

BEFORE THE NEBRASKA DEPARTMENT OF ENVIRONMENT AND ENERGY

IN THE MATTER OF	)	Case No. 3581
	)	
GREEN PLAINS WOOD RIVER, LLC	)	CONSENT ORDER
	)	
NDEE FID #86000	)	
	)	
RESPONDENT.	)	
	)	

**I. INTRODUCTION**

1. The Nebraska Department of Environment and Energy (NDEE or Department) and Green Plains Wood River, LLC (Respondent), voluntarily enter into this Consent Order. The Consent Order establishes a schedule for Respondent to comply with the Nebraska Environmental Protection Act (NEPA), Neb. Rev. Stat. §§ 81-1501 *et seq.*, and Neb. Admin. Code, Title 129, *Nebraska Air Quality Regulations* (Title 129).

**II. JURISDICTION**

2. NDEE 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 Title 129.

3. NDEE is further charged with the duty, pursuant to Neb. Rev. Stat. § 81-1504(4) to act as the state air pollution control agency for all purposes of the federal Clean Air Act (CAA), as amended, 42 U.S.C. § 7401 *et seq.*

4. In signing this Consent Order, Respondent agrees to undertake all actions required by this Consent Order. Respondent agrees not to contest the jurisdictional allegations referenced herein in any action to enforce this Consent Order. Respondent waives its rights to further hearing as



provided in Neb. Rev. Stat. § 81-1507 and the Administrative Procedure Act, Neb. Rev. Stat. § 84-901 *et seq.*

### **III. PARTIES**

5. The parties to this Consent Order are NDEE and Respondent Green Plains Wood River, LLC, a Delaware limited liability company registered to do business in Nebraska. This Consent Order is binding on NDEE, Respondent, and any successors and assigns of the parties.

### **IV. FINDINGS OF FACT**

6. Respondent owns and operates a denatured ethanol manufacturing facility located at 7874 S. 140<sup>th</sup> Road, Wood River, Hall County, Nebraska.

7. As part of its ethanol manufacturing activities, Respondent emits various regulated air pollutants including, but not limited to, volatile organic compounds (VOC).

8. Respondent's emissions of VOC and other regulated air pollutants require Respondent to obtain an air quality construction permit, among other environmental permits, pursuant to Neb. Rev. Stat. § 81-1506(4)(a) and Title 129, Chapter 17, 001; and to operate under the terms and conditions of its air quality construction permit, pursuant to Neb. Rev. Stat. § 81-1506(4)(b) and (c) and Title 129, Chapter 17, 011.

9. On August 19, 2021, NDEE issued Respondent its current air quality construction permit, #CP21-014.

10. Among the terms and conditions of CP21-014 are emission limits in permit condition III.(M) applicable to Respondent's maximized stillage co-products (MSC) equipment, the emission points for MSC equipment, and associated emission units.

11. Permit condition III.(M)(2)(a) of CP21-014 further establishes an emission limit at emission point ID# EP-121 (MSC process vent) for VOC of 0.6324 lb/hr.

12. The emission limit for VOC in permit condition III.(M)(2)(a) requires Respondent to conduct an initial performance test at EP-121 and other emission points at Respondent's ethanol manufacturing facility.

13. On February 1, 2022, NDEE staff were on site at Respondent's ethanol manufacturing facility to observe performance testing at EP-121. NDEE staff observed a first performance test preliminary result of 117 lb/hr VOC, significantly exceeding Respondent's permitted emission limit of 0.6324 lb/hr for VOC at EP-121. Shortly thereafter, NDEE staff observed a second performance test preliminary result of approximately 100 lb/hr VOC, also significantly exceeding Respondent's emission limit in permit condition III.(M)(2)(a).

14. On February 4, 2022, after reviewing the performance test results related to permit condition III.(M)(2)(a) and upon recommendation by NDEE, Respondent voluntarily took the interim action of ceasing operation of the MSC process, including EP-121.

15. Respondent has operated the MSC process in its current configuration and has emitted from EP-121 beginning on or around September 2021.

16. Respondent has operated in violation of Neb. Rev. Stat. § 81-1506(4)(b) and (c); Title 129, Chapter 17, 011; and permit condition III.(M)(2)(a) of Respondent's air quality construction permit, CP21-014, since on or around September 2021 and until such time as Respondent voluntarily stopped the MSC process and associated emissions from EP-121 on February 4, 2022.

#### **V. COMPLIANCE ORDER**

17. Upon mutual execution of this Consent Order, NDEE and Respondent agree that Respondent is authorized as a short-term, temporary, and remedial measure to route the MSC process emissions stream from EP-121 to the regenerative thermal oxidizer (RTO) unit #1 and

emission point EP-15 for purposes of reopening the MSC process and attempting to reduce VOC and other emissions from Respondent's ethanol manufacturing facility.

18. By March 4, 2022, Respondent agrees to schedule and conduct performance testing to test, at a minimum, VOC emissions at EP-15 in accordance with Title 129, Chapter 34, to be observed by NDEE staff, for the reconfigured routing of the MSC process emissions stream from EP-121 to RTO unit #1 and EP-15.

