nine month period.

2. Complainant contends that the Respondent was not diligent in its initial response in that it washed contaminants into waters of the State, rather than containing the contaminants. Respondent contends that it immediately contacted 911 fire rescue following the incident. The Respondent further contends that the fire department arrived on scene and also washed the contaminants into waters of the State.

3. Complainant contends that the Respondent did accrue an economic benefit by delaying expenditures associated with the

implementation of an adequate spill contingency plan and those arising from the removal of contaminated sediments. Parties agree that the penalty amount is greater than the economic benefit arising from noncompliance.

4. The parties believe that a civil penalty of \$20,000.00 will deter AGF from committing further violations, and will aid in enhancing voluntary compliance by AGF and others similarly subject to the Act.

5. AGF entered into a consent order with the State of Illinois resolving alleged air, water and land violations in the Circuit Court for Henry County on April 24, 1996.

6. Respondent did not self-disclose the noncompliance pursuant to the requirements of Section 42(h)(6) of the Act, 415 ILCS 5/42(h)(6)(2002).

7. Respondent is not performing a Supplemental Environmental Project.

XI.

TERMS OF SETTLEMENT

1. The Respondent represents that it has entered into this Stipulation and Proposal for Settlement for the purpose of settling and compromising disputed claims without having to incur the expense of contested litigation. By entering into this Stipulation and Proposal for Settlement and complying with its terms, the Respondent denies each and every allegation of violations within the Complaint, and this Stipulation and Proposal for Settlement shall not be

interpreted as including such admission.

2. AGF shall pay a civil penalty of \$20,000.00 into the Environmental Protection Trust Fund within thirty (30) days after the date the Board adopts a final opinion and order approving this Stipulation and Proposal for Settlement. Payment shall be made by certified check or money order, payable to the Illinois Environmental Protection Agency, designated to the Illinois Environmental Protection Trust Fund, and shall be sent by first class mail to:

Illinois Environmental Protection Agency
Fiscal Services Section
1021 North Grand Avenue East
P.O. Box 19276
Springfield, IL 62794

A copy of the check shall be sent to:

Christopher P. Perzan
Assistant Attorney General
Environmental Bureau
188 West Randolph Street, 20th Floor
Chicago, IL 60601

AGF shall write the case caption and number, and its Federal Employer Identification Number ("FEIN"), 36-266-0405, upon the certified check or money order.

3. For purposes of payment and collection, the Respondent may be reached at the following address:

Tim Anderson, Vice President
Atkinson Grain & Fertilizer, Inc.
P.O. Box 631
Atkinson, Illinois 61235

4. Pursuant to Section 42(g) of the Act, 415 ILCS 4/42(g)(2002), interest shall accrue on any amount not paid within the time period prescribed herein, at the maximum rate allowable under

Section 1003(a) of the Illinois Income Tax Act, 35 ILCS 5/1003(a)
(2002).

a. Interest on unpaid amounts shall begin to accrue from the date the penalty is due and continue to accrue to the date payment is received.

b. Where partial payment is made on any payment amount that is due, such partial payment shall be first applied to any interest on unpaid amounts then owing.

c. All interest on amounts owed the Complainant, shall be paid by certified check payable to the Illinois Environmental Protection Agency for deposit in the Environmental Protection Trust Fund and delivered in the same manner as described in Section XI.2. herein.

5. Respondent shall diligently implement the Emergency Response and Contingency Plan, including revisions from time to time, attached as Exhibit 1.

6. AGF shall cease and desist from future violations of the Act and Board regulations that were the subject matter of the Complaint as outlined in Section V of this Stipulation and Proposal for Settlement.

XII.

COMPLIANCE WITH OTHER LAWS AND REGULATIONS

This Stipulation and Proposal for Settlement in no way affects the Respondent's responsibility to comply with any federal, state or local laws and regulations.

XIII.

