

PUBLIC NOTICE
U. S. ENVIRONMENTAL PROTECTION AGENCY, REGION 4
WATER PROTECTION DIVISION
NPDES PERMITTING AND ENFORCEMENT BRANCH
ATLANTA FEDERAL CENTER
61 FORSYTH STREET, S.W.
ATLANTA, GEORGIA 30303

DATE: August 21, 2017

PUBLIC NOTICE No. CWA-04-2017-4510(b)

**Notice of Proposed Issuance of
Consent Agreement and Final Order**

The U.S. Environmental Protection Agency (EPA), Region 4, proposes to issue a Consent Agreement and Final Order (CAFO), Docket No. CWA-04-2017-4510(b), that assesses an administrative penalty of \$75,500.00 to Cargill, Incorporated, (Respondent), 1579 Underwood Road, Fayetteville, North Carolina under the authority of Section 309(g)(2)(B) of the Clean Water Act (CWA) 33 U.S.C. § 1319(g)(2)(B).

The CAFO will settle the EPA allegations that the Respondent violated Section 301 of the CWA, 33 U.S.C. § 1311, by discharging stormwater associated with industrial activity into waters of the United States while in violation of the State of North Carolina's *Storm Water Discharges Associated with Industrial Activity, General Permit No. NCG060000*, at its industrial facility known as Cargill, Incorporated, located at 1579 Underwood Road, Fayetteville, North Carolina.

Any person wishing to comment on any aspect of the proposed CAFO may submit such comments in writing to the Regional Hearing Clerk at U.S. EPA, Atlanta Federal Center, 61 Forsyth Street, S.W., Atlanta, Georgia, 30303. Comments must be submitted within 30 days of the date of this notice. Please include the Public Notice Number and the Docket Number with any submitted comments.

Because this matter involves a CWA Section 309(g) proceeding that is proposed to be simultaneously commenced and settled under 40 C.F.R. § 22.13(b), the EPA cannot resolve or settle this CAFO until ten days after the close of the public comment period in accordance with 40 C.F.R. § 22.45 (b) and (c).

FOR FURTHER INFORMATION: Persons wishing to receive a copy of the *Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits*, 40 C.F.R. Part 22, which apply to this matter, or comment upon the proposed penalty assessment, should contact the Regional Hearing Clerk identified above. Unless otherwise noted, the public record for this action is located in the EPA Regional Office at 61 Forsyth Street, S.W., Atlanta, Georgia, and the file will be open for public inspection between 9:00 a.m. and 4:00 p.m., Monday through Friday.

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 4**

IN THE MATTER OF:)	
)	CONSENT AGREEMENT AND
CARGILL, INCORPORATED)	FINAL ORDER
FAYETTEVILLE, NORTH CAROLINA,)	
)	
RESPONDENT.)	DOCKET NO. CWA-04-2017-4510(b)
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CONSENT AGREEMENT

I. Statutory Authority

1. This is a civil penalty proceeding pursuant to Section 309(g)(2)(B) of the Clean Water Act ("CWA"), 33 U.S.C. § 1319(g)(2)(B), and the *Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties, Issuance of Compliance or Corrective Action Orders and the Revocation, Termination or Suspension of Permits*, including Subpart I, published at 64 Fed. Reg. 40,176 (July 23, 1999) and codified at 40 Code of Federal Regulations ("C.F.R.") Part 22.

2. The authority to take action under Section 309(g)(2)(B) of the CWA, 33 U.S.C. § 1319(g)(2)(B), is vested in the Administrator of the United States Environmental Protection Agency (EPA). The Administrator has delegated this authority to the Regional Administrator of EPA, Region 4, who in turn has delegated this authority to the Director of the Water Protection Division, of the EPA, Region 4 ("Complainant").

II. Allegations

3. Cargill, Incorporated, ("Respondent") is a corporation formed under the laws of the State of Delaware and is therefore a "person" within the meaning of Section 502(5) of the CWA, 33 U.S.C. § 1362(5).

