

STATE OF MICHIGAN  
DEPARTMENT OF ENVIRONMENTAL QUALITY  
OFFICE OF THE DIRECTOR

---

In the matter of administrative proceedings )  
against **STATE LINE FARMS**, a )  
partnership organized under the laws of the )  
State of Ohio and doing business at 11387 )  
Lime Creek Highway, in the City of Morenci, )  
County of Lenawee, State of Michigan )  
)

---

AQD No. 24-2008

SRN: N7343

STIPULATION FOR ENTRY OF FINAL ORDER  
BY CONSENT

This proceeding resulted from allegations by the Michigan Department of Environmental Quality ("MDEQ") Air Quality Division ("AQD") against State Line Farms, ("Farm"), an Ohio partnership located at 11387 Lime Creek Highway in the City of Morenci, County of Lenawee, State of Michigan. The MDEQ alleges that the Farm is in violation of the Michigan Administrative Code ("MAC"), 2002 AACRS, R 336 1901 ("Rule 901") Specifically, the MDEQ alleges that the Farm has emitted unreasonable odors from the swine barns, as cited herein and in the Letters of Violation ("LOVs") dated December 8, 2005, August 1, 2006, April 24, 2007, May 15, 2007, August 10, 2007, and May 23, 2008. The Farm and MDEQ stipulate to the termination of this proceeding by entry of a Stipulation for Entry of a Final Order by Consent ("Consent Order")

The Farm and MDEQ stipulate as follows:

1. The Natural Resources and Environmental Protection Act, 1994 PA 451, ("Act 451"), MCL 324.101 et seq. is an act that controls pollution to protect the environment and natural resources in the State.
2. Article II, Pollution Control, Part 55 of Act 451 ("Part 55"), MCL 324.5501 et seq. provides for air pollution control regulations in this State.
3. The Michigan Department of Natural Resources ("MDNR") is authorized pursuant to Section 5503 of Part 55 to administer and enforce all provisions of Part 55 Section 301 of Part 3 provides the authority to the Director of the MDNR to delegate powers and duties

4 The MDEQ was created as a principal department within the Executive Branch of the State of Michigan pursuant to Executive Order 1995-18. All statutory authority, powers, duties, functions and responsibilities of the MDNR AQD were transferred to the Director of the MDEQ ("Director").

5 The Director has delegated authority to the Chief of the AQD ("AQD Chief") to enter into this Consent Order.

6 The termination of this matter by a Consent Order pursuant to Section 5528 of Part 55 is proper and acceptable.

7 The Farm and the MDEQ agree that the signing of this Consent Order is for settlement purposes only and does not constitute an admission by the Farm that the law has been violated.

8 This Consent Order becomes effective on the date of execution ("effective date of this Consent Order") by the AQD Chief.

9 The Farm shall achieve compliance with the aforementioned regulations in accordance with the requirements contained in this Consent Order.

#### COMPLIANCE PROGRAM AND IMPLEMENTATION SCHEDULE

##### 10. A Control Program and Installation Schedule

1 On September 12, 2007, the Farm notified the AQD Jackson District Supervisor in writing that the purchase of eight (8) Odor Control Technology control units (OCT units) to bring the Farm into compliance with the provisions of Part 55 and Rule 901 had occurred.

2 By October 10, 2007, the Farm began on-site installation of the Odor Control Technology control units and associated equipment and notified the AQD Jackson District Supervisor in writing that this installation had begun.

3 By October 31, 2007, the Farm completed the installation of the Odor Control Technology control units and notified the AQD Jackson District Supervisor in writing that the installation of the OCT units had been completed and operation of the equipment had commenced.

##### B Rule 901 Compliance

1. On and after the effective date of this Consent Order, the Farm shall control odorous emissions from the swine barns and shall comply with Rule 901, which states:

"Notwithstanding the provisions of any other department rule, a person shall not cause or permit the emission of an air contaminant or water vapor in quantities that cause, alone or in reaction with other air contaminants, either of the following:

- a) Injurious effect to human health or safety, animal life, plant life of significant economic value, or property.
- b) Unreasonable interference with the comfortable enjoyment of life and property.”

2 On and after the effective date of this Consent Order, the Farm shall satisfactorily maintain and operate the pit fan bed biofilters to comply with Rule 901 by reducing odor emissions to an acceptable level from the swine barns, until the barns are shutdown.

3 On and after the effective date of this Consent Order, the Farm shall satisfactorily maintain and operate the Odor Control Technology control units to comply with Rule 901 by reducing odor emissions to an acceptable level from the swine barns, until the barns are shutdown.

C Operations and Preventative Maintenance Plan

On and after the effective date of this Consent Order, the Farm shall not operate the swine barns unless the AQD approved Operations and Preventative Maintenance Plan is implemented. The Operations and Preventative Maintenance Plan is specified in Exhibit A, incorporated by reference, and made an enforceable part of this Consent Order.

