

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION VII  
901 NORTH FIFTH STREET  
KANSAS CITY, KANSAS 66101

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ENVIRONMENTAL PROTECTION  
AGENCY-REGION VII  
REGIONAL HEARING CLERK

BEFORE THE ADMINISTRATOR

In the Matter of )  
 )  
Nebraska Turkey Growers Cooperative ) Docket No. CAA-07-2002-0161  
12 Lawn Avenue )  
Gibbon, Nebraska )  
Respondent. )

CONSENT AGREEMENT AND FINAL ORDER

This proceeding for the assessment of a civil penalty was initiated on June 24, 2002, pursuant to Section 113(d) of the Clean Air Act, 42 U.S.C. § 7413(d), when the United States Environmental Protection Agency (EPA or Complainant) issued to Nebraska Turkey Growers Cooperative, Gibbon, Nebraska (Respondent) a Complaint and Notice of Opportunity for Hearing.

The Complaint charges Respondent with a violation of the Chemical Accident Prevention Provisions, and specifically the requirement to submit a Risk Management Plan under Section 112(r) of the Clean Air Act, 42 U.S.C. § 7412(r), and 40 C.F.R. Part 68. The Complaint alleges the one day statutory maximum penalty of Twenty-seven Thousand Five Hundred Dollars (\$27,500).

EPA and Respondent entered into negotiations in an attempt to settle the allegations contained in the Complaint; this Consent Agreement and Final Order are the result of such negotiations.

CONSENT AGREEMENT

1. For purposes of this proceeding, Respondent admits the jurisdictional allegations of the Complaint and neither admits nor denies the factual allegations of the Complaint.
2. Respondent certifies by the signing of this Consent Agreement and Final Order that to the best of its knowledge, Respondent's facility is presently in compliance with all requirements of Section 112(r) of the Clean Air Act, 42 U.S.C. § 7412(r), and all regulations promulgated thereunder.
3. Respondent waives its right to a judicial or administrative hearing on any issue of fact or law set forth in the Complaint.
4. Respondent and EPA agree to conciliate this matter without the necessity of a formal hearing and to bear their respective costs and attorney's fees.
5. Following issuance of the Complaint, Respondent submitted financial records demonstrating that the Respondent did not have the ability to pay the penalty alleged in the Complaint.
6. Although not required by the Clean Air Act or any other federal, state or local law, in settlement of this matter, Respondent agrees to donate a computer and related software to the Gibbon Volunteer Fire Department, which is the local fire department. The computer and software will be used by the fire department as part of its HAZMAT Mobile Command Center for mapping the fire district and emergency response. Respondent agrees to donate the computer and software on or before November 30, 2002.
7. Respondent consents to the issuance of the Final Order hereinafter recited and consents to the payment of the civil penalty as set forth below.

8. Respondent understands that failure to pay any portion of the civil penalty assessed herein in accordance with the provisions of this Order may result in commencement of a civil action in Federal District Court to recover the total penalty proposed in the Complaint, together with interest thereon at the applicable statutory rate.

FINAL ORDER

Pursuant to the provisions of the Clean Air Act, 42 U.S.C. § 7401, and based upon the information set forth in this Consent Agreement, IT IS HEREBY ORDERED THAT:

1. Respondent shall pay a mitigated civil penalty of Two Thousand Dollars (\$2,000) within thirty (30) days of entry of this Final Order. Payment shall be by cashier's or certified check, made payable to the "United States Treasury" and remitted to:

EPA-Region VII  
c/o Mellon Bank  
P.O. Box 360748M  
Pittsburgh, Pennsylvania 15251.

2. A copy of the check should be sent to:

Julie M. Van Horn  
EPA-Region VII  
Office of Regional Counsel  
901 North Fifth Street  
Kansas City, Kansas 66101.

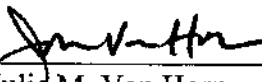
3. Respondent shall donate a computer and software to the Gibbon Volunteer Fire Department by November 30, 2002. Respondent shall notify EPA in writing within thirty (30) days of donation of the computer and software.

4. In the event Respondent fails to implement the supplemental environmental project set forth in paragraph 6 of the Consent Agreement, Respondent shall pay a stipulated penalty of

Three Thousand Dollars (\$3,000). Such stipulated penalty shall become immediately due and payable upon notice by EPA.


5. Respondent and Complainant shall bear their own costs and attorneys' fees incurred as a result of this matter.

COMPLAINANT:  
UNITED STATES ENVIRONMENTAL  
PROTECTION AGENCY

By   
Julie M. Van Horn  
Senior Assistant Regional Counsel

Date 4 November 2002


RESPONDENT:  
NEBRASKA TURKEY  
GROWERS COOPERATIVE  
GIBBON, NEBRASKA

By 

Title General Manager

Date 10/28/2002

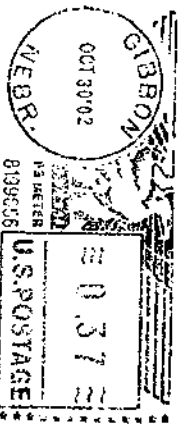
IT IS SO ORDERED. This Final Order shall become effective immediately.

  
Karina Borromeo  
Regional Judicial Officer

Date Nov. 5, 2002

**NEBRASKA TURKEY GROWERS COOPERATIVE**

P.O. BOX 640 • GIBBON, NEBRASKA 68840



EPA-REGION VII  
C/O MELLON BANK  
PO BOX 360748M  
PITTSBURGH PA 15251

Docket No. CAA-07-2002-0161  
REMITTER



**EXCHANGE BANK**  
Gibbon, Nebraska 68840

4404

Nebraska Turkey Growers  
12 LHMN AVE GIBBON NE 68840  
PAY TO THE ORDER OF United States Treasury

DATE 10-30-2002

76-333/1048

\$2000.00

THE SUM OF TWO THOUSAND DOLLARS

DOLLARS

**CASHIER'S CHECK**

⑆004404⑆ ⑆104903333⑆ 2135⑆

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IN THE MATTER OF Nebraska Turkey Growers Cooperative, Respondent  
Docket No. CAA-07-2002-0161

CERTIFICATE OF SERVICE

I certify that the foregoing Consent Agreement and Final Order was sent this day in the following manner to the addressees:


Copy hand delivered to  
Attorney for Complainant:

Julie Van Horn  
Senior Assistant Regional Counsel  
Region VII  
United States Environmental Protection Agency  
901 N. 5<sup>th</sup> Street  
Kansas City, Kansas 66101

Copy by U.S. Certified Mail,  
Return Receipt Requested, to:

Larry W. Beucke  
Parker, Grossart, Bahensky & Beucke  
1516 First Avenue, P.O. Box 1600  
Kearney, Nebraska 68848

Dated: 11/5/02

  
Kathy Robinson  
Regional Hearing Clerk