4. At all times relevant to this action, Respondent owned and/or operated a soybean and peanut processing facility ("Facility"), as identified by Standard Industrial Classification ("SIC") Code 2075, located at 1579 Underwood Road, Fayetteville, North Carolina 28312.

5. To accomplish the objective of the CWA, defined in Section 101(a) of the CWA, 33 U.S.C. § 1251(a), to restore and maintain the chemical, physical and biological integrity of the nation's waters, Section 301(a) of the CWA, 33 U.S.C. § 1311(a), prohibits the discharge of pollutants by any person into waters of the United States except as in compliance with a National Pollutant Discharge Elimination System ("NPDES") permit issued pursuant to Section 402 of the CWA, 33 U.S.C. § 1342.

6. Section 402 of the CWA, 33 U.S.C. § 1342, establishes a NPDES Permit Program authorizing the EPA or authorized states to administer the NPDES Permit Program, including the issuance of NPDES permits allowing for the discharge of pollutants, including stormwater, into navigable waters subject to specific terms and conditions. The EPA has granted the State of North Carolina, through the North Carolina Department of Environmental Quality ("NCDEQ"), approval to issue NPDES permits pursuant to Section 402(b) of the CWA.

7. The NCDEQ issued *General Permit to Discharge Stormwater Under the National Pollutant Discharge Elimination System*, Permit No. *NCG060000* ("Permit") for establishments primarily engaged in food and kindred products in accordance with the North Carolina General Statute 143-215.1 and the CWA. The Permit became effective December 1, 2012, and will expire on October 31, 2017. Coverage under the Permit is obtained by submitting a Notice of Intent ("NOI") to NCDEQ.

8. The Respondent's permit was renewed on December 4, 2012, and requires Respondent to comply with all provisions of the Permit.

9. Part II, Section A, Paragraph 1(a) of the Permit requires that the Stormwater Pollution Prevention Plan ("SPPP") contain: "A general location map, showing the facility's location in relation to transportation routes and surface waters; the name of the receiving waters to which the stormwater outfalls discharge," and "accurate latitude and longitude of the points of stormwater discharge associated with industrial activity," as well as "identify whether any receiving waters are impaired or if the site is located in a watershed for which a TMDL has been established."

10. Part II, Section A, Paragraph 1(b) of the Permit requires that the SPPP contain: "A narrative description of storage practices, loading and unloading activities, outdoor process areas, dust or particulate generating or control processes, and waste disposal practices. A narrative description of the potential pollutants that could be expected to be present in the stormwater discharge from each outfall."

11. Part II, Section A, Paragraph 1(c) of the Permit requires that the SPPP contain: "A site map drawn at a scale sufficient to clearly depict: the site property boundary; the stormwater discharge outfalls; all on-site and adjacent surface waters and wetlands; industrial activity areas; site topography and finished grade; all drainage features and structures; drainage area boundaries and total contributing areas for each outfall; direction of flow in each drainage area; industrial activities occurring in each drainage area; buildings; stormwater Best Management Practices ("BMPs"); and impervious surfaces. The site map must indicate the percentage of each drainage area that is impervious, and the site map must include a graphic scale indication and north arrow."

12. Part II, Section A, Paragraph 2 of the Permit specifies: "The Stormwater Management Strategy shall contain a narrative description of the materials management practices employed which control or minimize the stormwater exposure of significant materials, including structural and nonstructural measures."

13. Part II, Section A, Paragraph 8 of the Permit specifies: "The permittee shall amend the SPPP whenever there is a change in design, construction, operation, site drainage, maintenance, or configuration of the physical features which may have a significant effect on the potential for the discharge of pollutants to surface waters. All aspects of the SPPP shall be reviewed and updated on an annual basis."

14. Part II, Section B of the Permit specifies that stormwater samples be collected after a dry weather interval of at least 72 hours from a previous storm event and within the first 30 minutes of discharge (first flush condition).

15. Part II, Section B of the Permit specifies that semi-annual monitoring is required for all discharge characteristics at each stormwater discharge outfall.

