

STATE OF MICHIGAN
CIRCUIT COURT FOR THE 30TH JUDICIAL CIRCUIT
INGHAM COUNTY

MICHIGAN DEPARTMENT OF
ENVIRONMENT, GREAT LAKES, AND
ENERGY,

Plaintiff,

v

SLATER FARMS, LLC, SLATER CUSTOM
FARMING, LLC, SLATER FARMS 88th, LLC,
and ALLEN SLATER,

Defendants.

No. 20- 522 - CE

HON. CLINTON CANADY III

Elizabeth Morrisseau (P81899)
Gillian Wener (P81427)
Assistant Attorneys General
Attorneys for Plaintiff
Environment, Natural Resources, and
Agriculture Division
P.O. Box 30755
Lansing, MI 48909
(517) 335-7664

FILED-30th CIRCUIT COURT

SEP 24 2020

BY: RYAN J BUCK

There is no other pending or resolved civil action arising
out of the transaction or occurrence
alleged in the complaint.

COMPLAINT

Plaintiff, the Michigan Department of Environment, Great Lakes, and
Energy (EGLE), by and through its attorneys, Dana Nessel, Attorney General of the
State of Michigan, and Elizabeth Morrisseau and Gillian Wener, Assistant
Attorneys General, states as follows:

NATURE OF THE CASE

1. This is a civil action for injunctive relief to require Defendants Slater Farms, LLC (Slater Farms), Slater Custom Farming, LLC (Slater Custom Farming), Slater Farms 88th, LLC (Slater Farms 88th), and Allen Slater to comply with Part 31, Water Resources Protection, of the Natural Resources and Environmental Protection Act ("NREPA"), MCL 324.3101 *et seq* (Part 31) and associated rules.
2. Plaintiffs also seek injunctive relief to require Slater Farms to fulfill its contractual obligations under an administrative consent order it entered with EGLE.
3. Defendants' failure to comply with Part 31 of the NREPA and Slater Farms' failure to fulfill its contractual obligations, as described in this Complaint, threaten to impair the natural resources of Muskegon County and Newaygo County by overloading the local watershed with nutrients and introducing bacteria and other pathogens from animal waste into the waters of the state.
4. EGLE also seeks civil fines, attorney fees, and costs.
5. EGLE brings this action under Part 31 of the NREPA and common law for breach of contract.

JURISDICTION AND VENUE

6. This Court has jurisdiction over the subject matter of this action under Section 3115(1) of the NREPA, MCL 324.3115(1), and under Section 605 of the Revised Judicature Act (RJA), MCL 600.605.

7. This Court has personal jurisdiction over Slater Farms, Slater Custom Farming, and Slater Farms 88th under Section 711 of the RJA, MCL 600.711.

8. This Court has personal jurisdiction over Allen Slater under Section 705 of the RJA, MCL 600.705.

9. Venue in this Court is proper under Section 3115(1) of the NREPA, MCL 324.3115(1).

PARTIES

10. Plaintiff EGLE is the state department mandated to protect the natural resources of the state from pollution, impairment, and destruction. MCL 324.301, MCL 324.501, and Executive Order 2019-02. By Executive Order 2019-06, the former Michigan Department of Environmental Quality (DEQ) was renamed as EGLE. *Id.* To avoid confusion, this Complaint only refers to EGLE, even when describing actions taken when the agency was still named DEQ.

11. Defendant Slater Farms is a limited liability corporation incorporated in 1999 under the laws of the State of Michigan.

12. Defendant Slater Custom Farming is a limited liability corporation incorporated in 2006 under the laws of the State of Michigan.

13. Defendant Slater Farms 88th is a limited liability corporation incorporated in 2009 under the laws of the State of Michigan.

14. Nonparty Slater Estates, LLC (Slater Estates) is a limited liability corporation incorporated in 2000 under the laws of the State of Michigan.

15. Nonparty Slater Farms Baseline, LLC (Slater Farms Baseline) is a limited liability corporation incorporated in 2015 under the laws of the State of Michigan.

16. Allen Slater operates the aforementioned Slater corporate entities along with his brother, Aaron Slater. Both Slater brothers and their wives are equal co-owners.

17. Defendants Slater Farms, Slater Custom Farming, Slater Farms 88th, and Allen Slater are each a "person" within the meaning of MCL 324.301(h).

STATUTORY AND REGULATORY BACKGROUND

Part 31 Permitting

18. Michigan enacted Part 31 of the NREPA to protect and conserve the water resources of the state and to prevent and control pollution of surface and underground waters of the state and the Great Lakes. MCL 324.3103.

19. Section 3109(1) of NREPA, MCL 324.3109(1), states:

(1) A person shall not directly or indirectly discharge into the waters of the state a substance that is or may become injurious to any of the following:

- (a) To the public health, safety or welfare.
- (b) To domestic, commercial, industrial, agricultural, recreational, or other uses that are being made or may be made of such waters.
- (c) To the value or utility of riparian lands.
- (d) To livestock, wild animals, birds, fish, aquatic life, or plants or to their growth or propagation.
- (e) To the value of fish and game.

20. Under Part 31 of the NREPA, a person shall not discharge any waste or waste effluent into the waters of the state unless the person is in possession of a valid permit from EGLE. MCL 324.3112(1).

21. "Waters of the state," as defined by Part 31 of NREPA, include all "groundwaters, lakes, rivers, and streams and all other watercourses and waters, including the Great Lakes, within the jurisdiction of this state." MCL 324.3101(aa).

22. "Waste or waste effluent" includes water that contains polluting substances such as manure, ammonia, and pesticides. "Waste or waste effluent" also includes non-contact cooling water, which is water used in industrial processes to cool equipment that does not necessarily contain pollutants but is warmer than the water into which it is discharged.

23. Congress created the Clean Water Act to "restore and maintain the chemical, physical, and biological integrity of the Nation's waters." 33 USC 1251(a).

24. The Clean Water Act establishes a system of cooperative federalism that "recognize[s], preserve[s], and protect[s] the primary responsibilities and rights of States to prevent, reduce, and eliminate pollution, to plan the development and use (including restoration, preservation, and enhancement) of land and water resources[.]" 33 USC 1251(b).

25. A cornerstone of the Clean Water Act is the National Pollutant Discharge Elimination System ("NPDES") program, which is a point source discharge permitting program that controls and limits the discharge of pollutants into surface waters. See 33 USC 1342(a)(1). The Clean Water Act establishes

requirements for NPDES permits, including that they contain discharge limits necessary to meet federal water quality standards. *Id.*

26. Under the Clean Water Act, the United States Environmental Protection Agency ("EPA") can approve state programs for NPDES permits for states that have sufficient standards and resources. 33 USC 1342(b); *Michigan Farm Bureau v Dep't of Env'tl Qual*, 292 Mich App 106, 110 (2011).

27. In 1973, the EPA authorized Michigan to implement the NPDES permitting program in lieu of the EPA. *Mich Farm Bureau*, 292 Mich App at 110.

28. Thus, permits issued under Part 31 of NREPA are both state permits and federal NPDES permits that the EPA has authorized EGLE to issue in its stead.

CAFO Permitting

29. Concentrated animal feed operations (CAFOs) are "large-scale industrial operations that raise extraordinary numbers of livestock." *Mich Farm Bureau*, 292 Mich App at 111 (internal citation omitted).

30. Specific to this Complaint, large CAFOs are dairy operations that stable or confine more than 700 mature dairy cows. Mich Admin Code, R 323.2103(g)(i).

31. Housing that many animals in confinement "generate[s] large amounts of animal waste and pose[s] known risks to Michigan's water resources." *Mich Farm Bureau*, 292 Mich App at 144.

32. Among other things, the pollution associated with housing many animals in a confined area includes manure, nutrients such as nitrogen and phosphorous, and pathogens such as *E. Coli* bacteria. *NPDES Permit Regulation and Effluent Limitations Guidelines and Standards for CAFOs (Proposed Final Rule)*, 66 FR 2960, 2976–79 (Jan 12, 2001).

32. That pollution can reach surface waters by spilling out from storage areas, overflowing from insufficient storage lagoons, or, most commonly, through improper land application. (*Id.*)

33. When they reach surface waters, nitrogen and phosphorous can kill fish, cause algae blooms, contaminate shellfish and the fish and other animals that eat them, and generally harm water quality. Before reaching surface waters, excess amounts of nitrogen and phosphorous can harm soil quality and plants. (*Id.* at 2981.)

34. When *E. Coli* is present in surface waters, it can contaminate shellfish and fish, in turn harming people who consume them. Humans can also become sick after recreating in water contaminated with *E. Coli*. (*See id.*)

35. Land application is the process of spreading manure onto fields so that the nutrients from that waste can be used as fertilizer. When improperly performed, land application of manure threatens waters of the state with potential discharges of manure, nitrogen, phosphorous, bacteria, and other pollutants. Examples of improper land application include when manure is applied to wet fields

or when too much manure is applied to a field. See Mich Admin Code, R 323.2196(5)(a)(ix).

36. EGLE regulates CAFOs to prevent the discharge of their pollutants into the waters of the state. Mich Admin Code, R 323.2196 ("CAFO Rule").

37. The CAFO Rule contains the following definitions relevant to this Complaint:

a. An "Animal feeding operation (AFO)" means "a lot or facility . . . where the animals . . . have been, are, or will be stabled or confined and fed or maintained for a total of 45 days or more in any 12-month period[.]" Mich Admin Code, R 323.2102(b)

b. A "Concentrated animal feeding operation (CAFO)" means:

"an AFO that is defined as a large CAFO . . . Two or more AFOs under common ownership are considered to be a single AFO for the purposes of determining the number of animals at an operation, if they adjoin each other or if they use a common area or system for the disposal of wastes." Mich Admin Code, R 323.2102(i)

c. A "Large CAFO" means "an AFO that stables or confines as many as or more than 700 mature dairy cows, whether milked or dry." Mich Admin Code, R 323.2103(g)(i).

d. A "Land application area" specifically for CAFOs means:

land under the control of an AFO owner or operator, whether it is owned, rented, or leased, or subject to an access agreement to which production area waste or CAFO process wastewater is or may be applied. Land application area includes land not owned by the AFO owner or operator but the AFO owner or operator has control of the land application of production area waste or CAFO process wastewater. Mich Admin Code, R 323.2103(f).

38. Although the CAFO Rule is based on federal regulations developed by the EPA, “Michigan runs its own [CAFO] program under an enabling statute that is clearly more expansive than the federal Clean Water Act.” *Mich Farm Bureau*, 292 Mich App at 113,123.

39. Michigan requires all owners or operators of large CAFOs to obtain NPDES permits. Mich Admin Code, R 323.2196(1).

40. CAFO owners or operators can satisfy this permitting requirement by obtaining either an individual NPDES permit or a certificate of coverage under a general NPDES permit. Mich Admin Code, R 323.2196(1)(b). Alternately, CAFO owners or operators can avoid the need to obtain a permit if they can demonstrate that they have no potential to discharge. *Id.* and Mich Admin Code, R 323.2196(4).

41. Whether pursuant to a general NPDES permit or an individual NPDES permit, CAFO owners or operators must all develop and implement a comprehensive nutrient management plan (“CNMP”). Mich Admin Code, R 323.2196(5)(a).

42. A CNMP contains procedures and recordkeeping requirements that detail how a CAFO will raise its animals and how it will store, handle, and dispose of the associated waste. *Id.*

43. An ACO is both a contract between the parties and an “order” under Part 31, MCL 324.3112(4). Violating such an order is a Part 31 violation. MCL 324.3115(1). *See also* Ex B, p 10, ¶ 10.2 (EGLE and Slater Farms agree that the ACO may be enforced as a final order under Part 31 of the NREPA).

GENERAL ALLEGATIONS

44. After incorporating Slater Farms and Slater Estates, Aaron and Allen Slater purchased their family farm and expanded its historic operations more than tenfold. Before the expansion, the family raised 120 dairy cows.

45. From 2006 through 2015, the brothers incorporated Slater Custom Farming, Slater Farms 88th, and Slater Farms Baseline. Through their corporations, both brothers own and manage the animals, the animal feeding operations, waste collection and spreading equipment, waste management and disposal, and labor at locations known as Slater Home Farms, 88th Street Farm, Joe's Place, and Silver Skies. Their wives co-own but do not co-manage all of the corporations.

46. Now, across several parcels of property owned or rented by a combination of family members, unrelated parties, and corporate entities, the Slater business, as described below, owns and manages animal feeding operations of more than 1,500 mature dairy cows and 400 cattle, which includes collecting and spreading the associated waste on hundreds of acres in both Newaygo County and Muskegon County.

47. Every year, those operations produce approximately 8.9 million gallons of liquid waste and 1,500 tons of solid waste, which contain water contaminants such as nitrogen, phosphorous, and E. Coli bacteria.

