

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)	CONSENT ORDER
Nebraska General Partnership,)	
Buffalo County, FID # 65098,)	
Respondents.)	

COME NOW the parties, Petitioner, the Nebraska Department of Environmental Quality ("NDEQ" or "Department"), proceeding on its Complaint, Compliance Order and Notice of Hearing filed herein and appearing through its counsel, Steven J. Moeller; and the Respondents, Janet M. Slegers, Wood River Dairy L.L.C., and Aspen Dairy, a Nebraska general partnership, appearing through their counsel, Stephen D. Mossman. Each party, having consented to the making and entering of this Consent Order to resolve the requested contested case without trial, agrees to the following:

1. The Director has jurisdiction of the parties and the subject matter of this action. The Complaint, Compliance Order and Notice of Hearing filed herein constitutes a justiciable cause of action against the Respondent.
2. The parties agree that settlement is in the public interest and that entry of this Consent Order is the most appropriate means of resolving their dispute.
3. The parties desire to conclude this case without trial or adjudication of any issues of fact or law concerning the Complaint, Compliance Order and Notice of Hearing.
4. The Respondent agrees to comply with this Consent Order and agrees not to contest or challenge the allegations made herein for the purposes of

enforcement of this settlement. The Department reserves the right to pursue any other administrative, civil or criminal actions which are not in conflict with the provisions of this Consent Order.

.5. Therefore the parties agree to the entry of this Consent Order by the Director to resolve the contested case asked for on the Complaint, Compliance Order and Notice of Hearing.

FACTUAL BASIS

6. 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.

7. On or about July 9, 2008, Respondents 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))

8. On or about September 4, 2008, Respondents 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))

9. On or about October 1, 2008, Respondents 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))

10. On or about February 12, 2009, Respondents 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))

11. On or about April 22, 2009, Respondents 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))

12. On or about March 8, 2007, Respondents 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)

13. On or about March 8, 2007, Respondents failed to maintain the proper amount of freeboard for all storage structures. (Violation of Title 130, Chapter 8, Section 003.01)

14. On or about March 8, 2007, Respondents failed to have approvals and permits required to operate livestock waste control facilities by failing to have the appropriate construction and operating permit for a feed storage and a manure stockpiling area. (Violation of Title 130, Chapter 2, Section 008.06-008.09);

CONCLUSIONS OF LAW, DETERMINATIONS, AND ACTIONS

15. The Respondents are each a “person” as defined in Neb. Rev. Stat. § 81-1502(10).

16. The above factual basis in paragraphs 6-14 constitute violations of law and regulation as noted in each paragraph.

17. The parties agree that the admissions set forth above would only be binding against Wood River Dairy, LLC, Aspen Dairy and Janet Slegers in any administrative proceeding instituted by the Department. NDEQ agrees not to file

a case pursuant to Neb.Rev.Stat. §54-2431 (Supp. 2009) against the Respondents as long as they do not have a significant discharge event.

18. This Consent Order shall have the force and effect of a final order of the Director of the NDEQ issued pursuant to the Nebraska Environmental Protection Act (NEPA).

19. The Parties agree as follows:

- a. Respondents shall immediately employ a full time LWCF and Land Application Manager to operate both the waste control facility and the land application of the waste. This person shall attend land application training, investigate adequacy of land available for application of liquids from the operation and expand the area if necessary. Further, this person cannot be one of the current parties to this action.
- b. On March 1 of each year, Respondent shall submit an annual report that: estimates amount of total manure, litter, and process wastewater generated; estimates amount of total manure, litter, and process wastewater transferred to other persons; lists the total number of acres under control of operation that were used for land application; gives the amount of manure, litter, & processed wastewater applied to each field; and includes the calculations showing how the application rate was determined.
- c. Respondents, for a period of two (2) years from the date this Consent Order becoming effective, shall remain in compliance with this Consent Order, all applicable provisions of the Livestock Waste Management Act, NEPA and Title 130. Failure to remain in compliance during the two year period may subject the Respondents to further actions either under this order or a new administrative action, and may also result in further civil or criminal actions by the State of Nebraska. If the Respondents remain in compliance during the two year period, NDEQ agrees to not subject the Respondents to further actions under this Order. If Respondents successfully stay in compliance during this two year period, the action required by paragraph 19(a) above shall become optional.

20. The Parties further agree that the contested case shall be dismissed and the undersigned consent without further notice, to the form and entry of the foregoing Consent Order.

NEBRASKA DEPARTMENT OF
ENVIRONMENTAL QUALITY,
Petitioner

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JANET SLEGGERS, WOOD RIVER DAIRY,
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HEARING OFFICER'S RECOMMENDATION

I have reviewed the foregoing consent order. I find that it is comports with the intentions of the parties and that it is in compliance with applicable law. I recommend that the order be adopted as the final order of the Nebraska Department of Environmental Quality in this contested case by the Director of the Nebraska Department of Environmental Quality.

/s/ Bill Morris
Bill Morris, #15124
Hearing Officer

ORDER

The Director approves the Consent Order and IT IS SO ORDERED.

DATED this 13th day of April, 2010.

/s/ Michael J. Linder
Michael J. Linder, Director, Nebraska
Department of Environmental Quality