RELEASE FROM LIABILITY

In consideration of the Respondent's payment of a \$20,000.00 civil penalty and its commitment to refrain from further violations of the Act and the Board Regulations, upon receipt by Complainant of the payment required by Section XI of this Stipulation, the Complainant releases, waives and discharges Respondent and its officers, directors, employees, agents, successors and assigns from any further liability or penalties for violations which were the subject matter of the Complaint herein. However, nothing in this Stipulation and Proposal for Settlement shall be construed as a waiver by Complainant of the right to redress future violations or obtain penalties with respect thereto.

WHEREFORE, Complainant and Respondent request that the Board adopt and accept the foregoing Stipulation and Proposal for Settlement as written.

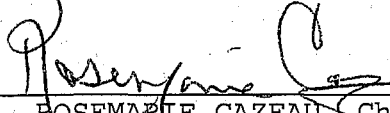
AGREED:

FOR THE COMPLAINANT:

PEOPLE OF THE STATE OF ILLINOIS

LISA MADIGAN
Attorney General
State of Illinois

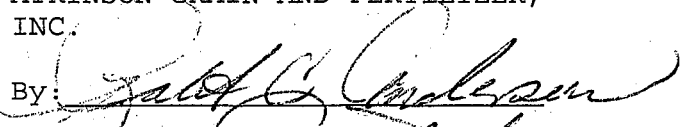
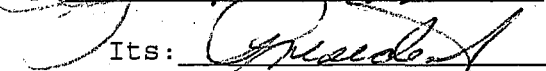
Matthew J. Dunn, Chief
Environment Enforcement /
Asbestos Litigation Division

By: 
ROSEMARIE CAZEAU, Chief
Environmental Bureau
Assistant Attorney General

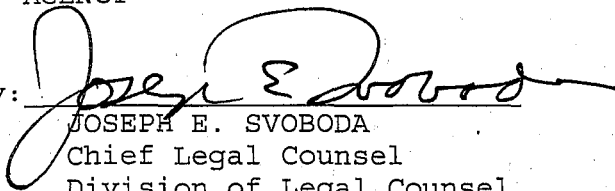
Dated: 8/13/04

FOR THE RESPONDENT:

ATKINSON-GRAIN AND FERTILIZER,
INC.

By: 
Its: 

ILLINOIS ENVIRONMENTAL PROTECTION
AGENCY

By: 
JOSEPH E. SVOBODA
Chief Legal Counsel
Division of Legal Counsel

Dated: 8-9-04

EXHIBIT 1

Emergency Response and Contingency Plan

Atkinson Grain and Fertilizer, Inc.

400 North Spring Street

Atkinson, Il. 61235

(309) 936-7177

24 Hour Emergency Contacts:

Henry County – 911

Tim Anderson – 936-7653 (home)

Dan Callison - 944-5007 (home)

Blake Haverback – 936-1444 (home)

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Page 12 - Additional Emergency Equipment and Supplies

**Page 13 - Emergency Phone Numbers, Priority Order,
Additional Information**

Emergency Contacts

Warning Device

An Internal/External communication system (loudspeakers, telephone, intercom, portable radios, etc.) is a vital part of this plan. These communication devices will be used to instruct employees where to assemble and what to do. Employees should assemble in the main office lobby. If the main office lobby is not accessible, employees should assemble by the Atkinson Grain and Fertilizer sign at the facility entrance.

Emergency Coordinator and Alternates:

Emergency Coordinator (Manager): Tim Anderson945-6049 (mobile)
936-7653 (home)

Facility Alternates: Rich Fairfield.....309-392-2978 (office)
217-737-5008 (mobile)
Blake Haverback.....936-1444 (home)
945-6048 (mobile)
Ron Thompson.....936-7478 (home)
Dan Callison.....944-5007 (home)

HAZ-MAT Response Group.....(800) 229-5252

Regional Manager: Ted Nixon.....309-392-2978

The Emergency Coordinator Will:

- 1.) Take charge of the incident and coordinate actions with the emergency response agencies.
- 2.) Determine and notify necessary facility employees.
- 3.) Notify company management through the 24 hr. emergency number.
- 4.) Assign a person to document all activities and take photographs.
- 5.) Ensure that this plan is reviewed, tested, and communicated to all employees.