48. Every year, Slater Custom Farming manages a system for disposing of the operations' waste, along with approximately 10.7 million more gallons of liquid waste from a commercially unrelated farm, by land applying it on 50 to 150 nearby

parcels, the vast majority of which are owned by people not named in this Complaint.

49. Improperly managing this waste threatens nearby waters of the state with serious environmental and public health harms such as contaminated drinking water, surface water unsafe for recreation, and excess nutrients that harm aquatic life and contribute to algae blooms, which, in turn, render surface water unsafe for drinking or recreation

50. At all times relevant to this complaint, Slater Farms operated a CAFO at the following locations:

- a. The east half of the southeast quarter of Section 11, and the northeast quarter of the northeast quarter and the west half of the northeast quarter of Section 14, all in Township 12 North, Range 15 West, Parcels No. 61-05-055-400-000400, 05-014-200-001-00, and 05-014-200-0002-00, located in the township of Holton in Muskegon County, referred to as 7374 Brunswick Road, Holton, Michigan, sometimes listed as 10171 Brickyard Road in Holton, Michigan, ("Slater Home Farm");
- b. The southeast quarter of Section 30, Township 12 North, Range 14 West, Parcels No. 62-17-30-400-0021 and 62-17-30-400-003A, located in the township of Sheridan in Newaygo County, referred to as 9061 West 88th St. in Fremont, Michigan 49412, ("88th Street Farm");
- c. The south half of the southwest quarter of Section 11, Township 12 North, Range 15 West and the west half of the southeast quarter except the south 16 rods of the east 10 rods and also except the south 1155.44 feet of the west 754 feet thereof, of Section 10, Township 12 North, Range 15 West, Parcel Nos. 05-011-300-0002-00 and 05-010-400-0001-00, all located in Holton Township in Muskegon County and referred to as 7680 Brunswick Road in Holton, Michigan, ("Joe's Place"); and
- d. Portions of the southeast quarter and the southwest quarter of Section 13 in Township 14 North, Range West, Parcel Nos. 62-

09-31-400-001, 62-09-31-400-005, and 62-09-31-400-008, all located in Denver Township in Newaygo County and referred to as 9105 W. Baseline Road in Hesperia, Michigan ("Silver Skies") (Ex A).

51. Bonnie J. Slater and James A. Slater own a portion of the Slater Home Farm, specifically the west half of the southeast quarter of Section 11, the northeast quarter of the northeast quarter and the west half of the northeast quarter of Section 14, all in Township 12 North, Range 15 West, Parcels No. 05-014-200-001-00 and 05-014-200-0002-00, located in the township of Holton in Muskegon County.

52. Slater Estates owns the other portion of the Slater Home Farm, specifically the east half of the southeast quarter of Section 11, Township 12 North, Range 15 West, Parcel No. 61-05-055-400-000400, located in the township of Holton in Muskegon County.

53. Slater Estates also owns Joe's Place.

54. Amanda E. Beecham and Devren J. Beecham own the 88th Street Farm.

55. Defendant Slater Farms owns the cows, calves, and bulls located at the Slater Home Farm.

56. Defendant Slater Farms 88th owns the cows located at the 88th Street Farm.

57. Defendant Slater Farms owns the cows located at the Joe's Place.

58. Slater Farms Baseline owns the cows located at Silver Skies.

59. Slater Farms exclusively operates animal feeding operations at the Slater Home Farm and Joe's Place, Slater Farms along with Slater Farms 88th

operates animal feeding operations at the 88th Street Farm, and Slater Farms along with Slater Farms Baseline operates animal feeding operations at Silver Skies.

60. Milking operations occur at Slater Home Farm and the 88th Street Farm. Joe's Place houses bulls, far off dry cows (pregnant cows), and most of the heifers (cows who have not given birth yet). Calves are also housed at Slater Home Farm.

61. Slater Custom Farming manages the waste produced from the Slater Home Farm, the 88th Street Farm, and Joe's Place, along with waste from a fourth and commercially unrelated facility, Northpoint Dairy. Allen Slater and Slater Custom Farming manage this waste under one CAFO permit instead of the separate property owners and operators obtaining and complying with separate permits. (Exs C and D.)

62. Slater Custom Farming also manages waste produced from animal feeding operations at Silver Skies but the certificate of coverage does not include animal feeding operations at Silver Skies.

63. Additionally, Slater Custom Farming is responsible for land applying all waste produced at the Slater Home Farm, the 88th Street Farm, Joe's Place, and Silver Skies, in addition to the waste manifested from unrelated dairy operations.

64. At all times relevant to the Complaint, Aaron and Allen Slater owned and operated Slater Custom Farming, Slater Estates, Slater Farms, Slater Farms 88th, and Slater Farms Baseline, but typically delegated daily operations

management. From 2012 until late 2014 or early 2015, Devren J. Beecham managed daily operations. From at least March 2015 until present, if not earlier, Lawrence Slater managed daily operations.

65. Slater Home Farm, the 88th Street Farm, Joe's Place, and Silver Skies are each an "AFO" within the meaning of Mich Admin Code, R 323.2102(b).

66. The animal feeding operations at Slater Home Farm, the 88th Street Farm, Joe's Place, and Silver Skies are collectively a "large CAFO" within the meaning of Mich Admin Code, R 323.2103(g).

67. The 88th Street Farm stables or confines at least 700 mature dairy cows.

68. The 88th Street Farm is a "large CAFO" within the meaning of Mich Admin Code, R 323.2103(g).

69. In early 2012, after investigating a citizen complaint about land-applied manure discharging into Brayden Creek, EGLE discovered that Slater Farms was operating a CAFO without a NPDES permit. In addition to operating without a permit, Slater Farms was also not operating in accordance with the CAFO Rule. Along with causing an illegal discharge from its improper land application of manure, Slater Farms engaged in the following inadequate waste management practices that threatened to discharge waste into waters of the state: feed lots located next to surface waters at Joe's Place, poorly maintained waste storage structures at 88th Street Farm and Joe's Place, overflowing runoff

management system at Slater Home Farm, and contaminated runoff at the 88th Street Farm and the Slater Home Farm.

70. In 2013, in lieu of separate owners obtaining separate permits for three separate locations, Allen Slater, using the designated name "Slater Farms," assumed the responsibility of obtaining and complying with the general NPDES permit for CAFOs on behalf of Slater Home Farm, the 88th Street Farm, and Joe's Place. Allen Slater and Slater Farms are co-permittees. (Ex D).

71. Some years later, Slater Farms began renting Silver Skies, Slater Farms Baseline moved cows there, and Slater Farms began managing animal feeding operations at that location as well. Slater Custom Farming currently manages the waste produced from the animals housed at Silver Skies under the same system and using the same equipment it uses to manage the waste produced from animal feeding operations at the Slater Home Farm, 88th Street Farm, and Joe's Place.

ACO

72. Through Allen Slater and Devren J. Beecham, Slater Farms negotiated and executed an ACO with EGLE to establish a timeframe for Slater Farms to obtain a NPDES permit and bring animal feeding operations at the Slater Home Farm, the 88th Street Farm, and Joe's Place into compliance with Part 31. (Ex B). At the time, the 88th Street Farm had its own CNMP and Devren J. Beacham was initially preparing to submit his own CAFO permit for the 88th Street Farm, but

Allan Slater and Slater Farms included the permitting obligations for the 88th Street Farm into obligations for the collective operations instead.

73. Slater Farms complied with most of the obligations under the ACO. However, Slater Farms has not completed the following two obligations: (1) pursuant to Paragraph 3.7, to modify the silage pad runoff transfer system at the Slater Home Farm to have a proper pump and detention capacity to contain a 25-year/24-hour storm event, (Ex B, p 5, ¶ 3.7); and (2) pursuant to Paragraph 3.8, to design and construct a new waste storage structure at Slater Home Farms to Natural Resources Conservation Service (NRCS) standard 313 of 2005, (*Id.*, ¶ 3.8).

74. Under the ACO, the obligations under Paragraph 3.7 were due by March 4, 2013, and the obligations under Paragraph 3.8 were due by November 28, 2014.

75. Slater Farms asserted that it would not complete the obligations under Paragraph 3.7 until it completed its obligations under Paragraph 3.8.

76. In November 2014, Slater Farms requested an extension of time to complete its obligations under Paragraph 3.8 of the ACO.

77. EGLE approved Slater Farms' request in February 2015 and extended the deadline to November 28, 2015.

78. Later that year, Slater Farms again requested and EGLE again granted an extension, setting a new date of November 28, 2016 for Slater Farms to complete the obligations under Paragraph 3.8 of the ACO.

79. Under Paragraph 8.1 of the ACO, Slater Farms agreed to pay \$100.00 in stipulated penalties for each day it failed to timely perform as agreed under the ACO.

80. To date, EGLE requested \$5,400 in stipulated penalties from Slater Farms for its failure to timely submit a permit, and Slater Farms remitted only \$2,100, despite its agreement under the ACO to pay stipulated penalties. (Ex B, pp 7-8, ¶¶ 8.1-8.4).

General Permit

81. EGLE issued Allen Slater and Slater Farms, designated name "Slater Farms-CAFO," a certificate of coverage (Certificate) under General Permit No. MIG019000 (2010) (General Permit) as provided under Mich Admin Code, R 323.2196(1)(b) on June 7, 2013. (Ex C, General Permit); (Ex D, Certificate).

82. Although the Certificate was set to expire on April 1, 2015, it was automatically extended when Allen Slater re-applied for a new certificate of coverage on December 17, 2015 under 40 CFR 122.6. This submission was timely because EGLE extended the April 1, 2015 deadline to November 20, 2015 as a result of moving to a new electronic application system and accepted applications as late as December 31, 2015 to ensure that all applications were submitted through the new system.

83. Under the Certificate and the General Permit, Allen Slater and Slater Farms had to conform their large waste storage structures to NRCS Conservation Practice Standard 313, Waste Storage Facility dated 2005, by November 28, 2014.

(Ex D; Ex C, page 6, Part I, Section A(4)(a)(2)(b).) If the waste storage structures did not conform to that standard in time, Allen Slater and Slater Farms were required to stop using them. (Ex D.)

84. The General Permit limits the amount of phosphorous and nitrogen that may be land applied to a given location every year. (Ex C, pp 11–12, Part I, Sections A(4)(b)(7)(c)(B) and A(4)(b)(7)(c)(C).

85. The General Permit prohibits Allen Slater and Slater Farms from stockpiling manure on fields and requires them to either incorporate manure or inject it subsurface within 24 hours of applying it. (*Id.*, pp 13–14, Part I, Section A(4)(b)(7)(f) and p 8, Part I, Section A(4)(g).)

86. The General Permit requires Allen Slater and Slater Farms to inspect waste storage structures weekly to ensure they can adequately contain manure. As part of the inspections, Allen Slater and Slater Farms must make sure woody vegetation does not grow on storage structures because its roots can undermine the structure's storage capacity. Allen Slater and Slater Farms must also ensure tall vegetation does not establish on storage structures because such growth impairs the ability to perform weekly inspections. (*Id.*, pp 7–8, Part I, Sections A(4)(a)(3)(a) and (4)(a)(4)(c)). Allen Slater and Slater Farms must also avoid excessive solid accumulation on waste storage structures. (*Id.*, p 8, Part I, Section A(4)(a)(4)(a).)

87. The General Permit requires Allen Slater and Slater Farms to prepare and periodically revise a CNMP detailing the practices Allen Slater and Slater Farms will undertake to comply with the General Permit. (*Id.*, pp 14–16, Part I,

Section A(5).) Under certain circumstances, Allen Slater and Slater Farms must resubmit its CNMP to EGLE. (*Id.*, p 16, Part I, Section A(5)(e).)

88. The General Permit requires Allen Slater and Slater Farms to maintain specific records of both the design volume of waste storage structures and solid accumulation to ensure that waste storage structures are big enough to store all of the waste produced in a six-month period and that no individual structure stores so much waste that it threatens the integrity of the structure's lining. (*Id.*, pp 5 and 8, Part I, Section A(4)(a)(1) and (4)(a)(4)(e)).

89. The General Permit requires Allen Slater and Slater Farms to maintain records for a period of at least five (5) years to provide assurance that the company is performing required inspections and maintenance that stop the company's operations from polluting Michigan's surface water and groundwater.

Among other things, Allen Slater and Slater Farms must maintain the following:

- a. Records of daily clean water line inspections, (*Id.*, p 9, Part I, Section A(4)(b)(6)(b));
- b. Records of weekly clean storm water inspections, (*Id.*, p 9, Part I, Section A(4)(b)(6)(a)); and
- c. Records of annual land application equipment calibration, (*Id.*, p 11, Part I, Section A(4)(b)(7)(b)(F).)
- d. Records of six-month storage capacity between November 1 and December 31 (*Id.*, p 8 Part I, Section A(4)(a)(4)(b)).