SHUTDOWN PLAN

11. The Farm shall have all livestock removed from the swine barns by November 9, 2008, and agrees to follow the conditions in paragraph 12 if livestock are to be reintroduced into the barns after the shutdown date of November 9, 2008.

12. Prior to reintroducing livestock into the barns after the November 9, 2008, shutdown date, the Farm shall submit to the AQD, an acceptable plan and, if appropriate, an air use permit application for the installation of air pollution control equipment and/or other equipment to be used to control odorous emissions from the barns as necessary to obtain compliance with Rule 901

GENERAL PROVISIONS

13. This Consent Order in no way affects the Farm's responsibility to comply with any other applicable state and federal, or local laws or regulations, including without limitation, any amendments to the federal Clean Air Act, 42 USC 7401 *et seq*, Act 451, Part 55 or their rules and regulations, or to the State Implementation Plan.

14 This Consent Order constitutes a civil settlement and satisfaction as to the resolution of the violations specifically addressed herein; however, it does not resolve any criminal action that may result from these same violations

15 Within thirty (30) days after the effective date of this Consent Order, the Farm shall pay to the General Fund of the State of Michigan, in the form of a check made payable to the "State of Michigan" and delivered to the Michigan Department of Environmental Quality, Financial and Business Services Division, Revenue Control, P.O. Box 30657, Lansing, Michigan 48909-8157, a settlement amount of \$28,000.00. This total settlement amount shall be paid within thirty (30) days of the effective date of this Consent Order. To ensure proper credit, all payments made pursuant to this Consent Order shall include the Agreement Identification No AQD 1156 on the face of the check. This settlement amount is in addition to any fees, taxes, or other fines that may be imposed on the Farm by law

16 On and after the effective date of this Consent Order, if the Farm fails to comply with paragraph 10 B 1 or 11 of this Consent Order, the Farm is subject to stipulated fines of up to \$2,000 00 per violation per day. On and after the effective date of this Consent Order, if the Farm fails to comply with any other provision of this Consent Order, the Farm is subject to a stipulated fine of up to \$500.00 per violation. The amount of the stipulated fines imposed pursuant to this paragraph shall be within the discretion of the MDEQ. Stipulated fines submitted under this Consent Order shall be by check, payable to the State of Michigan within thirty (30) days of written demand and shall be delivered to the Michigan Department of Environmental Quality, Financial and Business Services Division, Revenue Control, P.O. Box 30657, Lansing, Michigan 48909-8157. To ensure proper credit, all payments shall include the Agreement Identification No. AQD 1156 S on the face of the check. Payment of stipulated fines shall not alter or modify in any way the Farm's obligation to comply with the terms and conditions of this Consent Order.

17 The AQD, at its discretion, may seek stipulated fines or statutory fines for any violation of this Consent Order which is also a violation of any provision of applicable federal and state law, rule, regulation, permit, or MDEQ administrative order. However, the AQD is precluded from seeking both a stipulated fine under this Consent Order and a statutory fine for the same violation.

18 To ensure timely payment of the settlement amount assessed in paragraph 15 and any stipulated fines assessed pursuant to paragraph 16 of this Consent Order, the Farm shall pay an interest penalty to the State of Michigan each time it fails to make a complete or timely payment under this Consent Order. The interest penalty shall be determined at a rate of twelve percent (12%) per year

compounded annually, using the full increment of amount due as principal, calculated from the due date specified in this Consent Order until the date that delinquent payment is finally paid in full. Payment of an interest penalty by the Farm shall be made to the State of Michigan in accordance with paragraph 16 of this Consent Order. Interest payments shall be applied first towards the most overdue amount or outstanding interest penalty owed by the Farm before any remaining balance is applied to subsequent payment amount or interest penalty.

19. The Farm agrees not to contest the legal basis for the settlement amount assessed pursuant to paragraph 15. The Farm also agrees not to contest the legal basis for any stipulated fines assessed pursuant to paragraph 16 of this Consent Order, but reserves the right to dispute in a court of competent jurisdiction the factual basis upon which a demand by MDEQ of stipulated fines is made. In addition, the Farm agrees that said fines have not been assessed by the MDEQ pursuant to Section 5529 of Part 55 and therefore are not reviewable under Section 5529 of Part 55.