16. Part II, Section B, Tier One of the Permit specifies: "If: The first valid sampling results are above a benchmark value, or outside of the benchmark range, for any parameter at any outfall; Then: The permittee shall conduct a stormwater management inspection of the facility within two weeks of receiving sampling results. Identify and evaluate possible causes of the benchmark value exceedance. Identify potential and select the specific: source controls, operational controls, or physical improvements to reduce concentrations of the parameters of concern, and/or to bring concentrations within the benchmark range. Implement the selected actions within two months of the inspection. Record each instance of a Tier One response in the SPPP. Include the date and value of the benchmark exceedance, the inspection date, the personnel conducting the inspection, the selected actions, and the date the selected actions were implemented."

17. Part III, Section C, Paragraph 1 of the Permit specifies: "The permittee shall at all times properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) which are installed or used by the permittee to achieve compliance with the conditions of this permit."

18. Part III, Section D, Paragraph 2 of the Permit specifies: "For each measurement or sample taken pursuant to the requirement of this general permit, the permittee shall record ... the individual who performed the sampling or measurements."

19. Part III, Section D, Paragraph 4 of the Permit requires that test procedures for the analysis of pollutants conform to 40 C.F.R. Part 136. The approved procedure for analyzing pH in 40 C.F.R. Part 136 is the electrode method.

20. On February 10, 2016, representatives of the EPA, in conjunction with the NCDEQ, performed a Compliance Stormwater Evaluation Inspection ("CSWEI") at the Facility to evaluate the Respondent's compliance with the requirements of Section 301 of the CWA, 33 U.S.C. § 1311; the regulations promulgated thereunder at 40 C.F.R. § 122.26; and the Permit.

21. Based on the EPA's observation during the CSWEI and the review of information provided to the EPA by the Respondent, the EPA has determined that the Respondent has failed to comply with the CWA, its implementing regulations, and the Permit.

22. Locks Creek (Waterbody ID: NC18-28) and the Cape Fear River (Waterbody ID: NC18-(26)a) are two impaired waterbodies that were not discussed in the TMDL provision of the SPPP (Section 2.1.1) nor were they identified in a general location map in violation of Part II, Section A, Paragraph 1(a) of the Permit.

23. The “V” area, which contained exposed scrap materials and junk parts, and the truck parking area across Underwood Road were not identified and evaluated in the SPPP as a potential pollutant source in violation of Part II, Section A, Paragraph 1(b) of the Permit.

24. The catchment basin and the sand filter basin were existing structural stormwater BMPs that were not depicted on the site map in violation of Part II, Section A, Paragraph 1(c) of the Permit.

25. A stormwater outfall, identified in the updated SPPP as Outfall FV006, was not identified in the December 2015 SPPP nor the Facility’s site map as a permitted outfall in violation of Part II, Section A, Paragraph 1(c) of the Permit.

26. Section 4 of the SPPP did not include all the BMPs employed onsite. The sand filter basin for stormwater treatment, the catchment basin installed as a result of benchmark exceedances, and the mechanical sweeper used for housekeeping were BMPs that were not summarized in the SPPP as part of the Stormwater Management Strategy in violation of Part II, Section A, Paragraph 2 of the Permit.

27. Respondent’s SPPP violated Part II, Section A, Paragraph 8 of the Permit by failing to amend, update, and modify according to the following site conditions and operations:

- a. The 2’x2’x2’ catchment basin installed in December 2014 as a result of benchmark exceedances was not added to the SPPP. The SPPP had no information on how the design and operation of the catchment basin would reduce pollutant discharges through outfall FV002.
- b. The “V” area with its storage of junk parts and the truck parking area across Underwood Road were not evaluated in the SPPP as potential sources of exposed material which may have had a significant effect on the potential for discharge of pollutants to surface waters.
- c. The BMPs in Section 4 of the SPPP did not identify and discuss the design and operation of the sand filter basin for stormwater treatment.
- d. The Facility’s exposed material list in Table 2-1 of the SPPP did not reflect the current site conditions. Several locations for these exposed materials had changed.
- e. The truck staging and parking area across Underwood Road was not evaluated in the SPPP for erosion and sediment control.