90. Under the General Permit, Allen Slater and Slater Farms must also divert clean storm water from contaminated areas, such as silage pads, which are locations where piles of animal feed are stored. (*Id.*, p 8, Part I, Section A(4)(b)(2).)

Failing to do so contaminates storm water runoff that, in turn, can discharge to waters of the state.

91. Allen Slater and Slater Farms submitted a proposed CNMP and application to EGLE on December 17, 2015. EGLE's review of that proposed CNMP and application revealed that Allen Slater and Slater Farms were still using a waste storage structure at the 88th Street Farm even though Allen Slater and Slater Farms never submitted documentation showing the structure conformed to the NRCS 313 standard, in violation of Part I, Section A(5)(d) of the General Permit and the Certificate's requirement that Allen Slater and Slater Farms cease using such non-standard waste storage structures by November 24, 2014. (Ex C, p 16; Ex D.)

92. On May 11, 2017, EGLE conducted an inspection of Slater Farms that included a walk-through of production areas at the Slater Home Farm, 88th Street Farm, and Joe's Place, as well as a physical inspection of selected land application locations, and a record review of all documents in Slater Farms' possession.

93. EGLE's inspection revealed the following violations of the General Permit, Part 31 of NREPA, and the ACO:

- a. Slater Custom Farming was stockpiling manure on at least four fields in Newaygo County, in violation of Part I, Section A(4)(b)(7)(f) of the General Permit;
- b. Slater Custom Farming was land applying waste on fields not approved to receive waste and failing to incorporate the waste within 24 hours of application, in violation of Part I, Section A(4)(b)(7)(f) and Part I, Section A(5)(a)(2)(g) of the General Permit;

- c. Allen Slater and Slater Farms had no documentation demonstrating that the waste storage structure at its 88th Street Farm meets the standards of NRCS 313 2005, as required by Allen Slater and Slater Farms' Certificate and Part I, Section A(4)(a)(2)(b) of the General Permit;
- d. Allen Slater and Slater Farms failed to maintain records of required weekly clean storm water system inspections, daily water line inspections, and annual land-application equipment calibration records, in violation of Part I, Section A(4)(b)(6)(d) and Part I, Section A(4)(b)(7)(b), F) of the General Permit;
- e. Allen Slater and Slater Farms failed to maintain storage structures at the Slater Home Farm by allowing woody vegetation to establish on the banks of the North and South Pit storage structures, in violation of Part I, Section A(4)(a)(4)(c) of the General Permit;
- f. Allen Slater and Slater Farms failed to maintain the waste storage structure at Joe's Place by allowing severe solid accumulation, in violation of Part I, Section A(4)(a)(4)(a) of the General Permit;
- g. Allen Slater and Slater Farms failed to divert clean water by allowing it to contact contaminated portions of production areas, in violation of Part I, Section A(4)(b)(2) of the General Permit;
- h. Allen Slater and Slater Farms did not modify the silage pad runoff transfer system at the Slater Home Farm to achieve proper pump and detention capacity to contain a 25-year/24-hour storm event, in violation of Paragraph 3.7 of the ACO; and
- i. Slater Farms did not design and construct a new waste storage structure at the Slater Home Farm, in violation of Paragraph 3.8 of the ACO.

94. On October 28, 2019, EGLE requested that Allen Slater and Slater Farms submit an updated reissuance application and CNMP for the new CAFO General Permit.

95. Allen Slater and Slater Farms did not submit the new application as requested.

96. Additionally, Allen Slater and Slater Farms currently owe \$957.21 in unpaid annual permit fees.

97. On May 24, 2019, in response to a public complaint regarding stockpiled manure, EGLE drove past fields referred to as the "Rottier fields" in the Slater Farms CNMP. Based on that visual inspection and aerial photography of the same location taken the year before, EGLE determined that manure had been stockpiled on the Rottier fields for at least one year.

98. On December 30, 2019, in response to a public complaint regarding stockpiled manure, EGLE contacted Slater Farms to determine whether there was manure stockpiled on the fields referred to as the "Konkel fields" in the Slater Farms CNMP. Slater Farms confirmed that waste had been stockpiled at that location for a week.

99. On January 30, 2020, in response to a public complaint regarding odor from unincorporated land application of manure on fields "Skowronski NEA, Skowronski NEB, and Skowronski SW", EGLE contacted Slater Farms. Slater Farms confirmed that they had land applied on these fields without incorporation because they believed the fields met the Technical Standard for the Surface Application of Concentrated Animal Feeding Operations Waste on Frozen or Snow-Covered Ground Without Incorporation or Injection (Technical Standard)

requirement of the permit. Upon further review, EGLE determined that the fields did not meet the Technical Standard.

100. On January 30, 2020, EGLE issued a violation notice to Slater Farms regarding stockpiled manure at both the Rottier and Konkel fields (Ex H, VN No. VN-010358).

Unpermitted Discharges to Waters of the State

101. On or about May 5, 2017, manure discharged into Brayden Creek downstream of a field onto which Slater Custom Farming had applied manure.

102. During the May 11, 2017 inspection, EGLE observed non-contact cooling water discharging from an overflow plate cooler at the 88th Street Farm into a ditch that leads to Kemp Drain and Brooks Creek, which are “waters of the state” under MCL 324.3101(z). None of the Slater Farms entities have a NPDES permit authorizing this discharge.

Escalated enforcement of ongoing violations of the General Permit and the ACO

103. EGLE informed Slater Farms of the violations uncovered during the May 11, 2017 inspection and followed up by sending a violation notice on June 8, 2017. (Ex F, Violation Notice No. VN-007246.) The violation notice summarized the violations and set a deadline for Slater Farms to respond with a compliance plan.

104. Despite requesting and receiving an extension of time to respond, Slater Farms did not respond to EGLE.

105. EGLE issued a second violation notice on August 11, 2017. (Ex G, SVN No. SVN-00664.)

106. When Slater Farms did not correct its noncompliance, EGLE issued a demand for stipulated penalties under the ACO on November 4, 2018, and again on January 4, 2019. (Ex E, Stipulated Penalties Demands.)

107. Slater Farms paid none of the demanded stipulated penalties, remains out of compliance with Part 31 of NREPA, and has not yet completed the requirements from Paragraphs 3.7 and 3.8 of the ACO.

108. On February 13, 2020, EGLE performed a records review of Slater Farms and walked through production areas at the Slater Home Farm, Joe's Place, and the 88th Street Farm. EGLE performed a second inspection of production areas of Slater Home Farm, Joe's Place, the 88th Street Farm, and Silver Skies on February 21, 2020. During that inspection, EGLE observed the following violations, all of which belong to categories of violations that EGLE previously observed during the May 11, 2017 inspection:

- a. Failure to control vegetation growing on waste storage structures at Slater Home Farm, Joe's Place, and the 88th Street Farm, in violation of Part I, Section A(4)(a)(4)(c) of the General Permit;
- b. Failure to control solid waste accumulation in the waste storage structures at 88th Street Farm, in violation of Part I, Section A(4)(a)(4)(a) of the General Permit;
- c. Failure to keep storm water from the silage pad drain area at the Slater Home Farm, in violation of Part I, Section A(4)(b)(2) of the General Permit;

- d. Failure to create and maintain records of weekly clean storm water inspections, and annual land application equipment calibration for all locations, in violation of Part I, Section A(4)(b)(6)(d) and Part I, Section A(4)(b)(7)(b)(F) of the General Permit;
- e. Failure to demonstrate NRCS equivalency of the 88th Street Farm storage structure, in violation of Allen Slater and Slater Farms' Certificate and Part I, Section A(4)(a)(2)(b) of the General Permit; and
- f. Failure to complete actions required under Paragraphs 3.7 and 3.8 of the ACO.

109. EGLE also observed that Allen Slater and Slater Farms failed to record information about waste storage structure capacity during November 1 and December 31, 2019, in violation of the General Permit. (Ex C, p 9, Part I, Section A(4)(a)(4)(b).)

110. Finally, EGLE observed poor housekeeping practices at the 88th Street Farm and Joe's Place, in violation of the General Permit. (*Id.*, p 14, Section I, Part A(4)(b)(8).)

111. On March 5, 2020, EGLE issued a violation notice to Allen Slater, Slater Farms, Slater Estates, Slater Custom Farming, Slater Farms 88th, and Slater Farms Baseline summarizing the violations observed during the February 13 and 21 inspection, as well as the improper land application violation discovered on January 30, 2020 after investigating a citizen complaint. (Ex I, VN No. VN-010478). In that violation notice, EGLE asked Slater Farms, once again, to comply with Part 31 of NREPA, the General Permit, and the ACO.

112. Slater Farms responded to the March 5, 2020 violation notice but remains out of compliance with Part 31, the General Permit, and the ACO.

COUNT 1 - PART 31 VIOLATIONS: UNLAWFUL DISCHARGES

113. Paragraphs 1 through 112 are hereby realleged and incorporated by reference.

114. MCL 324.3112(1) prohibits any person from "discharg[ing] any waste or waste effluent into the waters of this state unless the person is in possession of a valid permit from the department."

115. Brayden Creek is a "water of the state" under Part 31. MCL 324.3101(aa).

116. On or about May 5, 2017, Slater Custom Farming, Allen Slater, and Slater Farms caused manure to discharge into Brayden Creek downstream of a field on which Slater Custom Farming applied manure, in violation of MCL 324.3112(1).

117. Non-contact cooling water is "waste" within the meaning of Mich Admin Code, R 323.2104(aa).

118. The unnamed tributary to Brook's Creek is a "water of the state" under Part 31. MCL 324.3101(aa).

119. On its May 11, 2017 inspection, EGLE discovered non-contact cooling water discharging from the 88th Street Farm into an unnamed tributary to Brook's Creek without a permit, in violation of MCL 324.3112(1). Allen Slater, Slater Farms, and Slater Farms 88th caused this discharge.

120. Under Part 31, Defendants are subject to a civil fine of not less than \$2,500 and up to \$25,000 for each day of each Part 31 violation. MCL 324.3115(1).

121. Under Part 31, this Court may order Defendants to comply with water resource protection laws and award reasonable attorney fees and costs.

COUNT II – PART 31 VIOLATIONS: PERMIT NONCOMPLIANCE

122. Paragraphs 1 through 121 are hereby realleged and incorporated by reference.

123. Violating a condition of a NPDES permit is a Part 31 violation. Mich Admin Code, R 323.2192(a).

124. Since November 28, 2014 until present, Allen Slater and Slater Farms used the storage structure at the 88th Street Farm without maintaining records or otherwise ensuring that the structure meets NRCS Practice Standard 313 (2005), in violation of the Certificate and Part I., Section A(4)(a)(2)(b) of the General Permit.

125. Allen Slater and Slater Farms stockpiled manure on fields in Newaygo County for at least one year and one week without either subsurface injecting or incorporating the manure into the soil within 24 hours, in violation of Part I., Section A(4)(b)(7)(f) of the General Permit.

126. Allen Slater and Slater Farms land-applied waste on at least three fields in a manner not approved under its CNMP, including spreading manure on fields not approved to receive waste or in excess of the quantities approved, in violation of Part I, Section A(5)(a)(2)(g) of the General Permit.

127. Allen Slater and Slater Farms failed to maintain records for weekly clean storm water system inspections and daily water line inspections, and annual land-application equipment calibration records for a time period of at least two and one half years in violation of Part I, Section A(4)(b)(6)(d) and Part I, Section A(4)(b)(7)(b)(F) of the General Permit.

128. Allen Slater and Slater Farms failed to document six-month storage capacity in the time period between November 1, 2019 and December 31, 2019, in violation of Part I, Section A(4)(a)(4)(b) of the General Permit.

129. For a time period of at least two and one half years, Allen Slater and Slater Farms failed to adequately control woody and tall vegetation on the banks of the North and South Pit waste storage structures at the Slater Home Farm and Joe's Place and on the 88th Street waste storage structure, in violation of Part I, Sections A(4)(a)(3)(a) and (4)(c) of the General Permit.

130. Allen Slater and Slater Farms failed to maintain the waste storage structure at Joe's Place and the 88th Street Farm by allowing severe solid accumulation for a period of at least two and one half years, in violation of Part I, Section A(4)(a)(1) of the General Permit.

131. Allen Slater and Slater Farms failed to divert clean storm water by allowing it to come into contact with contaminated portions of production areas at the Slater Home Farm for a time period of at least two and one half years, in violation of Part I, Section A(4)(b)(2) of the General Permit.