20. This compliance program is not a variance subject to the 12 month limitation specified in Section 5538 of Part 55.

21. This Consent Order shall remain in full force and effect for a period of at least one (1) year or until all livestock have been removed from the barns and the barns have been shutdown. Thereafter, the Consent Order shall terminate only upon written notice of termination issued by the AQD Chief. Prior to issuance of a written notice of termination, the Farm shall submit a request, to the AQD Chief at the Michigan Department of Environmental Quality, Air Quality Division, P.O. Box 30260, Lansing, Michigan 48909-7760, consisting of a written certification that the Farm has fully complied with all the requirements of this Consent Order and has made all payments including all stipulated fines required by this Consent Order. Specifically, this certification shall include: (i) the date of compliance with each provision of the compliance program and the date any payments or stipulated fines were paid; (ii) a statement that all required information has been reported to the AQD Jackson District Supervisor; (iii) confirmation that all records required to be maintained pursuant to this Consent Order are being maintained at the facility; and, (iv) such information as may be requested by the AQD Chief.

22. In the event State Line Farms sells or transfers the facility, with SRN N7343, it shall advise any purchaser or transferee of the existence of this Consent Order in connection with such sale or transfer. Within thirty (30) calendar days, the Farm shall also notify the AQD Jackson District Supervisor, in writing, of such sale or transfer, the identity and address of any purchaser or transferee, and confirm the fact that notice of this Consent Order has been given to the purchaser and/or transferee.

As a condition of the sale, State Line Farms must obtain the consent of the purchaser and/or transferee, in writing, to assume all of the obligations of this Consent Order. A copy of that agreement shall be forwarded to the AQD Jackson District Supervisor within thirty (30) days of assuming the obligations of this Consent Order.

23. Prior to the effective date of this Consent Order and pursuant to the requirements of Sections 5511 and 5528(3) of Part 55, the public was notified of a 30-day public comment period and was provided the opportunity for a public hearing.

24. Section 5530 of Part 55 may serve as a source of authority but not a limitation under which the Consent Order may be enforced. Further, Part 17 of Act 451 and all other applicable laws and any other legal basis or applicable statute may be used to enforce this Consent Order.

25. The Farm hereby stipulates that entry of this Consent Order is a result of an action by MDEQ to resolve alleged violations of its facility located at 11387 Lime Creek Highway, in Morenci, Michigan. The Farm further stipulates that it will take all lawful actions necessary to fully comply with this Consent Order, even if the Farm files for bankruptcy in the future. The Farm will not seek discharge of the settlement amount and any stipulated fines imposed hereunder in any future bankruptcy proceedings, and the Farm will take necessary steps to ensure that the settlement amount and any future stipulated fines are not discharged, including requesting an order from the pertinent U.S. Bankruptcy Court designating the settlement amount and any future stipulated fines as exceptions to discharge pursuant to 11 U.S. Code Section 523(a)(7). The Farm, during and after any future bankruptcy

proceedings, will ensure that the settlement amount and any future stipulated fines remain an obligation to be paid in full by the Farm to the extent allowed by applicable bankruptcy law.

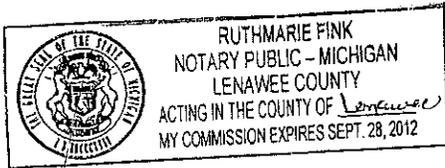
The undersigned certifies that he/she is fully authorized by the Farm to enter into this Consent Order and to execute and legally bind the Farm to it.

State Line Farms

Larry Colley Portner  
Print Name and Title

Larry Colley Date: 9-12-08  
Signature

The above signatory subscribed and sworn to before me this 12<sup>th</sup> day of September, 2008



Ruthmarie Fink  
Notary Public

Approved as to Content:

Approved as to Form:

G. Vinson Hellwig acting  
G. Vinson Hellwig, Chief  
AIR QUALITY DIVISION  
DEPARTMENT OF  
ENVIRONMENTAL QUALITY

Alan F. Hoffman  
Alan F. Hoffman, Section Head  
ENVIRONMENTAL REGULATION SECTION  
ENVIRONMENT, NATURAL RESOURCES,  
AND AGRICULTURE DIVISION  
DEPARTMENT OF ATTORNEY GENERAL

Dated: 9/24/08

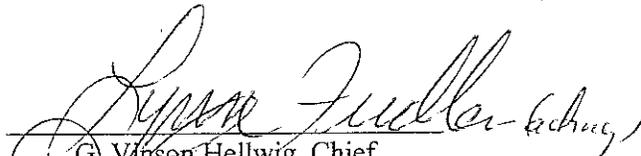
Dated: 9/22/08

FINAL ORDER

The Chief of the Air Quality Division having had opportunity to review the Consent Order and having been delegated authority to enter into Consent Orders by the Director of the Michigan Department of Environmental Quality pursuant to the provisions of Part 55 of Act 451 and otherwise being fully advised on the premises,

HAS HEREBY ORDERED that the Consent Order is approved and shall be entered in the record of the MDEQ as a Final Order

MICHIGAN DEPARTMENT OF ENVIRONMENTAL QUALITY

  
G. Vinson Hellwig, Chief  
Air Quality Division

Dated: 9/24/08