Emergency Response / Agency Listing:

Police: Henry County / State Police / Fire Department..... 911
Hammond Henry Hospital 309-944-5650
IEMA - Illinois Emergency Management Agency..... 1-800-782-7860
HAZ-MAT RESPONSE..... 1-800-229-5252
National Response Center.....1-800-424-8802
(if the substance is a CERCLA hazardous substance)
Hazardous Materials Incidents..... 1-800-843-0699
Power Company: Illinois Power Co..... Gas Leak..... 1-800-755-6000
..... Wires Down..... 1-800-755-7000

Evacuation Plan

Primary Escape Route: Notify Emergency Coordinator (Tim or Dan). Assemble in front office lobby or by Atkinson Grain and Fertilizer sign for further instruction and evacuation. If evacuation from property is necessary, go up wind a safe distance, gather in a group, and check for missing or unaccounted for personnel.

Building Procedure In Case Of Fire or Storm:

Building #1 – Front Office:

1. Back up computer and shut down in case of storm if time allows.
2. Cut electrical power for office on electrical panel outside soybean dump pit.
3. Shut vault door
4. Meet at Atkinson Grain and Fertilizer sign for further instructions.
5. Advise fire department of chemical locations.
6. All employees helping must wear protective equipment.

Building #2 – Feed Mill and Warehouse:

1. Shut all outside doors if possible.
2. Cut electrical power to Building #2 on the electrical panel outside of soybean dump pit.
3. All employees involved in operation must wear the appropriate protective equipment.
4. Utilize portable radios.
5. Meet at Atkinson Grain and Fertilizer sign and await further instructions.

Building #3 – Chemical Warehouse, and Fertilizer Load Bays:

1. Shut herbicide tanks in dike if time allows
2. Shut off all electrical power in main box in electrical room.
3. Shut all outside doors.
4. Shut fertilizer tanks in dike outside.
5. Assemble in front office for further instructions.
6. End loader operator should be ready to plug tile in NE corner of earthen dike.
7. Ready portable pumping equipment to recover runoff and pump back into fertilizer dike.
8. All employees assisting in the operation must wear proper protective equipment.
9. Utilize portable radios.

Evacuation Plan (cont.)

Building #4 - Seed Warehouse and Shop:

1. Shut off electrical power on panel outside of soybean dump pit.
2. Shut off natural gas line
3. Remove all oil tanks and containers, if possible.
4. Shut all doors inside and out if time permits.
5. Be ready with loaders to contain any runoff.
6. Ready portable equipment to recover runoff and pump into tanks in fertilizer dike.
7. All employees assisting in the operation must wear proper protective equipment.
8. Utilize portable radios if needed.

Building #5 - Dry Fertilizer Warehouse and Mixing

1. Shut off electrical power on panel by liquid mixer.
2. Shut all doors inside and out if time permits.
3. Be ready with loaders to contain any runoff.
4. Ready portable equipment to recover runoff and pump into tanks in fertilizer dike.
5. All employees assisting in the operation must wear proper protective equipment.

Release and Spill Emergency Procedures

1. Notify the Emergency Coordinator.
2. Find the MSDS and follow cleanup instructions:

Anhydrous Ammonia Tanks, Lines, and Hoses:

1. Determine size and severity of the spill or leak.
2. Notify all employees and direct them to a safe area upwind from the contaminated area.
3. Notify the necessary businesses and residences depending upon the size of the spill.
4. Notify the Fire Department.
5. Stop the leak if possible – Safety equipment must be worn!!!!
6. Keep all unauthorized people a safe distance from the contaminated area.
7. Take the necessary steps to stop and contain the spill if it is safe to do so.
8. Notify the proper authorities. (see page 13 for details)
9. Make sure plenty of water is available in case of accidental exposure.
10. *Everyone near the spill or leak absolutely **MUST** wear the proper safety equipment, and should be trained in the safe handling of Anhydrous Ammonia.*

Small Leaks: per alternate release scenario of RMP Isolate, as needed, to at least 150 feet. If entering isolated area, protect from body contact. Use a gas mask with NH3 canisters.