- f. Locks Creek (Waterbody ID: NC18-28) and Cape Fear River (Waterbody ID: NC18-(26)a) have an impaired designated use of fish consumption with a Mercury TMDL. The TMDL Provision of the SPPP (Section 2.1.1) did not evaluate whether the discharges from Respondent had any significant effect on these two impaired waterbodies.
28. A stormwater outfall, identified in the updated SPPP as Outfall FV006, was not identified in the December 2015 SPPP nor the Facility's site map as a permitted outfall. The Facility did not have documentation of semi-annual monitoring at this outfall in violation of Part II, Section B of the Permit.
29. The sampling log did not record the time when the discharge began. The only time recorded was the time of grab sample. The Facility did not have documentation of sampling within the first 30 minutes of flow (first flush condition) in violation of Part II, Section B of the Permit.
30. Respondent failed to record each instance of a Tier One response in the SPPP. Also, there were no status reports on the effectiveness of each of the following Tier One responses in the SPPP and in the routine site inspection reports in violation of Part II, Section B, Tier One of the Permit:
- a. Exceedances of benchmark values occurred at Outfalls FV002, FV003, and FV004. The permit requires the permittee to conduct a stormwater management inspection within two weeks of receiving sampling results, identify and evaluate possible causes of the benchmark value exceedance, and/or install stormwater BMPs in a tiered program. Outfall FV003's benchmark exceedances were: 7/21/2013 for Chemical Oxygen Demand ("COD") & Total Suspended Solids ("TSS"), and 10/7/2013 for pH. A Tier 1 Checklist was completed only for the pH exceedance and the date of the inspection was not recorded, yet it is required to take place within two weeks of the sample date. No specific controls or improvements were identified to bring the concentrations within the benchmark range. No possible onsite causes were evaluated and an assumption was made that acid rainfall was the cause of the exceedance.
 - b. At outfall FV002, a substantial number of benchmark exceedances occurred for COD and TSS. The 10/7/2013 Tier 1 Checklist for TSS and COD exceedances lacked necessary information. The checklist said to "Identify and evaluation of possible causes. Explain." The response was "Post Shutdown Equipment in Area." This does not evaluate or explain the exceedance of TSS or COD. The date of the inspection was not recorded, yet it was required to take place within two weeks of the sample date. Also, in a 2014 feasibility study, a catchment basin was installed in December 2014. However, this basin had no apparent impact on reducing the COD and TSS exceedances at outfall FV002.

- c. Outfall FV004's benchmark exceedances were: 5/18/2013 COD, 4/7/2014 COD & TSS, 7/21/2014 TSS. The Facility conducted monthly benchmark sampling after the two consecutive TSS exceedances for August 2014-December 2015. The 4/7/14 Tier 1 Checklist that was performed for TSS and COD exceedances lacked necessary information. The date of the inspection was not recorded, yet it is required to take place within two weeks of the sample date.

31. Respondent violated Part III, Section C, Paragraph 1 of the Permit regarding proper operation and maintenance practices. During the EPA's on-site evaluation of pollutant sources and SPPP implementation, the following operation and maintenance deficiencies were observed:

