

BEFORE THE NEBRASKA DEPARTMENT OF ENVIRONMENTAL QUALITY

IN THE MATTER OF)	CASE NO. 3301
Green Plains Wood River, LLC)	
FID # 86000)	COMPLAINT, COMPLIANCE
)	ORDER AND NOTICE OF
Respondent.)	OPPORTUNITY FOR HEARING

I. INTRODUCTION

1. This Complaint, Compliance Order, and Notice of Opportunity for Hearing is issued pursuant to Neb. Rev. Stat. § 81-1507(1) of the Nebraska Environmental Protection Act, Neb. Rev. Stat. §§ 81-1501 to -1532 (Reissue 2014) and in conformance with Title 115 – *Rules of Practice and Procedure for the Department of Environmental Quality*. The Complainant is Patrick W. Rice, Acting Director of the Nebraska Department of Environmental Quality (NDEQ or Department). The Respondent is Green Plains Wood River, LLC a foreign limited liability company registered in Nebraska. The registered agent for the Respondent is CT Corporation System, Suite 500, 301 South 13th Street, Lincoln, Nebraska 68508.

2. The Department is the agency of the state of Nebraska charged with the duty, pursuant to Neb. Rev. Stat. § 81-1504(1) & (4), of exercising exclusive general supervision, administration, and enforcement of the Nebraska Environmental Protection Act, Neb. Rev. Stat. §§ 81-1501 to 1532, and all rules, regulations, and permits promulgated thereunder.

3. The Complaint below establishes the violations of Respondent and the Compliance Order establishes a schedule for corrective actions to be taken by the Respondent.



II. COMPLAINT

4. The Complaint incorporates by reference the Introduction, paragraphs 1 through 3, above.

5. At all times material herein, Respondent has owned and operated a grain elevator and denatured ethanol manufacturing facility located at 7874 S. 140th Road, Wood River, Hall County, Nebraska, 68883. Pursuant to Neb. Rev. Stat. § 81-1505(12), the Nebraska Environmental Quality Council adopted a rule and standard codified as Nebraska Admin. Code Title 129, *Nebraska Air Quality Regulations*. Title 129 requires that a permit be issued in certain circumstances prior to the construction and operation of a source of air contaminant emissions.

6. On or about October 7, 2013, the Department issued Air Quality Class I Operating Permit Number OP12S1-022. At all times material herein, the permit was in effect and granted approval for the operation of Respondent's grain elevator and denatured ethanol manufacturing facility subject to certain air emission limitations.

7. Emission testing conducted on or about September 23-25, 2014, showed emissions above Respondent's Operating Permit limitations. Specifically, Respondent's air emissions exceeded Particulate Matter (PM); Particulate Matter less than 10 micrometers in size (PM₁₀); and Volatile Organic Compound (VOC) limitations found in Operating Permit Condition III.(F)(3)(a).

8. Pursuant to Neb. Rev. Stat. § 81-1506(4)(b) it is unlawful for any person to violate any term or condition of an air pollution permit or any emission limit set in the permit.

9. The Respondent is a 'person' as defined in Neb. Rev. Stat. § 81-1502(10).

10. The Director FINDS that Respondent has violated Neb. Rev. Stat. § 81-1506(4)(b).

11. The Director of the NDEQ is authorized pursuant to Neb. Rev. Stat. § 81-1504(7) and § 81-1507(1) to issue this order requiring Respondents to modify their facility or any part thereof to prevent, control or abate emissions.

