

BEFORE THE NEBRASKA DEPARTMENT OF ENVIRONMENTAL QUALITY

IN THE MATTER OF

Prairieland Dairy, LLC.

FID# 73762

Respondent

Case No. 3378

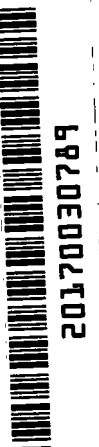
CONSENT ORDER

I. INTRODUCTION

1. The Nebraska Department of Environmental Quality (NDEQ) and Prairieland Dairy, LLC, (Respondent) voluntarily enter into this Consent Order. The Consent Order requires Respondent to achieve and maintain compliance with the Nebraska Environmental Protection Act (NEPA), Neb. Rev. Stat. §81-1501 et seq. (Reissue 2014) and Title 119, Nebraska Administrative Code (N.A.C.), *Rules and Regulations Pertaining to the Issuance of Permits under the National Pollutant Discharge Elimination System*.
2. This consent order is limited to Respondent's environmental permitting and compliance obligations under NDEQ rules and regulations implementing the Clean Water Act, 33 U.S.C 1251 et seq., as amended, at the state level and does not modify, supersede, suspend, terminate, or otherwise alter the previously-entered Consent Order related to Respondent's Solid Waste Compost Facility Permit (No. NE0204617), executed on July 3, 2017.

II. STATEMENT OF PURPOSE

3. In accordance with the terms and conditions of this Consent Order and applicable NDEQ rules and regulations, the primary objective of the parties entering into this Consent Order is for Respondent to apply for and, upon submission of a complete application, receive NDEQ approval to lawfully operate its "Nutrient Recovery Building" at its animal feeding operation



and solid waste compost facility located at SE ¼, Section 20, Township 7 North, Range 8 East, Lancaster County, Nebraska.

### **III. JURISDICTION**

4. NDEQ is the agency of the State of Nebraska charged with the duty, pursuant to Neb. Rev. Stat. §81-1504(1), of exercising exclusive general supervision, administration, and enforcement of NEPA and all rules, regulations and orders promulgated thereunder.
5. The authority of NDEQ to require compliance measures is provided in Neb. Rev. Stat. §§81-1504(7) and 81-1507.
6. Respondent admits to and agrees not to contest the jurisdictional allegations referenced herein in any action to enforce this Consent Order.
7. Respondent acknowledges signing this Consent Order waives its right to further hearing as provided in Neb. Rev. Stat. §81-1507 and the Administrative Procedure Act, Neb. Rev. Stat. §84-901 et seq. in this matter.

### **IV. PARTIES**

8. The parties to this Consent Order are the Nebraska Department of Environmental Quality (NDEQ) and Prairieland Dairy, LLC, (Respondent). This Consent Order is binding on NDEQ, Respondent, and Respondent's successors and assigns.

### **V. STIPULATION**

9. By executing this consent order, Respondent neither admits or denies any violations of NEPA, Title 119, or other applicable agency rules and regulations, arising from the construction of a "Nutrient Recovery Building" at its animal feeding operation and solid waste compost facility in Lancaster County, Nebraska.

