

BEFORE THE NEBRASKA DEPARTMENT OF ENVIRONMENTAL QUALITY

IN THE MATTER OF	)	CASE NO. 2938
JANET M. SLEGGERS, WOOD RIVER	)	
DAIRY L.L.C. AND ASPEN DAIRY. a	)	COMPLAINT, REVOCATION
Nebraska General Partnership,	)	ORDER AND NOTICE OF
Buffalo County, FID # 25438	)	OPPORTUNITY FOR HEARING
Respondents.	)	

I. INTRODUCTION

This Complaint, Revocation Order and Notice of Opportunity for Hearing is issued pursuant to Neb. Rev. Stat. §81-1507 (Reissue 2008). Complainant has determined that the respondent is in violation of the Nebraska Environmental Protection Act (NEPA), Neb. Rev. Stat. §81-1501 et. seq. and the Livestock Waste Management Act, Neb. Rev. Stat. §54-2416 et seq. (Reissue 2008) and Title 130, *Rules and Regulations Pertaining to Livestock Waste Control*. The Complainant is the Director, State of Nebraska Department of Environmental Quality (hereinafter "NDEQ" or "Department"). The Respondents; Janet M. Slegers, Wood River Dairy L.L.C., and Aspen Dairy, a Nebraska general partnership, at all material times have been the owners or operators of a dairy located in Buffalo County, Nebraska. The Complaint below establishes the violations.

II. COMPLAINT

1. The Respondents; Janet M. Slegers, Wood River Dairy L.L.C., and Aspen Dairy, a Nebraska general partnership, own or operate a dairy operation located in W1/2, Section 33, Township 12N, Range 18W, Buffalo County, Nebraska.



2. Pursuant to Neb. Rev. Stat. §54-2432 (5), Neb. Rev. Stat. §81-1507 and Title 130, Chapter 6, Section 001, the Director has the power to revoke a permit for violation of the statutes or rules and regulations. Further the Director is also authorized pursuant to Neb. Rev. Stat. §81-1504(7) to issue an order to prohibit or abate discharges of wastes into the air, waters or land of the state.

3. Respondents discharged wastes to waters or land of the State in violation of its permit, Title 130 and State Law:

- a. On or about July 9, 2008, discharged livestock waste into waters of the state in Buffalo County, Nebraska. (Violation of Neb. Rev. Stat. Section 81-1506 (1) (a) and (2) (a)).
- b. On or about September 4, 2008, discharged livestock waste into waters of the state in Buffalo County, Nebraska. (Violation of Neb. Rev. Stat. Section 81-1506 (1) (a) and (2) (a)).
- c. On or about October 1, 2008, discharged livestock waste into waters of the state in Buffalo County, Nebraska. (Violation of Neb. Rev. Stat. Section 81-1506 (1) (a) and (2) (a)).
- d. On or about February 12, 2009, discharged livestock waste into waters of the state in Buffalo County, Nebraska. (Violation of Neb. Rev. Stat. Section 81-1506 (1) (a) and (2) (a)).
- e. On or about April 22, 2009, discharged livestock waste into waters of the state in Buffalo County, Nebraska. (Violation of Neb. Rev. Stat. Section 81-1506 (1)(a) and (2)(a)).

4. Respondents have failed to inspect, operate and maintain the operation and facility as required in Title 130 or State Law:
- a. On or about March 8, 2007, failed to maintain the proper amount of freeboard for all storage structures. (Violation of Title 130, Chapter 8, Section 003.01)
  - b. On or about March 8, 2007, failed to have approvals and permits required to operate livestock waste control facilities. (Violation of Title 130, Chapter 2, Section 008.06-008.09)
  - c. On or about March 8, 2007, stockpiled or applied waste closer than 100 feet to any down-gradient surface waters, open tile line intake structures, well heads or other conduits to surface or ground water. (Violation of Title 130, Chapter 9 section 005.01-005.02)
5. Respondents have failed to maintain records as required in Title 130 or State Law:
- a. On or about March 8, 2007, failed to document the dates that equipment used to apply livestock waste was inspected. (Violation of Title 130, Chapter 12, Section 004.18 and Violation of Title 130, Chapter 7, Section 005.04)
  - b. On or about March 8, 2007, failed to document that irrigation distribution system was inspected prior to use and that it was monitored during use. (Violation of Title 130, Chapter 12, Section 001.04 and 004.01)

- c. On or about March 8, 2007, failed to document weather conditions at time of land application. (Violation of Title 130, Chapter 12, Section 004.10)
- d. On or about March 8, 2007, failed to document most recent phosphorus risk assessment for each field. (Violation of Title 130, Chapter 12, Section 004.13; Chapter 14, Section 006)
- e. On or about March 8, 2007, failed to document weekly inspections of storm water and runoff diversion devices and structures. (Violation of Title 130, Chapter 12, Section 001.01 and 004.1)
- f. On or about March 8, 2007, failed to document daily inspections of production area water lines. (Violation of Title 130, Chapter 12, Section 001.02 and 004.1)
- g. On or about March 8, 2007, failed to document inspections of production area impoundments, noting the level in impoundments. (Violation of Title 130, Chapter 12, Section 001.03 and 004.1)
- h. On or about March 8, 2007, failed to document any actions taken to correct deficiencies found as a result of required inspections. (Violation of Title 130, Chapter 12, Section 004.03)