132. Allen Slater and Slater Farms failed to have a depth gauge in the south waste storage structure at the Slater Home Farm for a period of at least one week, in violation of Part I, Section A(4)(a)(2)(a) of the General Permit.

133. Allen Slater and Slater Farms owe \$957.21 in annual permit fees.

134. Under Part 31, Allen Slater and Slater Farms are subject to a civil fine of not less than \$2,500 and no more than \$25,000 per day of violation.

MCL 324.3115(1).

135. Under Part 31, this Court may order Allen Slater and Slater Farms to comply with water resource protection laws and award reasonable attorney fees and costs.

COUNT III – BREACH OF CONTRACT

136. Paragraphs 1 through 135 are hereby realleged and incorporated by reference.

137. Slater Farms and EGLE created a contract when they executed the ACO.

138. Slater Farms never modified the silage pad runoff transfer system at the Slater Home Farm to have a proper pump and detention capacity to contain a 25-year/24-hour storm event, as required by Paragraph 3.7 of the ACO. Nor did Slater Farms ever provide documentation demonstrating that their current capacity could contain a 25-year/24-hour storm event.

139. Slater Farms did not design or construct a new waste storage structure at Slater Home Farms to NRCS standard 313 of 2005, as required by Paragraph 3.8 of the ACO.

140. Slater Farms proposed in March 2013 to delay its performance of the requirements under Paragraph 3.7 of the ACO to correspond with its construction of a new storage structure.

141. Under Paragraph 8.1 of the ACO, Slater Farms owes \$219,200 in stipulated penalties for failing to timely perform the requirements under Paragraph 3.7 of the ACO.

142. Under Paragraph 8.1 of the ACO, Slater Farms, as of June 8, 2020, owes \$131,600 in stipulated penalties for failing to timely perform the requirements under Paragraph 3.8 of the ACO, and stipulated penalties will continue to accrue at \$100 per day.

143. This Court can order Slater Farms to perform under the ACO, including that it pay stipulated penalties in lieu of statutory penalties.

DEMAND FOR JUDGMENT

Plaintiff respectfully requests that this Honorable Court grant the following relief:

A. Find that animal feeding operations at the Slater Home Farm, the 88th Street Farm, Joe's Place, and Silver Skies, are collectively a "large CAFO" within the meaning of Mich Admin Code, R 323.2103(g)(i);

B. Find that the 88th Street Farm, on its own, is a "large CAFO" within the meaning of Mich Admin Code, R 323.2103(g)(i);

C. Order Allen Slater and Slater Farms to comply with the General Permit;

D. Order Allen Slater, Slater Farms, and Slater Custom Farming to handle waste in accordance with the General Permit.

- E. Enjoin Defendants from unlawfully discharging waste into waters of the State;
- F. Order Allen Slater and Slater Farms to pay \$957.21 in past-due permit fees;
- G. Order Allen Slater and Slater Farms to reapply for the newest version of the General Permit;
- H. Order Allen Slater and Slater Farms to update the Certificate to include all animal feeding operations that Allen Slater, Slater Farms, or a related corporate entity operates and for which Slater Custom Farming handles waste management, or which otherwise constitutes a "CAFO" within the meaning of Mich Admin Code, R 323.2103(g)(i);
- I. Order Slater Farms 88th to provide documentation that its 88th Street Farm waste storage structure conforms with the NRCS Conservation Practice Standard 313, Waste Storage Facility dated 2005;
- J. Order Slater Farms to specifically perform the terms of the ACO by modifying its waste transfer system and designing and constructing a new waste storage structure in accordance with Paragraphs 3.7 and 3.8 of the ACO and pay stipulated penalties in the following amounts: \$4,300 for failing to timely submit a permit application under Paragraph 3.1, \$219,200 for failing to timely perform the requirements under Paragraph 3.7, and \$131,600 plus \$100 per day after June 8, 2020 for failing to timely perform the requirements under Paragraph 3.8.

K. Order Defendants to pay civil fines of not less than \$2,500 and no more than \$25,000 per day of violation of Part 31;

L. Order Defendants to pay reasonable attorney fees and costs; and

M. Grant such other relief as this Court deems just and proper.

Respectfully submitted,

Dana Nessel
Attorney General

/s/ Elizabeth Morrisseau

Elizabeth Morrisseau (P81899)
Gillian Wener (P81427)
Assistant Attorneys General
Attorneys for Plaintiff
Environment, Natural Resources
and Agriculture Division
P.O. Box 30755
Lansing, MI 48909
(517) 335-7664

Dated: September 24, 2020

LF: Slater Farms, LLC (EGLE v)/2019-0250371-B/Complaint 2020-09-24

EXHIBIT A



E Hayes Rd

1 Mile

Silver Skies

Northpoint Dairy

Slater Farms - Joes Place

Slater Farms - Home Farm

Slater Farms - 88th Street

W 120th St

S Warner Ave

120

82

20

© 2020 Google

EXHIBIT B

STATE OF MICHIGAN
DEPARTMENT OF ENVIRONMENTAL QUALITY
WATER RESOURCES DIVISION

In the matter of:

Slater Farms, LLC
7374 Brunswick Road
Holt, Michigan 48425

ACO-000170
Date Entered: 12-18-12

ADMINISTRATIVE CONSENT ORDER

This document results from allegations by the Department of Environmental Quality (DEQ), Water Resources Division (WRD). Slater Farms, LLC (Slater Farms) is the owner and operator of a large dairy concentrated animal feeding operation (CAFO) that is divided into four locations: Slater 88th Farm, located at 9061 West 88th Street, Fremont, Michigan; Slater Home Farms, located at 10171 Brickyard Road, Holt, Michigan; Joe's Farm, located at 6780 Brunswick Road in Holt, Michigan; and Dwayne's Farm, located at 11760 South Maple Island Road, in Twin Lake, Michigan. The DEQ alleges that Slater Farms is in violation of Part 31, Water Resources Protection, of the Natural Resources and Environmental Protection Act, 1994 PA 451, as amended (NREPA), MCL 324.3101 et seq. Slater Farms is a person, as defined by Section 301 of the NREPA, and is registered with the Michigan Department of Licensing and Regulatory Affairs as able to conduct business in the State of Michigan under identification number B55214. Slater Farms and the DEQ agree to resolve the violations set forth herein through entry of this Administrative Consent Order (Consent Order).

I. STIPULATIONS

Slater Farms and the DEQ stipulate as follows:

- 1.1 The NREPA MCL 324.101 et seq. is an act that controls pollution to protect the environment and natural resources in the state.
- 1.2 Pollution Control, Part 31, Water Resources Protection, of the NREPA (Part 31), MCL 324.3101 et seq., and the rules promulgated pursuant thereto, provides for the protection, conservation, and the control of pollution of the water resources of the state.

- 1.3 The DEQ is authorized by Section 3112(4) of Part 31 of the NREPA, MCL 324.3112(4), to enter orders requiring persons to abate pollution, and the director of the DEQ may delegate this authority to a designee under Section 301(b) of the NREPA, MCL 324.301(b).
- 1.4 Slater Farms consents to the issuance and entry of this Consent Order and stipulates that the entry of this Consent Order constitutes a final order of the DEQ and is enforceable as such under Section 3112(4) of Part 31. Slater Farms agrees not to contest the issuance of this Consent Order, and that the resolution of this matter by the entry of this Consent Order is appropriate and acceptable. It is also agreed that this Consent Order shall become effective on the date it is signed by the chief of the WRD, delegate of the director, pursuant to Section 301(b) of the NREPA.
- 1.5 Slater Farms and the DEQ agree that the signing of this Consent Order is for settlement purposes only and does not constitute an admission by Slater Farms that the law has been violated.
- 1.6 The Signatory to this Consent Order on behalf of Slater Farms agrees and attests that he is fully authorized to assure that Slater Farms will comply with all requirements under this Consent Order.
- 1.7 Slater Farms shall achieve compliance with the aforementioned regulations in accordance with the requirements contained in Section III, Compliance Program, of this Consent Order.

II. FINDINGS

- 2.1 On June 20, 2012, WRD sent the Slater Farms Manager (Manager), an email explaining that Slater Farms is a Concentrated Animal Feeding Operation (CAFO) and that Slater Farms needs to submit a National Pollutant Discharge Elimination System (NPDES) CAFO permit application and Comprehensive Nutrient Management Plan (CNMP) to DEQ-WRD by June 29, 2012.

- 2.2 On June 29, 2012, WRD received an email from the Manager which explained that Slater Farms would not be able to submit its permit application and CNMP by June 29, 2012.
- 2.3 On July 12, 2012, WRD sent Slater Farms a Violation Notice (VN-005351) stating that it must submit a NPDES CAFO permit application and CNMP by August 15, 2012.
- 2.4 On August 8, 2012, WRD received a NPDES CAFO permit application and CNMP for Slater 88th Farm, one of the four CAFO locations owned and operated by Slater Farms.
- 2.5 During discussions held between WRD staff and Slater Farms staff on August 16 and 29, 2012, it was agreed that Slater Farms would include Slater 88th Farm, Slater Home Farm, Joe's Farm, and Dwayne's Farm under one NPDES CAFO Permit, as they share land application activities.
- 2.6 On September 4, 2012, WRD staff met with the Manager and Slater Farms' consultant to inspect all four Slater Farms facilities. During the inspections, issues were discovered that must be addressed in order for Slater Farms to meet its obligations under the NPDES CAFO Permit. Those issues and the required remedies are detailed in Section III, Compliance Program, of this Consent Order.

III. COMPLIANCE PROGRAM

IT IS THEREFORE AGREED AND ORDERED THAT Slater Farms shall take the following actions to prevent further violations of Part 31:

- 3.1 By ^{2013 AS} January 15, 2013, Slater Farms shall submit a permit application and a CNMP for the Slater 88th Farm, Slater Home Farm, Joe's Farm, and Dwayne's Farm locations. The items detailed in paragraphs 3.3 – 3.14 of this Consent Order shall be incorporated into the CNMP. Completed application materials shall be sent to the following address to ensure proper processing:

For U.S. Mail Delivery Only

Michigan Department of Environmental Quality
Revenue Control Unit
WB-NP2
P.O. Box 30657
Lansing, Michigan 48909-8157

For Courier Service Providers (i.e. Fed Ex, UPS, hand delivery)

Michigan Department of Environmental Quality
Revenue Control Unit
WB-NP2
5th Floor South, Constitution Hall
525 West Allegan Street
Lansing, Michigan 48933

- 3.2 Slater Farms shall submit all reports, work plans, specifications, schedules, or any other writing required by this section, exclusive of the permit application and CNMP required by paragraph 3.1 above, to the Grand Rapids District Supervisor, WRD, DEQ, State Office Building, 5th Floor, 350 Ottawa Avenue NW, Unit 10, Grand Rapids, MI, 49503-2341. The cover letter with each submittal shall identify the specific paragraph and requirement of this Consent Order that the submittal is intended to satisfy.
- 3.3 By June 28, 2013, Slater Farms shall grade and seed the banks of the waste storage structure and the drive on the north side of Slater 88th Farm to establish vegetation.
- 3.4 By January 15, 2013, Slater Farms shall install freeboard markers in all waste storage structures that clearly delineate the operational volume, emergency volume, and the freeboard volume at Slater 88th Farm.
- 3.5 By January 15, 2013, Slater Farms shall move the saw dust storage area at Slater 88th Farm to the edge of the waste storage structure and shall line this area with containment blocks ensuring all runoff flows to the storage structure.
- 3.6 By March 4, 2013, Slater Farms shall contain the waste feed inside a barn to protect it from run-off conditions at Slater 88th Farm.

- 3.7 By **March 4, 2013**, Slater Farms shall modify the silage pad runoff transfer system at Slater Home Farms to have the proper pump and detention capacity to contain the 25-year/24-hour storm event.
- 3.8 By **November 28, 2014**, Slater Farms shall design and construct a new waste storage structure at Slater Home Farms to Natural Resources Conservation Service (NRCS) standard 313 of 2005. This waste storage structure shall be constructed to hold a combined minimum of six months of waste production.
- 3.9 By **April 26, 2013**, Slater Farms shall design and submit to the Grand Rapids District Office for review and approval a correction to the east side of the feed pad at Slater Home Farms to ensure contaminated runoff or leachate flows to the runoff transfer system. Slater Farms shall complete the approved correction by **September 2, 2013**.
- 3.10 By **January 15, 2013**, Slater Farms shall install freeboard markers in all waste storage structures at Slater Home Farms that clearly delineate the operational volume, emergency volume, and the freeboard volume.
- 3.11 By **March 4, 2013**, Slater Farms shall grade the commodity shed area at Slater Home Farms to ensure any runoff will flow to the runoff transfer system.
- 3.12 By **January 15, 2013**, Slater Farms shall lock out all cows from the dirt lot at Joe's Farm. If this area is used to pasture cows in the future, Slater Farms must restore vegetation, and only allow the cows to flash graze, or reduce the number of cows to ensure vegetation remains.
- 3.13 By **January 15, 2013**, Slater Farms shall lock out all cows from the dirt lot at Dwayne's Farm. If this area is used to pasture cows in the future, Slater Farms must restore vegetation, and Slater Farms shall only allow the cows to flash graze, or reduce the number of cows to ensure vegetation remains.