- a. The covered loading/unloading area "B" had a fair amount of spilled materials on the floor.
- b. The material storage area had three uncovered dumpsters; two with organic materials and one with trash materials.
- c. The EPA observed several areas where good housekeeping practices were deficient:
 - 1. The grain drying area had grain dust and grain materials on the ground.
 - 2. The raw soybean dump area had grain on the ground.
 - 3. Exposed soybean meal storage with soybean meal and grain dust several inches thick was observed on the ground.
 - 4. The material storage area had various materials on the ground.
- d. Secondary containment for the chemical tote storage was ½ full of liquid. The lock at the drain pipe was unlocked. This could have potentially caused site personnel to accidentally release this liquid without properly evaluating the pollutant level.
- e. The EPA observed the following areas where sediment and erosion controls were lacking:
 - 1. Sediment deposit was observed in the roadway and in the ditch at the River Road entrance area.
 - 2. Construction activity along Building 1 did not appear to have the necessary state permit for construction activity due to the Facility having more than 1 acre cumulatively disturbed. No perimeter BMPs were observed, resulting in uncontrolled sediment loss outside of the construction area.
 - 3. Extensive sediment accumulation was observed surrounding outfall FV002.
 - 4. Small rills were observed in several areas along the "V" area.
 - 5. The truck staging and parking area across Underwood Road was not evaluated in the SPPP for erosion and sediment control.

- f. Concrete staining from a past spill draining into a ditch along Underwood Road was observed.
 - g. The “V” area had a large amount of unprotected and uncovered used equipment and parts. Staining on the ground was observed in many spots throughout the disposal area.
32. Chain of Custody forms did not have signatures of all individuals who handled the samples in violation of Part III, Section D, Paragraph 2 of the Permit.
33. Laboratory bench data showed that the test procedure for pH was conducted with a paper pH test strip instead of the approved electrode probe/meter equipment in violation of Part III, Section D, Paragraph 4 of the Permit.
34. Based on the CSWEI and due to the hydrology of the Facility and historic rainfall data, the EPA has determined that from September 2012 to March 2016, stormwater associated with industrial activities discharged to Locks Creek, a tributary of the Cape Fear River. The Cape Fear River is a traditionally navigable water of the United States as defined by Section 502(7) of the Act, 33 U.S.C. § 1362(7) and its implementing regulations at 40 C.F.R. § 122.2. This discharge occurred while the Facility was in violation of the Permit.
35. Therefore, the Respondent has violated Section 301 of the CWA, 33 U.S.C. § 1311.

III. Stipulations and Findings

36. Complainant and the Respondent have conferred for the purpose of settlement pursuant to 40 C.F.R. § 22.18 and desire to resolve this matter and settle the allegations described herein without a formal hearing. Therefore, without the taking of any evidence or testimony, the making of any argument or the adjudication of any issue in this matter, and in accordance with 40 C.F.R. § 22.13(b), this Consent Agreement and Final Order (“CA/FO”) will simultaneously commence and conclude this matter.
37. For the purposes of this CA/FO, the Respondent admits the jurisdictional allegations set out above, but neither admits nor denies the factual allegations set forth above.
38. The Respondent hereby waives its right to contest the allegations set out above and its right to appeal the Final Order accompanying this Consent Agreement.
39. The Respondent consents to the assessment of and agrees to pay the civil penalty as set forth in this CA/FO and consents to the other conditions set forth in this CA/FO.
40. By signing this CA/FO, the Respondent certifies that the information it has supplied concerning this matter was at the time of submission, and is, truthful, accurate, and complete for each such submission, response and statement. The Respondent realizes that there

are significant penalties for submitting false or misleading information, including the possibility of fines and/or imprisonment for knowing submission of such information.

41. The EPA reserves the right to assess and collect any and all civil penalties for any violation described herein to the extent that any information or certification provided by the Respondent was materially false or inaccurate at the time such information or certification was provided to the EPA.

42. Complainant and the Respondent agree to settle this matter by their execution of this CA/FO. The parties agree that the settlement of this matter is in the public interest and that this CA/FO is consistent with the applicable requirements of the CWA.

IV. Payment

43. Pursuant to Section 309(g)(2)(B) of the CWA, 33 U.S.C. § 1319(g)(2)(B), and 40 C.F.R. Part 19, and considering the nature of the violations and other relevant factors, the EPA has determined that Seventy-five thousand five hundred dollars (\$75,500) is an appropriate civil penalty to settle this action.