### **VII. COMPLIANCE ORDER AND SCHEDULE**

10. NDEQ acknowledges that Respondent has submitted some of the information required by this Consent Order in prior submittals that were unrelated to entry of this Consent Order. Where indicated below, previously submitted information may be used to meet the requirements of this Consent Order.
11. By October 10, 2017, Respondent agrees to submit a complete National Pollutant Discharge Elimination System (NPDES) Combined Form 1 & 2C, "Permit Application for a Facility Discharging Wastewater from Manufacturing and Commercial Operations", and provide all required documents in support of the application. The application form may be accessed online at: <http://deq.ne.gov/Publica.nsf/Pages/WAT047>.
12. A "complete" NPDES Combined Form 1 & 2C shall be defined for purposes of compliance with this Consent Order as:
- a. Section 1. "Facility Information" – Respondent must complete.
  - b. Section 2. "Wastewater Sources" – Respondent must complete.
    - i. For Section 2.A. "Application Status", Respondent shall indicate that the application is for a "NPDES Permit Application for New Source."
    - ii. For Section 2.B. "Additional Forms Required", Respondent shall check "Land application of treated effluent". In lieu of submitting a "Land Application Form", Respondent shall complete Section 9 of NPDES Combined Form 1 & 2C, as described below.
  - c. Section 3. "Other Existing Environmental Permits" – Respondent must complete and reference its Solid Waste Compost Facility Permit, No. NE0204617, in the required blank.
  - d. Section 4. "Map" – Respondent must complete.

e. **Section 5. "Facility Flow Diagram" – Respondent must complete as follows:**

i. For the "line diagram" requirement, Respondent may submit its document titled, "Prairieland Dairy and Prairieland Gold Nutrient Recovery Collaboration System Comprehension/Flow Diagram."

ii. For the "water balance" requirement, Respondent shall construct a water balance summary table to accompany the facility flow diagram by showing daily and monthly average flows for:

1. Both liquid manure and the liquid fraction of solid waste inputs entering the Nutrient Recovery Building, but prior to entering the treatment works; and
2. Treated, recycled reverse osmosis water pumped to free stall barns for flushing; and
3. Processed, comingled liquid manure and solid waste filtrate, alternatively referred to as "concentrated reverse osmosis reject water", exiting the treatment works and being pumped to and stored in holding pond 1b/east; and
4. Concentrated reverse osmosis reject water being withdrawn from holding pond 1b/east and land applied. If the land application volume varies seasonally, indicate the volume for each of the 12 calendar months.

f. **Section 6. "Process Wastewater Treatment System Information" – Respondent must complete as follows:**

- i. For Section 6.A., Respondent may submit two documents, the first titled, "Process Description, Prepared for: Prairieland Dairy by Livestock Water Recycling", and the second titled, "2017-08-28 DEQ site plan, Stockwell Engineers, Inc. project #16158". In addition to the aforementioned documents, Respondent must supplement the documents with the following items related to the use of holding pond 1b/east for storage of concentrated reverse osmosis reject water prior to land application:
  - 1. a narrative description of how the holding ponds will be maintained in good operational condition and managed to prevent discharge; and
  - 2. a narrative description of the land application method(s) used.
- ii. Section 6.B. – Respondent must complete.
- iii. Section 6.C. – Respondent must indicate "yes", but does not need to request or complete a separate application form.
- g. For Section 9. "Outfall Information", Respondent shall identify land application sites and not outfalls. To meet this requirement, Respondent may submit the Field Overview Tables and Land Application Agreements from its most recent NPDES CAFO application if no new sites will be used for land application of concentrated reverse osmosis reject water. If new sites will be used, Respondent must update this previously-submitted land application information to include the new sites.
- h. Section 11. "Intake and Effluent Characteristics" – Respondent must complete as follows:

- i. For Section 11.A., identify ground water as the source of intake water and state gallons per day.
- ii. For Section 11.B., substitute land application sites and holding pond/1b east for "outfalls" as possible discharge points and complete.
- iii. For Section 11.C., laboratory analysis of pollutants is not required at the time of application. As a condition of its issued permit and once the Nutrient Recovery Building is in operation, Respondent will be required to perform periodic analytical testing of concentrated reverse osmosis reject water stored in holding pond 1b/east prior to any land application activity for the following pollutants:
  1. Biochemical oxygen demand; and
  2. Temperature; and
  3. pH; and
  4. Total Nitrogen, Organic N, Ammonia as N, Nitrate and Nitrite; and
  5. Total Phosphorous; and
  6. Sodium Adsorption Ratio

- i. Section 13. "Certification" – Respondent must complete with accompanying "NPDES/NPP Signatory Authorization Form."