- 3.14 Beginning on January 15, 2013, Slater Farms shall scrape all waste inside the barns at Dwayne's Farm, and haul this waste daily to an approved storage structure, or land-apply according to the CNMP. Slater Farms shall install a permanent waste handling system that captures all waste generated by this facility, or remove all animals by April 1, 2013.

IV. EXTENSIONS

- 4.1 Slater Farms and the DEQ agree that the DEQ may grant Slater Farms a reasonable extension of the specified deadlines set forth in this Consent Order. Any extension shall be preceded by a written request in duplicate to the DEQ, WRD, Enforcement Unit Chief, Constitution Hall, 525 West Allegan Street, Lansing, Michigan 48909-7773, and the Grand Rapids District Supervisor at the address in paragraph 3.2, not later than ten business days prior to the pertinent deadline, and shall include:
- a. Identification of the specific deadline(s) of this Consent Order that will not be met.
 - b. A detailed description of the circumstances that will prevent Slater Farms from meeting the deadline(s).
 - c. A description of the measures Slater Farms has taken and/or intends to take to meet the required deadline.
 - d. The length of the extension requested and the specific date on which the obligation will be met.

The district supervisor, in consultation with the Enforcement Unit Chief, shall respond in writing to such requests. No change or modification to this Consent Order shall be valid unless in writing from the DEQ, and if applicable, signed by both parties.

V. REPORTING

- 5.1 Slater Farms shall verbally report any violation(s) of the terms and conditions of this Consent Order to the Grand Rapids District Supervisor by no later than the close of the next business day following detection of such violation(s) and shall follow such notification

with a written report within five business days following detection of such violation(s). The written report shall include a detailed description of the violation(s), as well as a description of any actions proposed or taken to correct the violation(s). Slater Farms shall report any anticipated violation(s) of this Consent Order to the above-referenced individual in advance of the relevant deadlines whenever possible.

VI. RETENTION OF RECORDS

- 6.1 Upon request by an authorized representative of the DEQ, Slater Farms shall make available to the DEQ all records, plans, logs, and other documents required to be maintained under this Consent Order or pursuant to Part 31 or its rules. All such documents shall be retained by Slater Farms for at least a period of three years from the date of generation of the record unless a longer period of record retention is required by Part 31 or its rules.

VII. RIGHT OF ENTRY

- 7.1 Slater Farms shall allow any authorized representative or contractor of the DEQ, upon presentation of proper credentials, to enter upon the premises of Slater 88th Farm, Slater Home Farms, Joe's Farm, and Dwayne's Farm at all reasonable times for the purpose of monitoring compliance with the provisions of this Consent Order. This paragraph in no way limits the authority of the DEQ to conduct tests and inspections pursuant to the NREPA and the rules promulgated thereunder, or any other applicable statutory provision.

VIII. PENALTIES

- 8.1 For each failure to comply with a specific deadline contained in Section III of this Consent Order, Slater Farms shall pay stipulated penalties of \$100.00 per violation per day.

- 8.2 To ensure timely payment of the above stipulated penalties, Slater Farms shall pay an interest penalty to the General Fund of the State of Michigan each time it fails to make a complete or timely payment. This interest penalty shall be based on the rate set forth at MCL 600.6013(8), using the full increment of amount due as principal, and calculated from the due date for the payment until the delinquent payment is finally made in full.
- 8.3 Slater Farms agrees to pay all funds due pursuant to this agreement by check made payable to the State of Michigan and delivered to the DEQ, Revenue Control Unit, P.O. Box 30657, Lansing, Michigan 48909-8157. To ensure proper credit, all payments made pursuant to this Consent Order must include the Payment Identification No. WRD90003.
- 8.4 Slater Farms agrees not to contest the legality of stipulated penalties or interest penalties paid pursuant to paragraphs 8.1 and 8.2 above. Slater Farms does reserve the right to dispute the factual basis upon which a future demand by the DEQ for stipulated penalties or interest penalties is made.

IX. FORCE MAJEURE

- 9.1 Slater Farms shall perform the requirements of this Consent Order within the time limits established herein, unless performance is prevented or delayed by events that constitute a "Force Majeure." Any delay in the performance attributable to a "Force Majeure" shall not be deemed a violation of Slater Farms' obligations under this Consent Order in accordance with this section.
- 9.2 For the purpose of this Consent Order, "Force Majeure" means an occurrence or nonoccurrence arising from causes not foreseeable, beyond the control of, and without the fault of Slater Farms, such as: an Act of God, untimely review of permit applications or submissions by the DEQ or other applicable authority, and acts or omissions of third parties that could not have been avoided or overcome by Slater Farms' diligence and that delay the performance of an obligation under this Consent Order. "Force Majeure" does not include, among other things, unanticipated or increased costs, changed financial

circumstances, or failure to obtain a permit or license as a result of Slater Farms' actions or omissions.

- 9.3 Slater Farms shall notify the DEQ, by telephone, within 48 hours of discovering any event that causes a delay in its compliance with any provision of this Consent Order. Verbal notice shall be followed by written notice within ten calendar days and shall describe, in detail, the anticipated length of delay, the precise cause or causes of delay, the measures taken by Slater Farms to prevent or minimize the delay, and the timetable by which those measures shall be implemented. Slater Farms shall adopt all reasonable measures to avoid or minimize any such delay.
- 9.4 Failure of Slater Farms to comply with the notice requirements and time provisions under paragraph 9.3 shall render this Section IX void and of no force and effect as to the particular incident involved. The DEQ may, at its sole discretion and in appropriate circumstances, waive in writing the notice requirements of paragraph 9.3, above.
- 9.5 If the parties agree that the delay or anticipated delay was beyond the control of Slater Farms, this may be so stipulated, and the parties to this Consent Order may agree upon an appropriate modification of this Consent Order. However, the DEQ is the final decision-maker on whether or not the matter at issue constitutes a force majeure. The burden of proving that any delay was beyond the reasonable control of Slater Farms, and that all the requirements of this Section IX have been met by Slater Farms, rests with Slater Farms.
- 9.6 An extension of one compliance date based upon a particular incident does not necessarily mean that Slater Farms qualifies for an extension of a subsequent compliance date without providing proof regarding each incremental step or other requirement for which an extension is sought.

X. GENERAL PROVISIONS

- 10.1 With respect to any violations not specifically addressed and resolved by this Consent Order, the DEQ reserves the right to pursue any other remedies to which it is entitled for any failure on the part of Slater Farms to comply with the requirements of the NREPA and its rules.
- 10.2 The DEQ and Slater Farms consent to enforcement of this Consent Order in the same manner and by the same procedures for all final orders entered pursuant to Part 31, MCL 324.3101 et seq.; and enforcement pursuant to Part 17, Michigan Environmental Protection Act, of the NREPA, MCL 324.1701 et seq.
- 10.3 This Consent Order in no way affects Slater Farms' responsibility to comply with any other applicable state, federal, or local laws or regulations.
- 10.4 The WRD reserves its right to pursue appropriate action, including injunctive relief to enforce the provisions of this Consent Order, and at its discretion, may also seek stipulated fines or statutory fines for any violation of this Consent Order. However, the WRD is precluded from seeking both a stipulated fine under this Consent Order and a statutory fine for the same violation.
- 10.5 Nothing in this Consent Order is or shall be considered to affect any liability Slater Farms may have for natural resource damages caused by Slater Farms' ownership and/or operation of the facility. The State of Michigan does not waive any rights to bring an appropriate action to recover such damages to the natural resources.
- 10.6 In the event Slater Farms sells or transfers the facility, it shall advise any purchaser or transferee of the existence of this Consent Order in connection with such sale or transfer. Within 30 calendar days, Slater Farms shall also notify the WRD Grand Rapids 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. The purchaser and/or transferee of this Consent Order must agree, in writing, to assume all of the obligations of this Consent Order. A copy of that agreement shall be forwarded to the WRD Grand Rapids District Supervisor within 30 days of assuming the obligations of this Consent Order.

- 10.7 The provisions of this Consent Order shall apply to and be binding upon the parties to this action, and their successors and assigns.
- 10.8 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.

XI. TERMINATION

- 11.1 This Consent Order shall remain in full force and effect until terminated by a written Termination Notice (TN) issued by the DEQ. Prior to issuance of a written TN, Slater Farms shall submit a request consisting of a written certification that Slater Farms has fully complied with the requirements of this Consent Order and has made payment of any fines, including stipulated penalties, required in this Consent Order. Specifically, this certification shall include:


- a. The date of compliance with each provision of the compliance program in Section III, and the date any fines or penalties were paid.
- b. A statement that all required information has been reported to the district supervisor.
- c. Confirmation that all records required to be maintained pursuant to this Consent Order are being maintained at the facility.

The DEQ may also request additional relevant information. The DEQ shall not unreasonably withhold issuance of a TN.

Signatories

The undersigned CERTIFY they are fully authorized by the party they represent to enter into this Consent Order to comply by consent and to EXECUTE and LEGALLY BIND that party to it.

DEPARTMENT OF ENVIRONMENTAL QUALITY



William Creal, Chief
Water Resources Division

12/13/12
Date

SLATER FARMS, LLC

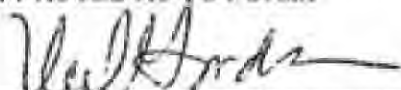


By: Allen Slater

Member
Title: Co-Owner

12/10/12
Date

APPROVED AS TO FORM:



By: Neil D. Gordon, Assistant Attorney General
For: S. Peter Manning, Chief
Environment, Natural Resources, and Agriculture Division
Michigan Department of Attorney General

12/14/2012
Date

EXHIBIT C

PERMIT NO. MIG019000
STATE OF MICHIGAN
DEPARTMENT OF NATURAL RESOURCES AND
ENVIRONMENT
NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM
WASTEWATER DISCHARGE GENERAL PERMIT
CONCENTRATED ANIMAL FEEDING OPERATIONS

In compliance with the provisions of the Federal Water Pollution Control Act, as amended (33 U.S.C. 1251 *et seq.*) (the "Federal Act"), Michigan Act 451, Public Acts of 1994, as amended (the "Michigan Act"), Parts 31 and 41, and Michigan Executive Orders 1991-31, 1995-4, and 1995-18, Concentrated Animal Feeding Operations (CAFOs) are authorized to operate facilities specified in individual "Certificates of Coverage" (COC) in accordance with the effluent limitations, monitoring requirements, and other conditions set forth in this general National Pollutant Discharge Elimination System (NPDES) permit (the "permit").

The applicability of this permit shall be limited to CAFOs that have not been determined by the Michigan Department of Natural Resources and Environment (the "Department") to need an individual NPDES permit. New swine, poultry, and veal facilities with contaminated areas of the production area exposed to precipitation, including waste storage structures, are not eligible for this permit. New means populated after January 20, 2009. Discharges which cause or contribute to an exceedance of a water quality standard are not authorized by this permit.

In order to constitute a valid authorization, this permit must be complemented by a COC issued by the Department and copies of both must be kept at the permitted CAFO. The following will be identified in the COC (as appropriate):

- The rainfall event magnitude at the production area (Part I.A.4.a.1)b)
- The date by which existing CAFOs shall attain six months waste storage (Part I.A.4.a.1)
- The date by which existing waste storage structures shall meet Natural Resources Conservation Services (NRCS) Practice Standard No. 313 [Part I.A.4.a.2)b)B)ii) & C)] along with a statement that specifies if the requirements specified in this permit or the requirements specified in the previous version of this permit, issued November 18, 2005, apply to existing waste storage structures
- The date by which the permittee shall cease using waste storage structures that do not meet standards and will not be upgraded [Part I.A.4.a.2)b)D)]
- Data for the application rate table for crops not listed in the permit [Part I.A.4.b.7)c)]
- Alternate land application rates and methodologies [Part I.A.4.b.7)c)]
- Total Maximum Daily Loads (TMDL) if the permittee's production area or land application areas are located within a watershed(s) covered by an approved *E. coli*, biota, or dissolved oxygen TMDL
- Percent of outside materials allowed in the anaerobic digester associated with the CAFO permitted under this COC, if that percentage is greater than five (Part I.B.10.)
- The date by which the permittee shall have an operator certified by the Department (Part II.D.2.)

Compliance dates in reissued COCs shall be carried over from the expiring COC, unless modified by the Department.