Large Spills: per worst case scenario of RMP Isolate, as needed, to at least 300 feet. Then evacuate a downwind area .4 mile wide and .94 mile long.. To enter isolated area, use only self-contained, positive-pressure breathing apparatus and full protective clothing.

- a. Use water vapor to reduce vapor. Do not put water on a leak or liquid pool.

Propane Tanks, Lines, and Hoses:

Use water vapor to keep propane vapors from igniting, or to extinguish flame. Use proper protective clothing and breathing apparatus.

Chemical Spills and Liquid Spills on site:

- a. For chemical spills and fertilizer alert your Emergency Coordinator, then read the MSDS for instructions on protective gear and cleanup method.
Put on proper clothing and breathing apparatus.
- b. Contain the spill using limestone, dirt, or appropriate absorbent materials to stop the movement of the spill.
- c. Recover as much product as possible and clean up the affected area by using floor dry, limestone, or an appropriate absorbent material. Recover clean up material and keep dry until permits are secured. Follow all EPA and DOA instructions for remediation. This includes Land Application Permit to land apply excavated materials.

(cont'd)

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- d. Use only the proper containers for reclaimed spilled material. Label the new containers clearly with the chemical identification and the correct signal word.

POISON: Highly Toxic

DANGER: Highly Toxic

WARNING: Moderately Toxic

CAUTION: Low Toxicity

3. There shall be no flushing of contaminants into sewers, ditches, or other waters of the State. Contaminants shall in all instances be contained, captured, and removed. This should be done in the quickest way possible to prevent harm to the environment.

4. Should contaminants be released into a ditch, sewer, or other waters of the state:
 - a. Determine the path of flow away from the point of origin
 - b. Block the flow downstream ahead of the contaminants, if possible, and contain and recover the released materials as quickly as possible.
 - c. Vacuum trucks or sump pumps could be used to quickly recover pooled or contained liquids.

5. Assess environmental effect. Contact proper agencies as appropriate. Use lab testing to verify contamination.

Release and Spill Emergency Procedures OFF- SITE

1. Notify the Emergency Coordinator.
2. Find the MSDS and follow cleanup instructions

Ammonia Tanks, Lines, and Hoses:

1. Determine size and severity of the spill or leak.
2. Notify all employees and direct them to a safe area upwind from the contaminated area.
3. Notify the necessary businesses and residences depending upon the size of the spill.
4. Notify the Fire Department.
5. Stop the leak if possible – Safety equipment must be worn!!!!
6. Keep all unauthorized people a safe distance from the contaminated area.
7. Take the necessary steps to stop and contain the spill if it is safe to do so.
8. Notify the proper authorities. (see page 13 for details)
9. Make sure plenty of water is available in case of accidental exposure.
10. *Everyone near the spill or leak absolutely **MUST** wear the proper safety equipment obtained from Atkinson Grain or Fire Dept officials, and should be trained in the safe handling of Anhydrous Ammonia.*

Small Leaks: per alternate release scenario of RMP Isolate, as needed, to at least 150 feet. If entering isolated area, protect from bodily contact. Use a gas mask with NH₃ canisters.

Large Spills: per worst case scenario of RMP Isolate, as needed, to at least 300 feet. Then evacuate a downwind area .4 mile wide and .94 mile long. To enter isolated area, use only self-contained, positive-pressure breathing apparatus and full protective clothes.

Use water vapor to reduce vapor. Do not put water on a leak or liquid pool.