6. Respondents have failed to properly land apply livestock waste as required in Title 130 or State Law:

- a. On or about March 8, 2007, failed to conduct field phosphorus risk assessment of land application areas prior to initial land application. (Violation of Title 130, Chapter 14, Section 003.03)

- b. On or about July 9, 2008, failed to conduct land application so that application rate does not exceed field capacity of the soil and does not result in runoff. (Violation of Title 130, Chapter 14, Section 005)
- c. On or about September 4, 2008, failed to conduct land application so that application rate does not exceed field capacity of the soil and does not result in runoff. (Violation of Title 130, Chapter 14, Section 005)
- d. On or about April 22, 2009, failed to conduct land application so that application rate does not exceed field capacity of the soil and does not result in runoff. (Violation of Title 130, Chapter 14, Section 005)

7. Respondents have shown themselves generally incompetent and unsuited to perform the obligations of a permit holder:

- a. On or about March 8, 2007, failed to manage livestock wastes so as to protect waters of the State. (Violation of Title 130, Chapter 11, Section 001; Chapter 2, Section 008.02- 008.04)
- b. On or about July 9, 2008, failed to manage livestock wastes so as to protect waters of the State. (Violation of Title 130, Chapter 11, Section 001; Chapter 2, Section 008.02- 008.04)
- c. On or about September 4, 2008, failed to manage livestock wastes so as to protect waters of the State. (Violation of Title 130, Chapter 11, Section 001; Chapter 2, Section 008.02- 008.04)

- d. On or about October 1, 2008, failed to manage livestock wastes so as to protect waters of the State. (Violation of Title 130, Chapter 11, Section 001; Chapter 2, Section 008.02- 008.04)
- e. On or about February 12, 2009, failed to manage livestock wastes so as to protect waters of the State. (Violation of Title 130, Chapter 11, Section 001; Chapter 2, Section 008.02- 008.04)
- f. On or about April 8, 2009, failed to manage livestock wastes so as to protect waters of the State. (Violation of Title 130, Chapter 11, Section 001; Chapter 2, Section 008.02- 008.04)
- g. On or about April 22, 2009, failed to manage livestock wastes so as to protect waters of the State. (Violation of Title 130, Chapter 11, Section 001; Chapter 2, Section 008.02- 008.04)

### III. REVOCATION ORDER

8. IT IS HEREBY ORDERED that any permits or approvals issued by the Department which have been issued to the Respondents for the above described livestock operation, including any NPDES permit or approval, are hereby revoked. All animal feeding operations at Respondents' Dairy shall cease within 30 days of this Revocation Order and the facility closed as set out in Title 130, Chapter 11, Section 010.

### IV. NOTICE OF OPPORTUNITY TO REQUEST A HEARING

9. This Revocation Order shall become final for each Respondent, pursuant to Neb. Rev. Stat. §81-1507(1), unless each Respondent files an

answer and requests, in writing, a hearing no later than thirty days after receipt of this Revocation Order. Failure to answer within thirty days shall be deemed an admission of the allegations of the Complaint.

10. A written answer to the Complaint, Revocation 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: Michael J. Linder, Director, State of 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

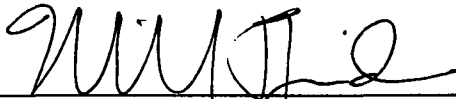
11. Whether or not Respondents request a hearing, an informal settlement conference may be requested by writing to Steve Moeller, Attorney, Nebraska Department of Environmental Quality, P.O. Box 98922, Lincoln, Nebraska 68509-8922, or have your attorney make such a request.

12. 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 Revocation Order.

#### VI. RESERVATION OF OTHER ACTIONS AND REMEDIES

13. Nothing in this Complaint, Revocation Order and Notice of Opportunity for Hearing precludes the NDEQ from pursuing other equitable remedies or legal actions.

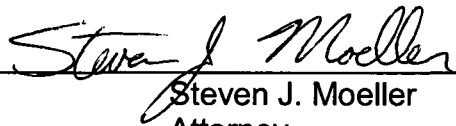
June 6 2009  
Date

  
Michael J. Linder, Director  
NEBRASKA DEPARTMENT OF  
ENVIRONMENTAL QUALITY

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Complaint, Revocation Order and Notice of Opportunity for Hearing was served by certified United States mail, postage prepaid, return receipt requested this 4 day of June 2009 upon the Respondents listed below:

Janet M. Slegers, 30955 Highway 183, Miller, NE 68858  
Wood River Dairy, LLC, c/o Janet M. Slegers, Registered Agent, 30955  
Highway 183, Miller, NE 68858  
Aspen Dairy, c/o Janet M. Slegers, Registered Agent, 30955 Highway 183,  
Miller, NE 68858

  
Steven J. Moeller  
Attorney