Unless specified otherwise, all contact with the Department required by this permit shall be to the position indicated in the COC.

This general permit shall take effect April 1, 2010. The provisions of this permit are severable. After notice and opportunity for a hearing, this permit may be modified, suspended, or revoked in whole or in part during its term in accordance with applicable laws and rules.

This general permit shall expire at midnight, April 1, 2015.

Issued March 30, 2010.

Daniel Dell, Chief
Permits Section
Water Bureau

PERMIT FEE REQUIREMENTS

In accordance with Section 324.3120 of the Michigan Act, the permittee shall make payment of an annual permit fee to the Department for each October 1 the permit is in effect, regardless of occurrence of discharge. The permittee shall submit the fee in response to the Department's annual notice. The fee shall be postmarked by January 15 for notices mailed by December 1. The fee is due no later than 45 days after receiving the notice for notices mailed after December 1.

CONTESTED CASE INFORMATION

The terms and conditions of this general permit shall apply to an individual facility on the effective date of a COC for the facility. The Department of Energy, Labor, and Economic Growth may grant a contested case hearing on this general permit in accordance with the Michigan Act. Any person who is aggrieved by this permit may file a sworn petition with the State Office of Administrative Hearings and Rules of the Michigan Department of Energy, Labor, and Economic Growth, setting forth the conditions of the permit which are being challenged and specifying the grounds for the challenge. The Department of Energy, Labor, and Economic Growth may grant a contested case hearing on the COC issued to an individual facility under this general permit in accordance with Rule 2192(c) (Rule 323.2192 of the Michigan Administrative Code).

Table of Contents

PART I, Section A

1.	Authorized Discharges and Overflows - - - - -	5
2.	Monitoring Discharges and Overflows from Storage Structures- - - - -	5
3.	Prohibited Discharges - - - - -	5
4.	Nutrient Management Plan (NMP) - - - - -	5
a.	CAFO Waste Storage Structures	
1)	Volume Design Requirements - - - - -	5
2)	Physical Design & Construction Requirements	
a)	Depth Gauge- - - - -	6
b)	Structural Design - - - - -	6
3)	Inspection Requirements - - - - -	7
4)	Operation & Maintenance Requirements- - - - -	7
b.	Best Management Practices Requirements	
1)	Conservation Practices - - - - -	8
2)	Divert Clean Water - - - - -	8
3)	Prevent Direct Contact of Animals with Waters of the State - - - - -	8
4)	Animal Mortality - - - - -	9
5)	Chemical Disposal - - - - -	9
6)	Inspection, Proper Operation, and Maintenance - - - - -	9
7)	Land Application of CAFO Waste	
a)	Field-by-Field Assessment - - - - -	9
b)	Field Inspections - - - - -	10
c)	Land Application Rates - - - - -	11
d)	Land Application Log - - - - -	12
e)	Prohibitions - - - - -	13
f)	Methods - - - - -	13
g)	Setbacks - - - - -	14
8)	Non-Production Area Storm Water Management - - - - -	14
5.	Comprehensive Nutrient Management Plan (CNMP)	
a.	Approval - - - - -	14
b.	Submittal- - - - -	14
c.	Contents - - - - -	14
d.	Annual Review and Report- - - - -	16
e.	CNMP Revisions - - - - -	16

PART I, Section B

1.	Reporting of Overflows and Discharges from CAFO Waste Storage Structures and Land Application - - - - -	17
2.	Closure of Structures and Facilities - - - - -	17
3.	Standards, Specifications, and Practices - - - - -	17
4.	Facility Contact - - - - -	18
5.	Expiration and Reissuance - - - - -	18
6.	Compliance Dates for Existing Permittees - - - - -	18
7.	Requirement to Obtain Individual Permit - - - - -	19
8.	Requirements for Land Application Not Under the Control of the Permittee - - - - -	19
9.	Water Quality-Impaired Waters - - - - -	20
10.	Treatment System - - - - -	21
11.	Document Availability- - - - -	21

PART II, Section A

Definitions- - - - -	22
----------------------	----

PART II, Section B

1.	Representative Monitoring and Sampling-	25
2.	Test Procedures -	25
3.	Recording Results -	25
4.	Records Retention -	25

PART II, Section C

1.	Start-up Notification-	26
2.	Submittal Requirements for Self-Monitoring Data-	26
3.	Retained Self-Monitoring Requirements -	26
4.	Additional Monitoring by Permittee -	26
5.	Compliance Dates Notification-	26
6.	Discharge and Noncompliance Reporting -	27
7.	Spill Notification -	27
8.	Upset Noncompliance Notification -	27
9.	Bypass Prohibition and Notification -	28
10.	Notification of Changes in Discharge-	29
11.	Changes in Facility Operations -	29
12.	Bioaccumulative Chemicals of Concern (BCC) -	29
13.	Transfer of Ownership or Control -	29

PART II, Section D

1.	Duty to Comply -	30
2.	Operator Certification -	30
3.	Facilities Operation -	30
4.	Power Failures -	30
5.	Adverse Impact -	30
6.	Containment Facilities -	30
7.	Waste Treatment Residues -	31
8.	Right of Entry -	31
9.	Availability of Reports -	31

PART II, Section E

1.	Discharge to the Groundwaters -	32
2.	Facility Construction -	32
3.	Civil and Criminal Liability -	32
4.	Oil and Hazardous Substance Liability -	32
5.	State Laws -	32
6.	Property Rights -	32

PART III

Technical Standard for the Surface Application of Concentrated Animal Feeding Operations	
Waste on Frozen or Snow-Covered Ground Without Incorporation or Injection -	33

PART I

Section A. Effluent Limitations And Monitoring Requirements

1. Authorized Discharges and Overflows

During the period beginning on the effective date of this permit and lasting until the expiration of this permit, the permittee is authorized to discharge the following, provided that the discharge does not cause or contribute to an exceedance of Michigan's Water Quality Standards:

- a. CAFO waste in the overflow from the storage structures for cattle, horses and sheep, and existing swine, poultry, and veal facilities identified in Part I.A.4.a. below, when all of the following conditions are met:
 - 1) These structures are properly designed, constructed, operated, and maintained.
 - 2) Precipitation events cause an overflow of the storage structures to occur.
 - 3) The production area is operated in accordance with the requirements of this permit.
- b. Precipitation caused runoff from land application areas and areas listed in Part I.A.4.b.8) that are managed in accordance with the NMP (see Part I.A.4., below).

This permit does not authorize any discharge to the groundwaters. Such discharge may be authorized by a groundwater discharge permit issued pursuant to the Michigan Act.

2. Monitoring Discharges and Overflows from Storage Structures

The discharge authorized in Part I.A.1.a., above, shall be monitored four times daily (every six hours) by the permittee as specified below on any day when there is a discharge:

Parameter	Units	Sample Type
Overflow Volume (at storage structure)	MGD	Report Total Daily Volume
Discharge to Surface Waters Volume	MGD	Report Total Daily Volume
Overflow Observation (at storage structure)	---	Report Visual Condition of the Overflow
Discharge to Surface Waters Observation	---	Report Physical Characteristics (see below)

Any physical characteristics of the discharge at the point of discharge to surface waters (i.e., unnatural turbidity, color, oil film, odor, floating solids, foams, settleable solids, suspended solids, or deposits) shall be reported concurrently with the discharge reporting required in Part II.C.6. and included in the discharge report required by Part I.B.1.

3. Prohibited Discharges

During the period beginning on the effective date of this permit and lasting until the expiration of this permit, the permittee is prohibited from having any dry weather discharge or discharging any CAFO waste and/or runoff that fails to meet the requirements of Part I.A.1. An overflow that causes the washout or collapse of the storage structure dikes, sides, or walls is not an authorized discharge. Discharges due to overflows from storage structures at new swine, poultry, or veal facilities are prohibited. Discharges from land application activities that do not meet the requirements of Part I.A.1. or that cause an exceedance of Michigan's Water Quality Standards are prohibited.

4. Nutrient Management Plan (NMP)

The permittee shall implement the following requirements.

- a. CAFO Waste Storage Structures
 - 1) Volume Design Requirements

The permittee shall have CAFO waste storage structures in place and operational at all times that are adequately designed, constructed, maintained, and operated to contain the total combined volume of all of the following.

 - a) All CAFO waste generated from the operation of the CAFO in a six-month or greater time period (including normal precipitation and runoff in the production area during the same time period). This is the operational volume of the storage structure.

PART I

Section A. Effluent Limitations And Monitoring Requirements

b) For cattle, horses, and sheep, and existing swine, poultry, and veal facilities, all production area waste generated from the 25-year 24-hour rainfall event. The magnitude of the rainfall event will be specified in the COC. Existing means populated prior to January 20, 2009. This is an emergency volume to be kept available to contain large rainfall events. New swine, poultry, and veal facilities shall be designed to have all contaminated areas of the production area, including waste storage structures, totally enclosed and not subject to precipitation and, therefore, not needing room for the emergency volume in their storage structures. New means populated on or after January 20, 2009.

c) An additional design capacity of a minimum of 12 inches of freeboard for storage structures that are subject to precipitation caused runoff. For storage structures that are not subject to precipitation-caused runoff, the freeboard shall be a minimum of 6 inches. This is the freeboard volume.

Records documenting the current design volume of any CAFO waste storage structures, including volume for solids accumulation, design treatment volume, total design volume, volumes of the operational, emergency, and freeboard volumes, and approximate number of days of storage capacity shall be included in the permittee's CNMP. For existing CAFOs, the COC will specify the date by which the permittee shall attain six months storage volume capacity, but that date shall be no more than three years after the COC issuance date. CAFOs previously permitted under General Permit No. MIG019000, issued November, 2005, shall continue to be subject to any compliance dates set forth in the previously-issued COC.

2) Physical Design & Construction Requirements

a) Depth Gauge

CAFO waste storage structures shall include an easily visible, clearly marked depth gauge. Clear, major divisions shall be marked to delineate each of the three volumes specified above in Part I.A.4 a.1) (two volumes for new swine, poultry, and veal facilities). The top mark of the gauge shall be placed level with the lowest point on the top of the storage structure wall or dike. The elevation for the gauge shall be re-established every five years to adjust for any movement or settling. Materials used must be durable and able to withstand freezing and thawing (examples: large chain, heavy-duty PVC, steel rod). Any depth gauges that are destroyed or missing must be replaced immediately. Under-barn storages may be measured with a dip-stick or similar device. For solid stackable CAFO waste storage, depth gauge levels may be permanently marked on sidewalls.

b) Structural Design

Records documenting or demonstrating the current structural design as required below, including as-built drawings and specifications, of any CAFO waste storage structures, whether or not currently in use, shall be kept with the permittee's CNMP until such structure is permanently closed in accordance with Part I.B.2. Included in the CNMP submitted to the Department shall be a short description of the structural design of each structure (type of structure; dimensions including depth; liner material, thickness, and condition; depth from the design bottom elevation to the seasonal high water table), a statement whether the engineer's evaluation has been completed or not, and a brief description of the results of the evaluation (meets NRCS 313 2005 or provides environmental performance equivalent to NRCS 313 2005).

A) New Storage Structures (constructed after the effective date of the COC)

Except as otherwise required by this permit, CAFO waste storage structures shall, at a minimum, be constructed in accordance with NRCS 313 2005.

