

BEFORE THE NEBRASKA DEPARTMENT OF ENVIRONMENTAL QUALITY

IN THE CASE OF )  
TRENTON AGRI PRODUCTS LLC, )  
A Delaware Limited Liability Company, )  
Facility ID 78323, )  
Respondent. )

CASE NO. 3362  
CONSENT ORDER

I. INTRODUCTION

1. The Nebraska Department of Environmental Quality (Department) and Trenton Agri Products LLC (Trenton) voluntarily enter into this Consent Order. The Consent Order establishes a schedule for actions necessary to achieve and maintain compliance with Trenton's construction permit revision dated February 24, 2012, in accordance with the Nebraska Environmental Protection Act (Act), Neb. Rev. Stat. §81-1501 et seq. (Reissue 2014 and Supp. 2015) and *Title 129, Neb. Admin. Code, Nebraska Air Quality Regulations*. This Consent Order requires Trenton to comply with the activities and schedules specified in Section VI.

II. JURISDICTION

2. The Department 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 the Act. This Consent Order is issued under the authority vested in the Director of the Department by Neb. Rev. Stat. §§81-1504(25) and 81-1507(1).
3. Trenton admits to and agrees not to contest the jurisdictional allegations referenced herein.



4. Trenton waives its right to receipt of a complaint and all notice and hearing requirements provided in Neb. Rev. Stat. §81-1507 for the violations alleged herein.

### III. PARTIES.

5. The parties to this Consent Order are the Nebraska Department of Environmental Quality and Trenton Agri Products LLC. Trenton is a Delaware Corporation qualified and in good standing to do business in Nebraska. This Consent Order is binding on Trenton, its employees, agents, contractors, consultants, successors and assigns.

### IV. FINDINGS OF FACT

6. At all times material herein, Trenton has owned and operated an ethanol manufacturing plant located at 36638 U.S. Highway 34, Trenton, Hitchcock County, Nebraska.
7. Pursuant to the Nebraska Environmental Quality Council's authority to adopt rules for the issuance of construction and operating permits for the purpose of air pollution control, as expressed in Neb. Rev. Stat. §81-1505(12), the Council adopted a rule codified as *Title 129, Neb. Admin. Code, Nebraska Air Quality Regulations*.
8. Trenton, at all times material herein, has been subject to the terms and conditions of a construction permit #CP10-045 issued pursuant to Neb. Rev. Stat. §81-1504(11) on February 24, 2012.
9. The construction permit, Section III (B)(3)(a) states "[e]missions from the emission units . . . shall be controlled by pollution control equipment as follows: Fermenters #1 through #4 and beerwell shall be controlled by the Scrubber Control System (C40)."
10. On September 23, 2015, during observation of a performance test, a Department inspector observed two fermentation tank pressure relief valves (PRV) that were venting. The Department issued a Notice of Violation to Trenton dated October 5, 2015 and required

submission of a detailed plan of corrective action for the venting PRVs to eliminate emission venting during normal operations.

11. Trenton submitted a letter dated October 23, 2015 to the Department providing its action plan to address the PRV venting, including reducing the beer feed rate from 620 to 560 gpm (gallons per minute), replacing both PRVs, and long-term action to reduce pressure in the fermenters and beerwell.

12. On January 6, 2016, Trenton met with the Department and agreed to continue to run its facility at the 560 gpm rate; to install a Continuous Emission Monitoring System (CEMS) at the facility by July 29, 2016; and to reconstruct the CO<sub>2</sub> manifold system with increased diameter piping by June 30, 2016.

13. The Act at Neb. Rev. Stat. §81-1506(4)(b) makes it unlawful for any person to “violate any term or condition of an air pollution permit or any emission limit set in the permit.”

Trenton is a “person” as defined in Neb. Rev. Stat. §81-1502(10) of the Act.

14. Trenton’s failure to comply with the permit condition to control emissions through the scrubber is a violation of the Act.

## V. STIPULATION

15. Trenton admits to the findings of fact and conclusions of law referenced in Section IV above.

16. Trenton agrees to undertake all actions required by the terms and conditions of this Consent Order and agrees not to contest the basis or validity of this Consent Order in any proceedings by the Department to enforce this Consent Order.

17. Trenton shall be responsible for any noncompliance with this Consent Order by its employees, contractors, and representatives.

18. The Director of the Department is authorized pursuant to Neb. Rev. Stat. §§81-1504(25) and 81-1507(1) to enter into this Consent Order requiring Trenton to implement the activities necessary to achieve and maintain compliance with their permit as described in Section VI of this Consent Order.

#### VI. COMPLIANCE ORDER AND SCHEDULE

19. Trenton agrees to perform the following:

- A. Continue running its ethanol plant at the 560 gpm beer feed rate until the CEMS to be installed has been certified pursuant to Appendix B of 40 C.F.R. Part 60.
- B. By June 30, 2016, have reconstructed the CO2 manifold system.
- C. By July 29, 2016, install a CEMS on the CO2 scrubber (S40a).
- D. By September 30, 2016, certify the CEMS in accordance with Appendix B of 40 C.F.R. Part 60.
- E. Submit a request for a construction permit revision for an administrative permit amendment for installation of the CEMS in accordance with *Title 129, Chapter 15, 001*.

20. All terms and references used in this Consent Order shall have the same meaning as in the Permit. No other terms or conditions of the Permit are affected by this Consent Order.

21. Information to be submitted under this Consent Order shall be sent to:

Air Quality Division  
Nebraska Department of Environmental Quality  
P.O. Box 98922 (1200 N St., Suite 400)  
Lincoln, NE 68509-8922  
Telephone: 402-471-2186

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

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

## VIII. RESERVATION OF RIGHTS

23. Nothing in this Consent Order shall be construed to sanction any violation of State or Federal law or limit the power and authority of the Department to take or order any action necessary to protect public health, welfare, or the environment or to enforce any provision of the Act and any rules, regulations, orders, or permits issued pursuant to the Act.

## IX. NEGATION OF AGENCY RELATIONSHIP

24. Nothing contained in this Consent Order shall be construed to create, either expressly or by implication, the relationship of agency between the Department and Trenton.

## X. AMENDMENT

25. This Consent Order may be modified and amended in writing by mutual agreement of the Department and Trenton.

## XI. EFFECTIVE DATE

26. This Consent Order shall become effective on the date it is signed by the Director of the Department or his designee.

## XII. SEVERABILITY

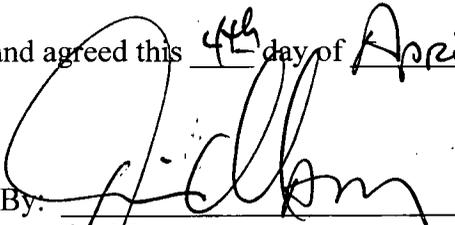
27. If any provision or authority of this Consent Order or the application of this Consent Order to any party or circumstances is held by any judicial or administrative authority to be invalid, the application of such provisions to other party or circumstances and the remainder of the Consent Order shall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

XIII. SIGNATURES

28. For the Respondent, Trenton Agri Products LLC: The undersigned representative of Trenton Agri Products LLC 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:   
Title: President  
Date: 3/30/16

29. For the Department: IT IS ORDERED and agreed this 4<sup>th</sup> day of April, 2016.

By:   
Jim Macy  
Director  
Department of Environmental Quality