13. Respondent does not need to complete sections 7, 8, 10, and 12 of NPDES Combined Form 1 & 2C.

14. Upon submittal of a complete NPDES Combined Form 1 & 2C permit application, as defined in paragraph 12, Respondent shall be conditionally approved to operate its Nutrient

Recovery Building, including full operation of the treatment works and the following activities:

- a. storage of concentrated reverse osmosis reject water in holding pond 1b/east pursuant to the terms and conditions of Respondent's NPDES General Permit for Confined Animal Feeding Operations (NPDES CAFO permit), effective April 1, 2013; and
  - b. land application of livestock wastes and reverse osmosis reject water from holding pond 1b/east at agronomic rates and when necessary to prevent a discharge from the holding ponds or at any time the waste storage volume in the holding pond exceeds the must-pump level as defined in Respondent's NPDES CAFO permit. Respondent shall comply with setbacks and all applicable land application requirements of its existing NPDES CAFO permit, permit application, and nutrient management plan.
15. If Respondent decides to land apply livestock wastes and reverse osmosis reject water from holding pond 1b/east pursuant to paragraph 14.b., Respondent shall sample holding pond 1b/east for the pollutants listed in paragraph 12.h.iii. and provide sample results to NDEQ for review and approval prior to any land application.
16. Respondent's conditional approval to operate its Nutrient Recovery Building shall terminate when NDEQ issues Respondent an NPDES Permit for a Facility Discharging Wastewater from Manufacturing and Commercial Operations.
17. Information to be submitted under this Order shall refer to FID# 73762 and shall be sent to:

Reuel Anderson  
NPDES Section Supervisor  
Nebraska Department of Environmental Quality  
PO Box 98922

**VII. SATISFACTION AND COMPLIANCE WITH OTHER LAWS**

18. Respondent shall perform all actions required by this Consent Order in accordance with all applicable local, state, and federal laws, regulations and permits.

**VIII. RESERVATION OF RIGHTS**

19. Nothing in this Consent Order shall be construed to limit the power and authority of the NDEQ to take or order any action necessary, to protect public health, welfare, or the environment or to enforce any provision of NEPA, ISWMA, and any rules, regulations, orders, or permits issued pursuant to NEPA or ISWMA.

**IX. NEGATION OF AGENCY RELATIONSHIP**

20. Nothing in this Consent Order shall be construed to create, either expressly or by implication, the relationship of agency between NDEQ and Respondent.

**X. AMENDMENT**

21. This Consent Order may be modified and amended in writing by mutual agreement of NDEQ and Respondent.

**XI. EFFECTIVE DATE**

22. This Consent Order shall become effective on the date it is signed by the NDEQ Director or his designee.

**XII. SEVERABILITY**

23. If any provision or authority of this Order or the application of this Order to any party or circumstances is held by any judicial or administrative authority to be invalid, the application of such provisions to other parties or circumstances and the remainder of the Order shall remain in force and shall not be affected thereby.



### XIII. SIGNATURES

24. For Respondent: The undersigned representative of the Respondent certifies that he or she is fully authorized to enter into the terms and conditions of this Consent Order and to bind the Respondent.

By: Clifford Obbink  
Title: President  
Date: 9-15-17

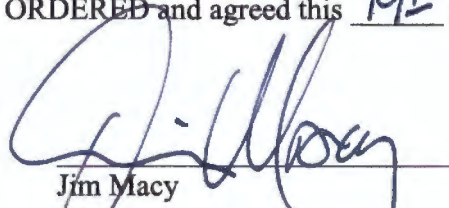
Clifford P. Obbink

Obbink Farms, Inc.,

By: Daniel G. Rice  
Title: General Manager  
Date: 9-13-17

Daniel G. Rice

25. For NDEQ: IT IS SO ORDERED and agreed this 19<sup>th</sup> day of September, 2017.

  
Jim Macy  
Director  
Nebraska Department of Environmental Quality