B) Existing Storage Structures at Newly-Permitted CAFOs (facilities without prior NPDES permit coverage)

i) In a permit application for coverage under this permit, the applicant shall either:

(1) For each existing storage structure document through an evaluation by a professional engineer that each structure is constructed in accordance with NRCS 313 2005. Submit to the Department documentation signed by an engineer verifying that each structure is constructed in accordance with NRCS 313 2005. Complete as-built plans, specifications, drawings, etc. shall be kept at the farm with the CNMP and do not need to be submitted, or

PART I**Section A. Effluent Limitations And Monitoring Requirements**

- (2) For each existing storage structure, on a form provided by the Department and submitted to the Department, demonstrate environmental performance equivalent to NRCS 313 2005. The demonstration shall be accomplished through an evaluation by a professional engineer.
- ii) If the applicant cannot provide the documentation or demonstration required by (1) or (2) above, the applicant may request that the COC specify a date by which the permittee shall provide storage structures that attain (1) above, but that date shall be no more than three years after the COC issuance date.
- C) Existing Storage Structures at Previously-Permitted CAFOs
CAFOs previously permitted under General Permit No. MIG019000, issued November 2005, shall comply with the requirements for storage structures as contained in that permit, including NRCS 313 2003 and any compliance dates set forth in the previously-issued COC, unless the Department modifies the compliance date in the reissued COC. Submittals shall be as follows:
- i) For structures that meet NRCS 313 2003, submit to the Department documentation signed by an engineer verifying that each structure is constructed in accordance with NRCS 313 2003. Complete as-built plans, specifications, drawings, etc. shall be kept at the farm with the CNMP and do not need to be submitted.
- ii) For demonstrations of environmental performance equivalent to NRCS 313 2003 submit the demonstration as accomplished through an evaluation by a professional engineer to the Department, on a form provided by the Department.
- D) Existing Storage Structures not Meeting Standards
Usage, for the storage of large CAFO waste, of existing storage structures that do not meet the requirements above in Parts B) and C) and will not be upgraded to meet NRCS 313 Standards by the date in the COC, shall be discontinued by that same date in the COC. Such structures shall be maintained or permanently closed in accordance with Part I.B.2. Records of usage, maintenance, or closure shall be included in the CNMP.
- 3) Inspection Requirements
The permittee shall develop a Storage Structure Inspection Plan and inspect the CAFO waste storage structures a minimum of one time weekly year-round. The inspection plan shall be included in the CNMP and results of the inspections shall be kept with the CNMP. Individual results shall be kept for a period of five years. The plan shall include all of the following inspections:
- a) The CAFO waste dikes for cracking, inadequate vegetative cover, woody vegetative growth, evidence of overflow, leaks, seeps, erosion, slumping, animal burrowing or breakthrough, and condition of the storage structure liner
- b) The depth of the CAFO waste in the storage structure and the available operating volume as indicated by the depth gauge
- c) The collection system, lift stations, mechanical and electrical systems, transfer stations, control structures, and pump stations to assure that valves, gates, and alarms are set correctly and all are properly functioning.
- 4) Operation & Maintenance Requirements
The permittee shall implement a Storage Structure Operation and Maintenance Program that incorporates all of the following management practices. The permittee shall initiate steps to correct any condition that is not in accordance with the Storage Structure Operation and Maintenance Program. A copy of the program shall be included in the CNMP. Specific records below shall be kept with the CNMP unless specified otherwise below.

PART I**Section A. Effluent Limitations And Monitoring Requirements**

- a) In the event that the level of CAFO waste in the storage structure rises above the maximum operational volume level and enters the emergency volume level, the Department shall be notified. The level in the storage structure shall be reduced within one week, unless a longer time period is authorized by the Department (the removed CAFO waste shall be land applied in accordance with this permit or the Department shall be notified if another method of disposal is to be used) and the emergency volume shall be restored. Descriptions of such events shall be recorded in the CNMP.
- b) At some point in time during the period of November 1 to December 31 of each year, there shall be a minimum available operational volume in the CAFO waste storage structures equal to the volume of CAFO waste generated from the operation of the CAFO in a six-month or greater time period (including normal precipitation and runoff in the production area during the same time period). The date of this occurring shall be recorded in the CNMP.
- c) Vegetation shall be maintained at a height that stabilizes earthen CAFO waste storage structures, provides for adequate visual inspection of the storage structures, and protects the integrity of the storage structure liners. The vegetation shall have sufficient density to prevent erosion.
- d) Dike damage caused by erosion, slumping, or animal burrowing shall be corrected immediately and steps taken to prevent occurrences in the future.
- e) The integrity of the CAFO waste storage structure liner shall be protected. Liner damages shall be corrected immediately and steps taken to prevent future occurrences.
- f) Problems with the collection system, lift stations, mechanical and electrical systems, transfer stations, control structures, and pump stations shall be corrected as soon as possible. Records of these inspections and records documenting any actions taken to correct deficiencies shall be kept with the CNMP for a minimum of five years. Deficiencies not corrected within 30 days must be accompanied by an explanation of the factors causing the delayed correction.
- g) CAFO waste shall be stored only in storage structures as described above, except for solid stackable manure collected in-barn prior to transfer to storage.

b. Best Management Practices Requirements

The following are designed to achieve the objective of preventing unauthorized discharges to waters of the state from production areas and land application activities.

1) Conservation Practices

The permittee shall maintain specific conservation practices near or at production areas, land application areas, and heavy use areas within pastures associated with the CAFO that are sufficient to control the runoff of pollutants to surface waters of the state in quantities that may cause or contribute to a violation of water quality standards. These practices shall be consistent with NRCS Conservation Practices and in compliance with the requirements of this permit. The permittee shall include within the CNMP a list of conservation practices used near or at production areas and land application areas. This list does not need to include temporary practices or other practices already required by this permit.

2) Divert Clean Water

The permittee shall design and implement structures and management practices to divert clean storm water and floodwaters to prevent contact with contaminated portions of the production areas. Clean storm water may include roof runoff, runoff from adjacent land, and runoff from feed or silage storage areas where such runoff has not contacted feed, silage, or silage leachate. Describe in the CNMP structures and management practices used to divert clean water from the production area.

3) Prevent Direct Contact of Animals with Waters of the State

There shall be no access of animals to surface waters of the state at the production area of the CAFO. The permittee shall develop and implement appropriate controls to protect water quality by preventing access of animals to waters of the state and shall describe such controls in the CNMP.

PART I**Section A. Effluent Limitations And Monitoring Requirements****4) Animal Mortality**

The permittee shall handle and dispose of dead animals in a manner that prevents contamination of waters of the state. Mortalities must not be disposed of in any liquid CAFO waste or storm water storage structure that is not specifically designed to treat animal mortalities. A description of mortality management practices shall be included in the CNMP. Records of mortality handling and disposal shall be kept with the permittee's CNMP for a minimum of five years.

5) Chemical Disposal

The permittee shall prevent introduction of hazardous or toxic chemicals (for purposes of disposal) into CAFO waste storage structures. Examples of hazardous and toxic chemicals are pesticides and petroleum products/by-products. Identify in the CNMP appropriate practices that ensure chemicals and other contaminants handled at the CAFO are not disposed of in any CAFO waste or storm water storage or treatment system.

6) Inspection, Proper Operation, and Maintenance

The permittee shall develop and implement an Inspection, Operation, and Maintenance Program that includes periodic visual inspections, proper operation, and maintenance of all CAFO waste-handling equipment including piping and transfer lines, and all runoff management devices (e.g., cleaning separators, barnyards, catch basins, screens) to prevent unauthorized discharges to surface water and groundwater. A copy of the program shall be included in the CNMP. Specific inspection requirements include, but are not limited to, all of the following:

- a) Weekly visual inspections of all clean storm water and floodwater diversion devices.
- b) Daily visual inspections of water lines, including drinking water and cooling water lines, and above-ground piping and transfer lines, or an equivalent method of checking for water line leaks that incorporates the use of water meters, pressure gauges, or some other monitoring method.
- c) Any deficiencies shall be corrected as soon as possible.
- d) Records of these inspections and records documenting any actions taken to correct deficiencies shall be kept in the CNMP for a minimum of five years. Deficiencies not corrected within 30 days must be accompanied by an explanation of the factors causing the delayed correction.

7) Land Application of CAFO Waste**a) Field-by-Field Assessment**

The permittee shall conduct a field-by-field assessment of all land application areas. Each field shall be assessed prior to use for land application of CAFO waste. The assessment shall identify field-specific conditions, including, but not limited to, slopes, soil type, locations of tile outlets, tile risers and tile depth, conservation practices, and offsite conditions, such as buffers and distance or conveyance to surface waters. The assessment shall also identify areas which, due to topography, activities, or other factors, have a potential for erosion. The assessment shall also identify fields, or portions of fields, that will be used for surface application of CAFO waste without incorporation to frozen or snow-covered ground in accordance with the Department 2005 Technical Standard for the Surface Application of CAFO Waste on Frozen or Snow-Covered Ground Without Incorporation or Injection (last page of this permit). The results of this assessment, along with consideration of the form and source of the CAFO waste and all nutrient inputs in addition to those from large CAFO waste, shall be used to ensure that the amount, timing, and method of application of CAFO waste:

- A) does not exceed the capacity of the soil to assimilate the CAFO waste
- B) is in accordance with field-specific nutrient management practices that ensures appropriate agricultural utilization of the nutrients in the CAFO waste
- C) does not exceed the maximum annual land application rates specified in Part I.A.4.b.7)c), below
- D) will not result in unauthorized discharges

PART I

Section A. Effluent Limitations And Monitoring Requirements

Any new fields shall be assessed prior to their use for land application activities. The Department shall be notified of the new fields prior to their use through submittal of a permit modification request that includes the field-by-field assessment, a map showing the entire field, its size in acres, location information, planned crops, and realistic crop yield goals. The request will be public noticed. The permittee may not use the field until the permittee has been notified by the Department that processing of the permit modification is complete. All assessments shall be kept in the CNMP. An assessment for a particular field can be deleted from the CNMP once that field is no longer used for land application.

b) Field Inspections

Prior to conducting land application of CAFO waste to fields determined to be suitable under Part I.A.4.b.7)a) above, the permittee shall perform the following inspections at the indicated frequency to ensure that unauthorized discharges do not occur as a result of the land application of CAFO waste. Records of inspections, monitoring, and sampling required by this section shall be recorded in the Land Application Log required by Part I.A.4.b.7)d).

A) CAFO waste shall be sampled a minimum of once per year to determine nutrient content and analyzed for total Kjeldahl nitrogen (TKN), ammonium nitrogen, and total phosphorus. CAFO waste shall be sampled in a manner that produces a representative sample for analysis. Guidance for CAFO waste sampling protocols can be found in Bulletin NCR 567 available from Michigan State University Extension. Analytical methods shall be as required by Part II.B.2. The CAFO waste test results shall be used to determine land application rates as described in c) below. Record the nutrient levels and analysis methods in the Land Application Log and include in the CNMP.

B) Soils at land application sites shall be sampled a minimum of once every three years, analyzed to determine phosphorus levels, and the soil test results shall be used to determine land application rates as described in c) below. Sample soil using an 8-inch vertical core, and take 20 or more cores in a random pattern spread evenly over each uniform field area. A uniform field area shall be no greater than 20 acres or it can be up to 40 acres if that field has one soil map unit and has been managed as a single field for the last ten years. The 20 cores shall be composited into one sample and analyzed using the Bray P1 method. Alternate methods may be used upon approval of the Department. Record the phosphorus levels in the Land Application Log and in the CNMP. Additional information on soil sampling can be found in Michigan State University Extension Bulletins E2904 and E498.

C) The permittee shall inspect each field no earlier than 48 hours prior to each land application of CAFO waste to that field to evaluate the current suitability of the field for application. This inspection shall include, at a minimum, the state of all tile outlets, evidence of soil cracking, the moisture-holding capacity of the soil, crop maturity, and the condition of designated conservation practices (i.e., grassed waterways, buffers, diversions). Results and findings of all inspections shall be recorded in the Land Application Log.

D) The permittee shall visually inspect all tile outlets draining a given field immediately prior to the land application of CAFO wastes to that field. Tile outlets shall be inspected again upon the completion of the land application to the field, or at the end of the working day should application continue on that field for more than one day (include in the Land Application Log written descriptions of tile outlet inspection results, and observe and compare color and odor of tile outlet effluents before and after land application).

E) All tiled fields to which CAFO wastes have been applied in the prior 30 days shall be visually inspected within 24 hours after the first rain event of one-half inch or greater, for signs of a discharge of CAFO waste. Written descriptions of tile inspection results shall be retained in the Land Application Log. If an inspection reveals a discharge with color, odor, or other characteristics indicative of an unauthorized discharge of CAFO waste, the permittee shall immediately notify the Department of the suspected unauthorized discharge in accordance with the reporting procedures contained in Part II.C.6 and record such findings in the Land Application Log.

PART I

Section A. Effluent Limitations And Monitoring Requirements

F) The permittee shall inspect all land application equipment daily during use for leaks, structural integrity, and proper operation and maintenance. Land application equipment shall be calibrated annually to ensure proper application rates. Written records of inspections and calibrations shall be retained in the Land Application Log.

c) Maximum Annual Land Application Rates

The permittee shall comply with all of the following maximum annual land application rates:

A) If the Bray P1 soil test result is 150 parts per million (ppm) or more, CAFO waste applications shall be discontinued until nutrient use by crops reduces the Bray P1 soil test result to less than 150 ppm P.

B) If the Bray P1 soil test result is 75 ppm P or more, but less than 150 ppm P, application rates shall be based on the maximum rates of phosphorus (P) in annual pounds per acre as calculated using the following formula:

The realistic yield goal per acre, using the units specified in the table below, for the planned crop multiplied by the number in the P column for that crop. The maximum annual application rates as calculated above shall be achieved by using the CAFO waste test results for P to determine the amount of CAFO waste that may be land applied per acre per year.