19. Based upon the results of the performance testing at EP-15, NDEE and Respondent agree to use the measured emissions from performance testing as a temporary emission limit for VOC at EP-15, subject to NDEE review and approval of Respondent's testing results, until such time as Respondent is issued a modified air quality construction permit meeting the requirements of Title 129 and paragraph 21 of this Consent Order. RTO unit #1 must be operated in accordance with permit condition III.(D)(3) and III.(D)(5) of CP21-014.

20. NDEE and Respondent agree that Respondent's temporary emission limit for VOC at EP-15 as established pursuant to paragraph 19 will also serve as Respondent's temporary emission limit for VOC in permit condition III.(F) of its Class I source air quality operating permit, #OP21M1-039.

21. Within 180 days of mutual execution of this Consent Order, Respondent agrees to submit an application for modification of air quality construction permit #CP21-014 (and, if necessary, OP21M1-039) containing and proposing the permanent facility designs, process configurations, emission points, and associated emission units that will achieve:

- a. the reduction of ethanol contamination from scrubber condensate water that is used for continuous cleaning in the MSC process by an amount necessary to comply with permitted emission limits;

- b. any other design, construction, and configuration modifications necessary to comply with permit condition III.(M)(2)(a) of Respondent's air quality construction permit, #CP21-014;
- c. if applicable, compliance with the Prevention of Significant Deterioration of Air Quality (PSD) requirements of Title 129, Chapter 19; AND
- d. if applicable, compliance with the requirements of Title 129, Chapters 27 and 28.

22. NDEE and Respondent agree that the reconfiguration of the MSC process emissions stream from EP-121 to EP-15 may provide one possible, temporary solution to Respondent's violations of permit condition III.(M)(2)(a): is pursued by Respondent in good faith as an initial step toward long-term compliance with CP21-014; and that this temporary, proposed reconfiguration has no guarantee of achieving full, complete, and long-term compliance with Title 129.

23. NDEE and Respondent further agree that the temporary actions authorized in this Consent Order are not a guarantee of the ultimate issuance of a modified air quality construction permit for the associated MSC process at issue in this matter. Respondent agrees to assume all risk that the construction permit modification may not ultimately be issued or that the construction permit modification may not allow operation of the process as proposed. Respondent also agrees to assume all risk that the construction permit modification, if issued, may contain additional requirements resulting from the NDEE's application review or public involvement processes. Such requirements may include, but not be limited to additional emission control strategies or systems, compliance monitoring, and facility record-keeping.

24. Submittals to the Department under this Consent Order shall refer to FID #86000 and be sent to:

Brad Pracheil  
Division Administrator  
Inspection & Compliance Division  
Nebraska Department of Environment and Energy  
P.O. Box 98922  
Lincoln, NE 68509-8922

## **VI. SATISFACTION AND COMPLIANCE WITH OTHER LAWS**

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

## **VII. RESERVATION OF RIGHTS**

26. Nothing in this Consent Order shall be construed to limit the power and authority of the NDEE to take or order any action necessary to protect public health, welfare, or the environment or to enforce any provision of NEPA, Title 129, and any rules, regulations, orders, or permits issued pursuant to NEPA; including recovery of civil penalties for violations of NEPA, Title 129, and air quality construction permit CP21-014 as provided under Neb. Rev. Stat. § 81-1508.02.

## **VIII. NEGATION OF AGENCY RELATIONSHIP**

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

## **IX. AMENDMENT**

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

## **X. EFFECTIVE DATE**

29. This Consent Order shall become effective after signature by Respondent and the NDEE Director or an authorized designee.

## **XI. TERMINATION**

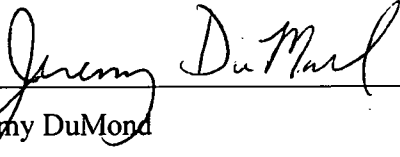
30. This Consent Order shall terminate upon either NDEE's issuance of a modified air quality construction permit to Respondent that approves and incorporates the requirements of paragraph 19 of this Consent Order, or upon further order of the Director, whichever shall occur first.

## **XII. SEVERABILITY**

31. If any provision or authority of this Consent Order or the application of this Consent 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 Consent Order shall remain in force and shall not be affected thereby.

## XII. SIGNATURES

32. For Respondent Green Plains Wood River, LLC:

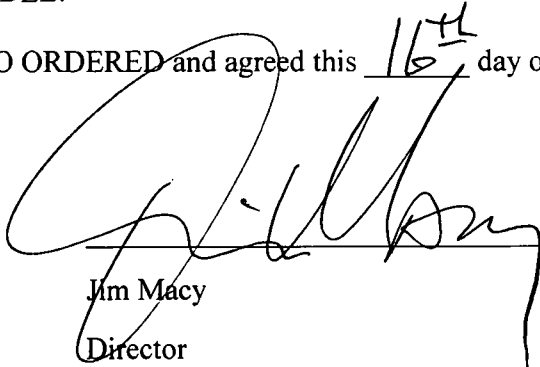
  
\_\_\_\_\_  
Jeremy DuMond

Vice President – Environmental, Health, Safety, and Security

Date: February 16<sup>th</sup>, 2022

33. For NDEE:

IT IS SO ORDERED and agreed this 16<sup>th</sup> day of February, 2022.

  
\_\_\_\_\_  
Jim Macy  
Director

NEBRASKA DEPARTMENT OF ENVIRONMENT AND ENERGY