Propane Tanks, Lines, and Hoses:

Use water vapor to keep propane vapors from igniting, or to extinguish flame. Only personnel trained in the hazards of propane should make any attempts to fix leak or put out fire. They should use proper protective clothing and breathing apparatus.

Chemical Spills and Liquid Spills

1. For chemical spills and fertilizer alert your Emergency Coordinator, then read the MSDS for instructions on protective gear and cleanup method. Put on proper clothing and breathing apparatus obtained from AGF or Fire Department officials..
2. Contain spill using limestone, dirt, or appropriate absorbent material to stop the movement of the spill. Contact appropriate agencies. Agencies are listed on Emergency Contacts page.

(cont'd)

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3. Recover as much product as possible and clean up the affected area by using floor dry, limestone, or an appropriate absorbent material. Recover clean up material and keep dry until permits are secured. Follow all EPA and DOA instructions for remediation. This includes Land Application Permit to land apply excavated materials.
4. Use only the proper containers for reclaimed spilled material. Label the new containers clearly with the chemical identification and the correct signal word.

POISON: Highly Toxic

DANGER: Highly Toxic

WARNING: Moderately Toxic

CAUTION: Low Toxicity

5. Should contaminants be released into a ditch, sewer, or other waters of the state:
 - a. Determine the path of flow away from the point of origin
 - b. Block the flow downstream ahead of the contaminants, if possible, contain and recover the released materials as quickly as possible.
 - c. Vacuum trucks or sump pumps could be used to quickly recover pooled or contained liquids.
6. Assess environmental impact of spill using lab tests to verify contamination.

****Important :**

There shall be no flushing of contaminants into sewers, ditches, or other waters of the State. Contaminants shall in all instances be contained, captured, and removed. This should be done in the quickest method possible to prevent harm to the environment.

On-Site Permanent Storage Tanks

*******Important:** *There shall be no flushing of contaminants into sewers, ditches, or other waters of the State. Contaminants shall in all instances be contained, captured, and removed. This should be done in the quickest method possible to prevent harm to the environment.* *****

Fuel Spill and Containment Plan

1. Contain spill if possible and plug tile to the northeast by the earthen dike.
2. Call the Fire Department
3. Notify K&G of possible explosion hazard
4. Block entrances in order to keep all vehicles and people away from contaminated area
5. Cleanup area affected with the spill using proper procedures for containing, capturing, and removing the contaminated soils and liquids.
6. Proper procedures might include the use of booms, pads, or other absorbent materials.
7. A Permit for land application would be required from the EPA for soil contaminated with fuel.
8. All people involved in the containment operation must wear necessary safety equipment obtained from Atkinson Grain or Fire Dept. officials.
9. Notify all the proper authorities. (see page 13 for details)

Anhydrous Ammonia Spill and Containment Plan

1. Determine size and severity of the spill or leak.
2. Notify all employees and direct them to a safe area upwind from the contaminated area.
3. Notify the necessary businesses and residences depending upon the size of the spill.
4. Notify the Fire Department.
5. Stop the leak if possible – Safety equipment must be worn!!!!
6. Keep all unauthorized people a safe distance from the contaminated area by blocking all entrances to plant and notifying all neighbors of spill. (use isolation zone from page 6)
7. Take the necessary steps to stop and contain the spill if it is safe to do so.
8. Cleanup area affected with the spill using proper procedures for containing, capturing, and removing the contaminated soils and liquids.
9. Notify the proper authorities. (See page 13 for details)
10. Make sure plenty of water is available in case of accidental exposure.
11. *Everyone near the spill or leak absolutely **MUST** wear the proper safety equipment, and should be trained in the safe handling of Anhydrous Ammonia.*

28% Tank Containment Plan

1. Plug the tile on the NE corner of earthen dike.
2. Pump out 28% tank into other tanks if possible.
3. Pump recovered fertilizer into tanks.
4. Cleanup area affected with the spill using proper procedures for containing, capturing, and removing the contaminated soils and liquids.
5. Wear proper safety equipment obtained from AGF or Fire Dept. officials.
6. See page 6 for on site release and spill emergency procedures.
7. Notify the proper authorities. (See page 13 for details)

