REDACTED VERSION

McCOY
LEAVITT
LASKEY

JOHN V. McCOY, *Trial Lawyer*
N19 W24200 RIVERWOOD DRIVE, SUITE 125
WAUKESHA, WI 53188
800-599-8300
JMcCoy@MLLlaw.com

June 20, 2013

Via Email Transmission:
blj@otsc.tamu.edu

Mr. Ben Jones, Associate Director
Office of the Texas State Chemist
Texas AgriLife Research
Texas A&M University System
P. O. Box 3160
College Station, TX 77841

Re: Adair Grain, Inc. d/b/a West Fertilizer
June 24-28 Removal of Corn and Milo East of Jerry Mashek Dr.

Dear Mr. Jones:

This letter will serve to put the Office of the Texas State Chemist on notice of West Fertilizer's plans for removal of the corn and milo piles east of Jerry Mashek Dr. A copy of this letter is being sent to the EPA, TCEQ and the CSB. A copy of the off-site debris removal protocol, including the corn and milo removal, is also attached for your review.

We request authority to perform the following:

Under the direction of the independent site manager, Crane Engineering, and with interested parties in attendance:

1. The corn and milo piles will be sifted for foreign debris (which debris will be removed);

2. The corn and milo will be tested by Grones Environmental for contaminants as required by the TCEQ and the Texas State Chemists (with all appropriate forms filled out);

3. The corn and milo will be loaded onto trailers; and

4. The corn and milo will be land filled at the Itasca Landfill – assuming the testing allows this form of disposal.

9420350

We anticipate the removal of the corn and milo will occur towards the end of the week (Thursday or Friday).

Very truly yours,

McCOY LEAVITT LASKEY LLC

John V. McCoy

JVM/MRR/ljb
Enclosure
cc via email: Mathew R. Rosek, Esq.
Matt Wilber, Crane Engineering
Chuck Keith, Crane Engineering
L. Hayes Fuller, III, Esq.
Johnny Banks, CSB
Ed Quinones, EPA
Mark Hayes, EPA
David Van Soest, TCEQ

CRANE ENGINEERING

This protocol is distributed by Crane Engineering as developed by the Steering Committee.

Crane File No.:	B7990
Crane Descriptor:	SUP – WEST FERTILIZER – WEST TEXAS
Date of Loss:	April 17, 2013

Date:	June 24, 2013
Time:	8:30 a.m.
Location:	West Fertilizer Site, 1471 Jerry Mashek Drive, West, Texas **Interested parties should meet in the West High School parking lot.**

Protocol for Removal of Debris Piles East of the West Fertilizer Site
RE: LARGE DEBRIS PILE AND CORN/MILO PILES EAST OF JERRY MASHEK DRIVE

This inspection will begin on Monday, June 24, 2013 beginning at 8:30 AM and will continue during daylight hours until completion of the removal of material on the east side of Jerry Mashek Road. Crane Engineering will provide an updated site safety plan that is specific to operations on the east side of Jerry Mashek Road. This will be distributed in a separate communication.

This inspection will be limited to the material piles on the east side of Jerry Mashek Road. Access to the West Fertilizer property will be limited to the Crane site trailer and facilities located adjacent to the trailer.

1. The property owner [redacted] (b) (6) [redacted], [redacted] (b) (6) [redacted], has requested that the "Large Debris Pile" (LDP) be immediately removed from her property;

2. The LDP and the Corn and Milo piles pose issues regarding vermin and decay and may result in significant liability issues as well as contamination of that property;

3. We assert that a "Hybrid Program" must be established immediately to facilitate the removal of the LDP and other materials from that property;

4. The LDP will be removed to "The Gravel Pit" with a gravel surface to stifle the growth of vegetation and remove the temptation of various unwanted creatures;

5. Removal will be carried out by a Salvage Contractor who will permanently remove large structural pieces of material, such as from the "corn silos/tanks" and other obvious large structural items, that are not obviously associated with the "origin area" of the incident;

6. The retained material will be identified, documented and logged as evidence by Crane Engineering. The material will then be removed to "The Gravel Pit" and/or stored in a POD and secured;

7. The operation will be documented by video in total and a DVD of the process will be furnished at cost as determined by the number of parties requesting same;

8. All interested parties may have a maximum of two representatives present to witness the operation;

9. Any request that any large structural piece being permanently removed be maintained, that is of no obvious significance and is identified as from outside of the origin area, will be honored and the requesting party or parties will be responsible for the removal, documentation, transportation and storage of the item(s). Crane Engineering will provide a master list of the item retained;

10. The Corn and Milo is currently in a deteriorating condition that is also attracting vermin and supporting degradation of the site. Based on the requirements(s) of the TCEQ, EPA and the Texas State Chemist these products will be removed and the problem mitigated immediately;

11. This process will be documented by video in total and a DVD of the process will be furnished at cost as determined by the number requested;

12. Any debris alien to the grain products and dirt piles, considered significant, will be recovered and secured during the product removal process;

13. Any items removed during the Product Removal will be made a part of the "Master List of Items" maintained by Crane Engineering, Inc.; and

14. If there are no objections to this protocol, the parties agree with the terms as written.

Prepared by:

Steering Committee

Mc D 6/7/2013