III. COMPLIANCE ORDER

12. It is hereby ORDERED:

- a. By March 31, 2015, Respondent shall submit a complete construction permit application for the changes required by this Order.
- b. Respondent shall obtain written Department approval prior to implementing the modifications, changes and testing required by this Order.
- c. By June 30, 2015, Respondent shall add vent gas scrubber #2 (to control emissions from the pre-fermentation and distillation lines identified as EU11-28 in Operating Permit Number OP12S1-022) and cease routing of the existing pre-fermentation, distillation, and vent gas scrubber #1 exhausts to the RTOs (Control Equipment No's. #16 and #18).
- d. Between July 1 and September 30, 2015, Respondent shall complete testing in accordance with Operating Permit Condition II.(D)2 in order to:
 - i. Confirm compliance with operating permit limits for emissions of PM and PM₁₀ from RTO #1 (Control Equipment #16) and RTO #2 (Control Equipment #18).
 - ii. Confirm compliance with the following interim VOC emission limits:

1. RTO #1 (Control Equipment #16) - 2.5 lb/hr;
2. RTO #2 (Control Equipment #18) - 2.5 lb/hr;
3. vent gas scrubber #1 – 2.65 lb/hr;
4. vent gas scrubber #2 – 2.65 lb/hr.

iii. Develop Hazardous Air Pollutant (HAP) emission factors for the RTO's and vent gas scrubbers.

13. This Order shall expire upon issuance of the construction permit. The Respondent assumes all risk that construction permit if ultimately issued may contain different or additional requirements and limits imposed as a result of the Department review and public participation process.

14. Respondent shall obtain written approval from the Department prior to implementing the changes as required in this Order and shall promptly reply to any written communication by the Department. Any delay in responding to such communication shall be construed as non-compliance with this Order. Any information to be submitted under this Order shall be sent to:

Todd Ellis
Air Division Compliance Section Supervisor
Nebraska Department of Environmental Quality
P.O. Box 98922
Lincoln, Nebraska 68509-8922
Telephone number: (402) 471-2186

IV. NOTICE OF OPPORTUNITY TO REQUEST A HEARING

15. This Order shall become final, pursuant to Neb. Rev. Stat. § 81-1507(1), unless Respondents file an answer and requests, in writing, a hearing no later than thirty days

after receipt of this Order. Failure to answer within thirty days shall be deemed an admission of the allegations of the Complaint.

16. A written answer to the Complaint, Compliance Order and Notice of Opportunity for Hearing must conform to the requirements of Title 115, Neb. Admin. Code, *Rules of Practice and Procedure*, Chapter 7. The answer and request for hearing may be filed by mail to:

Patrick W. Rice, Acting Director
Nebraska Department of Environmental Quality
P.O. Box 98922
Lincoln, Nebraska 68509-8922

or may be delivered to the Department's Lincoln office located at 1200 N Street, Suite 400, Lincoln, Nebraska.

V. SETTLEMENT CONFERENCE

17. Whether or not Respondent requests a hearing, an informal settlement conference may be requested by writing to Thomas O'Connor, Attorney, Nebraska Department of Environmental Quality, P.O. Box 98922, Lincoln, Nebraska 68509-8922, or have your attorney make such a request.

18. A request for settlement conference does not extend the thirty (30) day period during which a written answer and request for hearing must be submitted or otherwise delay the final effective date of this Order.

VI. INJUNCTIVE RELIEF AND PENALTY PROVISIONS

19. The NDEQ reserves the right to pursue enforcement in the proper court of law for injunctive relief or to seek civil or criminal penalties for any violations that are the subject of this Complaint, Compliance Order and Notice of Opportunity for Hearing.

Nothing in this Complaint, Compliance Order and Notice of Opportunity for Hearing precludes the Department from pursuing such enforcement. Failure to obey this order may result in fines up to \$10,000, per violation, per day, as set out in Neb. Rev. Stat. § 81-1508.02.

2/23/2015

Date

Patrick W. Rice

Patrick W. Rice, Acting Director
NEBRASKA DEPARTMENT OF
ENVIRONMENTAL QUALITY

VII. CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Complaint, Compliance Order and Notice of Opportunity for Hearing, with attachments, was served by certified United States mail, postage prepaid, return receipt requested this 23rd day of February 2015 upon the Respondent listed below:

Green Plains Wood River, LLC
c/o CT Corporation System, Registered Agent
Suite 500, 301 South 13th Street
Lincoln, Nebraska 68508

Thomas O'Connor

Thomas O'Connor
Staff Attorney