Employee Assignments

- Tim Anderson:** Emergency Coordinator and Media Response Person
- Dan Callison:** Call appropriate agencies, back up Tim if he is gone, have appropriate MSDS sheets available, assist recovery operation
- Blake Haverback:** Manage communications between Emergency Response and Emergency Coordinator
- Jim Geuns:** Shut off electricity, secure hazards, and shut doors in Main office as needed and as time permits
- Mike Taber:** Assist emergency personnel with locations, amounts, and types of fertilizer and chemicals in buildings and tanks
- Ron Thompson:** Coordinate loaders and portable pumps to dike, contain, and recover the spilled product and contaminants
- Mark Heitzler:** Shut down electricity, secure hazards, and shut doors in both fertilizer plants as needed and as time and safety permits. Assist with containment and recovery of spills.
- Randy Noard:** Shut down electricity, secure hazards, and shut doors in shop areas and seed warehouse as needed and as safety and time permits. Assist with containment and recovery of spills.
- Dick Zobrist:** Shut down electricity, secure hazards, and shut all doors in grain dump pits as needed and as safety and time permits
- Jeff Alexander:** Shut down electricity, secure hazards, and shut doors in feed building and old office as needed and as safety and time permits. Assist with containment and recovery of spills.
- Vern Sturtewagon, Marty Eggen, Ron Vandergenachte:** Prepare loaders, trucks, and portable pumps for use if needed for diking, containing, and recovering spill and contaminants.
- Dan Rick:** Mediator between Emergency Coordinator and Emergency Response for Hooppole plant. Work with Emergency personnel on locations and amounts of fertilizers, chemicals, and other hazards on premises
- Wes Roselieb:** Prepare and coordinate loaders, trucks, and pumps for containment, diking, and recovery of spills
- Dean Meier:** Shut off electricity, secure hazards, and shut doors on buildings as needed and as time and safety permits. Assist in diking, containment, and recovery of spills and contaminants.

Additional Emergency Equipment and Supplies**Front-End Loaders:**

Atkinson Grain
Village of Atkinson 936-7658
Steve VanOpDorp Trucking 936-7766
AGF Hoopole Plant 815-948-9111

Bull Dozers:

Ratliff Brothers-Kewanee 309-852-2222
Girten Bulldozers- Geneseo 944-6079
Cathelyn Construction – Geneseo 944-3607

Dump Trucks:

Atkinson Grain
Steve VanOpDorp Trucking 936-7766

Portable Water Pumps:

Atkinson Grain
Village of Atkinson 936-7658
Atkinson Fire Department 936-7233

Bulk Sand:

Atkinson Grain
Steve VanOpDorp trucking 936-7766

Absorbent Materials:

Atkinson Grain

Emergency Phone Numbers

THE FOLLOWING IS THE ORDER OF CALLS AND WHAT YOU DO IF YOU HAVE A RELEASE OF PRODUCT.

Local Agencies 911

Illinois Emergency Management Agency 1-800-782-7860
(document name of person and incident #)

National Response Center 1-800-424-8802
(Only if reportable quantity) Document name of person you talk to

Local LEPC ---

Illinois Department of Ag. 1-217-785-2427

Written report of events sent to Illinois Emergency Management Agency as soon as possible. Use incident number given to you by IEMA and the National Response Center.

Send to: Illinois Emergency Management Agency
110 East Adams
Springfield, IL. 62701-1109

Contain the spill, recover all you can, follow all EPA and DOA instructions for remediation.

*******. Important: There shall be no flushing of contaminants into sewers, ditches, or other waters of the State. Contaminants shall in all instances be contained, captured, and removed. This should be done in the quickest method possible to prevent harm to the environment. *******

If you use limestone or sand to clean area you will need to get a permit from the Illinois Department of Ag. to dispose of product by direct land application. Keep the recovered material dry until you are given the ok to dispose of.