44. The Respondent shall submit payment of the penalty specified in the preceding paragraph within thirty (30) days of the effective date of this CA/FO via a cashier's or certified check, payable to the order of "Treasurer, United States of America." The check shall reference on its face the name of the Respondent and the Docket Number of this CA/FO. Such payment shall be tendered to:

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

45. At the time of payment, the Respondent shall send a separate copy of the check, and a written statement that payment has been made in accordance with this CA/FO, to the following persons at the following addresses:

Regional Hearing Clerk
U.S. Environmental Protection Agency, Region 4
61 Forsyth Street, S.W.
Atlanta, Georgia 30303-8960

and

Ms. Mary Mattox
U.S. Environmental Protection Agency, Region 4
Water Protection Division
NPDES Permitting and Enforcement Branch
Municipal and Industrial Enforcement Section
61 Forsyth Street, S.W.
Atlanta, Georgia 30303-8960

46. The penalty amount specified above shall represent civil penalties assessed by the EPA and shall not be deductible for purposes of federal taxes.

47. Pursuant to Section 309(g)(9) of the CWA, 33 U.S.C. § 1319(g)(9), failure by the Respondent to pay the penalty assessed by the CA/FO in full by its due date may subject the Respondent to a civil action to collect the assessed penalty plus interest (at currently prevailing rates from the effective date of this CA/FO), attorney's fees, costs for collection proceedings and a quarterly nonpayment penalty for each quarter during which such failure to pay persists. Such nonpayment penalty shall be in an amount equal to twenty percent (20%) of the aggregate amount of such penalty and nonpayment penalty which are unpaid as of the beginning of such quarter. In any such collection action, the validity, amount and appropriateness of the penalty and of this CA/FO shall not be subject to review.

V. General Provisions

48. This CA/FO shall not relieve the Respondent of its obligation to comply with all applicable provisions of federal, state, or local law, nor shall it be construed to be a ruling on, or determination of, any issue related to any federal, state or local permit. Other than as expressed herein, compliance with this CA/FO shall not be a defense to any actions subsequently commenced pursuant to federal laws and regulations administered by the EPA.

49. Issuance of this CA/FO shall not be deemed as prohibiting, altering, or in any way limiting the ability of the EPA to pursue any other enforcement actions available to it under law. Such actions may include, without limitation, any administrative, civil, or criminal action to seek penalties, fines, injunctive, or other appropriate relief, or to initiate an action for imminent and substantial endangerment, under the CWA or any other federal or state statute, regulation, or permit.

50. Except as otherwise set forth herein, this CA/FO constitutes a settlement by Complainant and the Respondent of all claims for civil penalties pursuant to the CWA with respect to only those violations alleged in this CA/FO. Except as otherwise set forth herein, compliance with this CA/FO shall resolve the allegations of violations contained herein.

51. Nothing in this CA/FO is intended to nor shall be construed to operate in any way to resolve any criminal liability of the Respondent, or other liability resulting from violations that were not alleged in this CA/FO.

52. Each undersigned representative of the parties to this CA/FO certifies that he or she is fully authorized to enter into the terms and conditions of this CA/FO and to execute and legally bind that party to it.

53. This CA/FO applies to and is binding upon the Respondent and its officers, directors, employees, agents, successors and assigns.

54. Any change in the legal status of the Respondent, including but not limited to any transfer of assets of real or personal property, shall not alter the Respondent's responsibilities under this CA/FO.

55. Each party shall bear its own costs and attorney's fees in connection with the action resolved by this CA/FO.

56. In accordance with 40 C.F.R. § 22.5, the individuals below are authorized to receive service related to this proceeding:

For Complainant:

Patrick B. Johnson
Associate Regional Counsel
U.S. Environmental Protection Agency, Region 4
61 Forsyth Street, S.W.
Atlanta, Georgia 30303-8960
(404) 562-9574

For Respondent:

Adam G. Sowatzka
Partner
King & Spalding LLP
1180 Peachtree Street, N.E.
Atlanta, Georgia 30309-3521
(404) 572-3508

57. The parties acknowledge and agree that this CA/FO is subject to the requirements of 40 C.F.R. § 22.45(c)(4), which provides a right to petition to set aside a proposed CA/FO based on comments received during the public comment period.

