

BEFORE THE NEBRASKA DEPARTMENT OF ENVIRONMENTAL QUALITY

IN THE MATTER OF	)	CASE NO. 3143
JANET M. SLEGERS, WOOD RIVER	)	
DAIRY L.L.C. AND ASPEN DAIRY, a	)	COMPLAINT, REVOCATION
Nebraska General Partnership,	)	ORDER AND NOTICE OF
Buffalo County, FID # 65098	)	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, Cum. Supp. 2010). 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, Cum. Supp. 2010) and Title 130, *Livestock Waste Control Regulations*. 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. In a Consent Order approved by the Director in April 2010,  
Respondents admitted that;

- a. 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))
- b. 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))
- c. 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))
- d. 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))
- e. 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))
- f. 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)

- g. 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)
- h. 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).

4. Respondents on or about February 29, 2012 discharged livestock waste into the waters of the state in Buffalo County, Nebraska. (Violation of Neb. Rev. Stat. Section 81-1506 (1) (a) and (2) (a)).

5. Respondents on or about March 1, 2012 failed to report a discharge of livestock waste to the Department as required by Title 130, Chapter 2, Section 10.

6. Further, on or about March 1, 2012, Respondents violated the Consent Order approved by the Director on April 13, 2010, in that the Respondents for a two year period were to remain in compliance with "all applicable provisions of the Livestock Waste Management Act, NEPA and Title 130."

7. Further, the Respondents are unsuited to perform the obligations of a permitholder under Neb. Rev. Stat. §54-2431 (Reissue 2008, Cum. Supp. 2010), in that Respondents have committed three separate and distinct discharges within the last 5 years.

8. The Respondents are a "person" as defined in Neb. Rev. Stat. §81-1502(10).

9. Respondents have violated Neb. Rev. Stat. §81-1506 (1) (a) and (2) (a) and Title 130, Chapter 2, Section 10.

### III. REVOCATION ORDER

10. IT IS HEREBY ORDERED that the construction and operating permit issued by the Department for the above described livestock operation, is hereby revoked. All animal feeding operations at Respondents' Dairy shall cease within 60 days of this Revocation Order and the facility closed as set out in Title 130, Chapter 11, Section 011.

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

11. 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.

12. 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

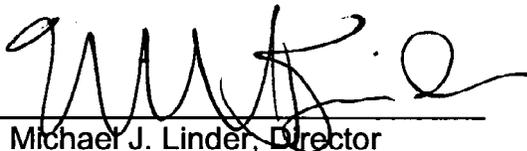
13. Whether or not Respondents request a hearing, an informal settlement conference may be requested by writing to Steve Moeller, Attorney, Nebraska Department of Environmental Quality, P.O. Box 98922, Lincoln, Nebraska 68509-8922, or have your attorney make such a request.

14. 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

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

June 1 2012  
Date



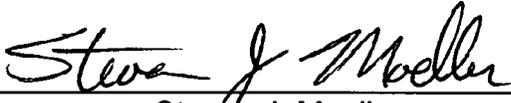
Michael J. Linder, Director  
NEBRASKA DEPARTMENT OF  
ENVIRONMENTAL QUALITY

#### 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<sup>th</sup> day of June 2012 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

  
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Steven J. Moeller  
Attorney