*******Please keep a detailed list of events and whom you talk to.*******

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SEP 01 2004

STATE OF ILLINOIS
Pollution Control Board

PEOPLE OF THE STATE OF ILLINOIS,)
 ex rel. LISA MADIGAN, Attorney)
 General of the State of Illinois)
)
 Complainant,)
)
 v.)
)
 ATKINSON GRAIN & FERTILIZER, INC.,)
 a Delaware Corporation,)
)
 Respondent.)

PCB 04-15
(Enforcement-Water)

MOTION TO REQUEST RELIEF
FROM HEARING REQUIREMENT

NOW COMES the Complainant, PEOPLE OF THE STATE OF ILLINOIS, by LISA MADIGAN, Attorney General of the State of Illinois, and requests relief from the hearing requirement in the above-captioned matter. In support thereof, the Complainant states as follows:

1. On June 30, 2003, a Complaint was filed with the Pollution Control Board ("Board") in this matter. Simultaneously with this Motion, the parties are filing a Stipulation and Proposal for Settlement with the Board.

2. Section 31(c)(2) of the Illinois Environmental Protection Act ("Act"), 415 ILCS 5/31(c)(2), (2002) allows the parties in certain enforcement cases to request relief from the mandatory hearing requirement where the parties have submitted to the Board a stipulation and proposal for settlement. Section 31(c)(2) provides:

Notwithstanding the provisions of subdivision (1) of this subsection (c), whenever a complaint has been filed on behalf of the Agency or by the People of the State of Illinois, the parties may file with the Board a stipulation and proposal for settlement accompanied by a request for relief from the requirement of a hearing pursuant to subdivision (1). Unless the Board, in its discretion, concludes that a hearing will be

held, the Board shall cause notice of the stipulation, proposal and request for relief to be published and sent in the same manner as is required for hearing pursuant to subdivision (1) of this subsection. The notice shall include a statement that any person may file a written demand for hearing within 21 days after receiving the notice. If any person files a timely written demand for hearing, the Board shall deny the request for relief from a hearing and shall hold a hearing in accordance with the provisions of subdivision (1).

3. No hearing is currently scheduled in the instant case.

4. The Complainant requests the relief conferred by Section 31(c)(2) of the Act.

WHEREFORE, the Complainant, PEOPLE OF THE STATE OF ILLINOIS, by LISA MADIGAN, Attorney General of the State of Illinois, requests relief from the requirement of a hearing pursuant to 415 ILCS 5/31(c)(2)(2002).

Respectfully submitted,

PEOPLE OF THE STATE OF ILLINOIS,

LISA MADIGAN,
Attorney General of the
State of Illinois

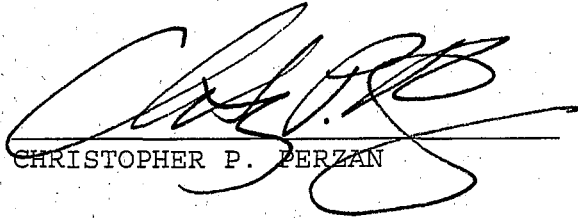
By


Christopher P. Perzan
Assistant Attorney General

Office of the Attorney General
Environmental Bureau
188 West Randolph Street, 20th Fl.
Chicago, IL 60601
312/814-3532

CERTIFICATE OF SERVICE

I, CHRISTOPHER P. PERZAN, an Assistant Attorney General, certify that on the 1st day of September, 2004, I caused to be served by Registered Certified Mail, Return Receipt Requested, the foregoing Complaint and Appearance to the parties named on the attached service list, by depositing same in postage prepaid envelopes with the United States Postal Service located at 100 West Randolph Street, Chicago, Illinois 60601.



CHRISTOPHER P. PERZAN