58. Pursuant to Section 309(g) of the CWA, 33 U.S.C. § 1319(g), and 40 C.F.R. § 22.38(b), Complainant represents that the State of North Carolina was provided a prior opportunity to consult with Complainant regarding this matter.

59. Effective upon signature of this CA/FO by the Respondent, the Respondent agrees that the time period commencing on the date of its signature and ending on the date the EPA receives from the Respondent the payment required by this CA/FO shall not be included in


computing the running of any statute of limitations potentially applicable to any action brought by the EPA related to the matters addressed in this CA/FO and that, in any action brought by the EPA related to the matters addressed, the Respondent will not assert, and may not maintain, any defense or claim based upon principles of statute of limitations, waiver, laches, estoppel, or other defense based on the passage of time during such period. If the EPA gives notice to the Respondent that it will not make this CA/FO effective, the statute of limitations shall begin to run again commencing ninety days after the date such notice is sent by the EPA.

VI. Effective Date

60. The effective date of this CA/FO shall be the date on which the CA/FO is filed with the Regional Hearing Clerk.

AGREED AND CONSENTED TO:

BY THE RESPONDENT, CARGILL, INCORPORATED:



Don Camden
Commercial Manager, East
Cargill, Incorporated

Date: 7/31/2017

For COMPLAINANT, U.S. ENVIRONMENTAL PROTECTION AGENCY, REGION 4:

Mary S. Walker
Director
Water Protection Division
U.S. EPA, Region 4

Date: _____

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 4**

IN THE MATTER OF:)	
)	
CARGILL, INCORPORATED)	CONSENT AGREEMENT AND
FAYETTEVILLE, NORTH CAROLINA)	FINAL ORDER
)	
RESPONDENT.)	DOCKET NO. CWA-04-2017-4510(b)
_____)	

FINAL ORDER

In accordance with the *Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties, Issuance of Compliance or Corrective Action Orders and the Revocation, Termination or Suspension of Permits*, including Subpart I, 40 C.F.R. Part 22, and authorities delegated to me, the foregoing Consent Agreement is hereby approved and incorporated by reference into this Final Order. Pursuant to Section 309(g)(2)(B) of the CWA, 33 U.S.C. § 1319(g)(2)(B), the Respondent is hereby ordered to comply with the terms of the foregoing Consent Agreement.

U.S. ENVIRONMENTAL PROTECTION AGENCY

Date: _____

V. Anne Heard
Acting Regional Administrator

CERTIFICATE OF SERVICE

The undersigned certifies that a true and correct copy of the attached **CONSENT AGREEMENT AND FINAL ORDER** in the matter of Cargill Incorporated, Docket No. CWA-04-2017-4510(b) (filed with the Regional Hearing Clerk on _____, 2017) was served on _____, 2017, in the manner specified to each of the persons listed below.

By hand-delivery: Patrick B. Johnson
Associate Regional Counsel
U.S. Environmental Protection Agency, Region 4
61 Forsyth Street, S.W.
Atlanta, Georgia 30303-8960

By certified mail,
return receipt requested: Adam G. Sowatzka
Partner
King & Spalding LLP
1180 Peachtree Street, N.E.
Atlanta, Georgia 30309-3521
(404) 572-3508

Mike Randell, Stormwater Program Engineer
NC Division of Energy, Mineral and Land Resources
NC Department of Environmental Quality
1612 Mail Service Center
Raleigh, NC 27699-1612

Toby Vinson, Chief of Program Operations
NC Division of Energy, Mineral and Land Resources
NC Department of Environmental Quality
1612 Mail Service Center
Raleigh, NC 27699-1612

Patricia A. Bullock
Regional Hearing Clerk
U.S. Environmental Protection Agency, Region 4
61 Forsyth Street, S.W.
Atlanta, Georgia 30303-8960
(404) 562-9511