The result is the maximum annual pounds per acre of P that may be applied for the first crop planned after application of CAFO waste. If the one year rate is impractical due to spreading equipment or crop production management, the permittee may apply up to two years of P at one time, but no P may be applied to that field for the second year. The two year P application rate shall be the results calculated using the formula above for each of the two crops planned for the next two years and those two annual results shall be added together to determine the maximum P application rate. In no case may the application rate exceed the nitrogen application rate as specified below.

C) If the Bray P1 soil test result is less than 75 ppm P, the annual rate of CAFO waste application shall not exceed the nitrogen fertilizer recommendation (removal value for legumes) for the first crop year grown after the CAFO waste is applied. (Information to determine nitrogen fertilizer recommendations or removal values can be found in Michigan State University Extension Bulletin E2904.) In no case may the application rate exceed four years of P calculated using the formula in B) above for each of the four crops planned for the next four years, and those four annual results shall be added together to determine the maximum application rate. The maximum annual application rates as calculated above shall be achieved by using the CAFO waste test results for nitrogen to determine the amount of CAFO waste that may be land applied per acre per year.

P₂O₅ values are included for reference purposes.

Crop	Harvest Form	Unit of Realistic Yield Goal per Acre	P	P ₂ O ₅
			-- lb/unit of yield --	
Alfalfa	Hay	ton	5.72	13.1
Alfalfa	Haylage	ton	1.41	3.2
Apple	Fruit	ton	0.19	0.44
Asparagus	Shoots	ton	1.1	2.51
Barley	Grain	bushel	0.17	0.38
Barley	Straw	ton	1.41	3.2
Beans (dry edible)	Grain	cwt	0.63	1.2
Beans (green, fresh)	Pods	ton	1.22	2.8
Blueberry	Fruit	ton	0.20	0.46
Bromegrass	Hay	ton	5.72	13
Buckwheat	Grain	bushel	0.11	0.25
Corn	Grain	bushel	0.40	0.91
Carrots	Root	ton	0.79	1.81
Cherries (sour)	Fruit	ton	0.3	0.69
Cherries (sweet)	Fruit	ton	0.37	0.85

PART I

Section A. Effluent Limitations And Monitoring Requirements

Clover	Hay	ton	4.4	10
Clover-grass	Hay	ton	5.72	13
Corn	Grain	bushel	0.16	0.37
Corn	Stover	ton	3.61	8.2
Corn	Silage	ton	1.45	3.3
Cucumbers	Fruit	ton	0.47	1.1
Grapes	Fruit	ton	0.28	0.6
Millet	Grain	bushel	0.11	0.25
Oats	Grain	bushel	0.11	0.25
Oats	Straw	ton	1.23	2.8
Orchardgrass	Hay	ton	7.48	17
Peaches	Fruit	ton	0.24	0.55
Pears	Fruit	ton	0.23	0.53
Plums	Fruit	ton	0.2	0.46
Potato	Tubers	cwt	0.06	0.13
Rye	Grain	bushel	0.18	0.41
Rye	Straw	ton	1.83	3.7
Rye	Silage	ton	0.66	1.5
Sorghum	Grain	bushel	0.17	0.39
Sorghum-Sudangrass	Hay	ton	6.6	15
Sorghum-Sudangrass	Haylage	ton	2.02	4.6
Soybean	Grain	bushel	0.35	0.8
Spelts	Grain	bushel	0.17	0.38
Squash	Fruit	ton	0.76	1.74
Sugar beets	Roots	ton	0.57	1.3
Sunflower	Grain	bushel	0.53	1.2
Timothy	Hay	ton	7.48	17
Tomatoes	Fruit	ton	0.57	1.3
Trefolli	Hay	ton	5.28	12
Wheat	Grain	bushel	0.28	0.63
Wheat	Straw	ton	1.45	3.3

Numbers for the tables above for crops not listed above shall be proposed in the permit application in a format similar to the above. The Department will review the proposal and approved numbers will be listed in the COC. The permittee may propose alternate land application rates and methodologies in the permit application. The Department will review the proposal and acceptable rates and methods will be included in the COC issued under this permit.

Methodology and calculations consistent with this Part, and their results, shall be recorded in the Land Application Log.

d) Land Application Log

The results of land application inspections, monitoring, testing, and recordkeeping shall be recorded in a "Land Application Log" which shall be kept up-to-date and kept with the CNMP. Certain records, as specified in Part I.A.5 c.2(g)D) through F), shall be included in the CNMP. Log records shall be kept for a minimum of five years. The permittee shall document in the log in writing, at a minimum, records required by Part I.A.4.b.7) and all of the following information and inspection results:

- A) The time, date, quantity, method, location, and application rate for each location at which CAFO wastes are land applied
- B) The crop, the realistic yield goal, and actual yield for each location at which CAFO wastes are land applied and a statement whether the land was frozen or snow-covered at the time of application

PART I

Section A. Effluent Limitations And Monitoring Requirements

- C) Methodology and calculations showing the total nitrogen and phosphorus to be applied to each field receiving CAFO waste, identifying all sources of nutrients, including sources other than CAFO waste
 - D) The total amount of nitrogen and phosphorus actually applied to each field receiving CAFO waste, irrespective of source, including documentation of calculations for the total amount applied
 - E) A written description of weather conditions at the time of application and for 24 hours prior to and following application based on visual observation
 - F) Printouts of weather forecasts from the time of land application. Weather forecasts may also be saved as electronic files, in which case the files do not need to be physically located in the Land Application Log, but the log shall reference the location where the files are stored.
- e) Prohibitions
- Appropriate prohibitions, in compliance with the following, shall be included in the CNMP.
- A) CAFO waste shall not be applied on land that is flooded or saturated with water at the time of land application.
 - B) CAFO waste shall not be applied during rainfall events.
 - C) CAFO waste shall not be surface applied without incorporation to frozen or snow-covered ground, except in accordance with the Department 2005 Technical Standard for the Surface Application of CAFO Waste on Frozen or Snow-Covered Ground Without Incorporation or Injection (last page of this permit).
 - D) CAFO waste application shall be delayed if rainfall exceeding one-half inch, or less if a lesser rainfall event is capable of producing an unauthorized discharge, is forecasted by the National Weather Service (NWS) during the planned time of application and within 24 hours after the time of the planned application. Forecast models to be used can be found on the internet at <http://www.weather.gov/md/synop/products.php>. Model data to be used for one-half inch shall be:
GFS MOS (MEX) Text Message by Station Forecast: If the Q24 is 4 and the P24 is 70 or more for the same time period, or the Q24 is 5 or greater (with any P24 number), then CAFO waste land application shall be delayed until the Q24 is less than 4 or both the Q24 is less than 5 and the P24 is less than 70 for the same time period. The station to be used shall be that which is closest to the land application area. If no station is close, then use the closest 2 or 3 stations. Different model data shall be used if it is determined that rainfall less than one-half inch on a particular field is capable of causing an unauthorized discharge. For example, using a Q24 rating of 3 or greater may be appropriate on higher risk fields. If the NWS Web site is revised and the required forecast models are not available, the permittee shall contact the Department for information on which forecast models to use. Instructions for using this Web site are available from the Department. Other forecast services may be used upon approval of the Department.
- f) Methods
- CAFO waste shall be subsurface injected or incorporated into the soil within 24 hours of application. CAFO waste subsurface injected into frozen or snow-covered ground shall have substantial soil coverage of the applied CAFO waste. The following exceptions apply:
- A) Injection or incorporation may not be feasible where CAFO wastes are applied to pastures, forage crops such as alfalfa, wheat stubble, or where no-till practices are used. CAFO waste may not be applied to pastures or forage crops, such as alfalfa, wheat stubble, or where no-till practices are used, where CAFO waste may enter waters of the state.

PART I**Section A. Effluent Limitations And Monitoring Requirements**

B) On ground that is frozen or snow-covered, CAFO waste may be surface applied and not incorporated within 24 hours only if there is a field-by-field demonstration, in accordance with the Department 2005 Technical Standard for the Surface Application of CAFO Waste on Frozen or Snow-Covered Ground Without Incorporation or Injection (last page of this permit), showing that such land application will not result in a situation where CAFO waste may enter waters of the state. Demonstrations shall be kept with the Land Application Log and submitted to the Department prior to use of the field. CAFO waste surface applied to ground that is frozen or snow-covered shall be limited to no more than 1 crop year of P per winter season, including pastures, forage crops such as alfalfa, wheat stubble, or where no-till practices are used.

g) **Setbacks**

The permittee shall comply with any of the following setback requirements:

A) CAFO waste shall not be applied closer than 100 feet to any ditches that are conduits to surface waters, surface waters except for up-gradient surface waters, open tile line intake structures, sinkholes, or agricultural well heads.

B) The permittee may substitute the 100-foot setback required in A) above, with a 35-foot wide vegetated buffer. CAFO waste shall not be applied within the 35-foot buffer.

C) CAFO waste shall not be applied within grassed waterways and swales that are conduits to surface waters.

Setbacks shall be measured from the ordinary high water mark, where applicable, or from the upper edge of the bank if the ordinary high water mark cannot be determined. Setbacks for each field shall be shown in the CNMP (may be shown on field maps).

8) **Non-Production Area Storm Water Management**

The permittee shall implement practices including preventative maintenance, good housekeeping, and periodic inspections of at least once per year, to minimize and control pollutants in storm water discharges associated with the following areas:

- a) Immediate access roads and rail lines used or traveled by carriers of raw materials, waste material, or by-products used or created by the facility
- b) Sites used for handling material other than CAFO waste
- c) Refuse sites
- d) Sites used for the storage and maintenance of material handling equipment
- e) Shipping and receiving areas

Records and descriptions of non-production area storm water management practices shall be kept in the CNMP.

5. Comprehensive Nutrient Management Plan (CNMP)

The CNMP shall apply to both production areas and land application areas and shall be a written document that describes the practices, methods, and actions the permittee takes to meet all of the requirements of the Nutrient Management Plan, Part I.A.4.

a. **Approval**

The CNMP shall be approved by a Certified CNMP Provider.

b. **Submittal**

The CNMP shall be submitted to the Department with the application for coverage under this permit. The permittee is encouraged to submit all or parts of the CNMP in electronic form. Electronic form means a digital file in a standard, common format provided on a compact disc or other media readily readable by a Windows-based personal computer.

c. **Contents**

The CNMP submitted to the Department shall include:

- 1) CAFO Waste Storage Structures - ensure adequate storage capacity of production area waste and CAFO process wastewater [Section A.4.a.]

PART I

Section A. Effluent Limitations And Monitoring Requirements

a) Volume Design Requirements [Section A.4.a.1)]

Records documenting the current design volume of any CAFO waste storage structures, including volume for solids accumulation, design treatment volume, total design volume, volumes of the operational, emergency, and freeboard portions, and approximate number of days of storage capacity

b) Physical Design and Construction Requirements [Section A.4.a.2)]

A short description of the structural design, a statement whether the engineer's evaluation has been completed or not, and a brief description of the results of the evaluation for each structure, whether or not currently in use, shall be included until such structure is permanently closed in accordance with Part I.B.2

c) Inspection Requirements [Section A.4.a.3)]

The Storage Structure Inspection Plan

d) Operation and Maintenance [Section A.4.a.4)]

The Storage Structure Operation and Maintenance Program, along with specific records as specified below

- i. Descriptions of events where the level of CAFO waste in the storage structure rises above the maximum operational volume level and enters the emergency volume level
- ii. The date between November 1 to December 31 of each year where a minimum available operational volume in the CAFO waste storage structures equal to the volume of CAFO waste generated from the operation of the CAFO in a six-month or greater time period was achieved

2) Best Management Practices Requirements [Section A.4.b.]

a) Conservation Practices [Section A.4.b.1)]

The permittee shall include a list of conservation practices used near or at production areas and land application areas. This list does not need to include temporary practices or other practices already required by this permit.

b) Divert Clean Water [Section A.4.b.2)]

Describe structures and management practices used to divert clean water from the production area.

c) Prevent Direct Contact of Animals with Waters of the State [Section A.4.b.3)]

The permittee shall describe controls used to protect water quality by preventing access of the confined animals to waters of the state in the production area.

d) Animal Mortality [Section A.4.b.4)]

A description of mortality management practices

e) Chemical Disposal [Section A.4.b.5)]

Identify appropriate practices that ensure chemicals and other contaminants handled at the CAFO are not disposed in the CAFO waste or storm water storage or treatment system

f) Inspection, Proper Operation, and Maintenance [Section A.4.b.6)]

The Inspection, Operation, and Maintenance Program for CAFO wastewater and runoff-handling equipment and management devices

g) Land application of CAFO Waste [Section A.4.b.7)]

- A) Field-by-field assessments of all land application areas
- B) Records of the CAFO waste testing nutrient levels and analysis methods
- C) Records of the phosphorus levels from soil tests
- D) The date, quantity, method, location, and application rate for each location at which CAFO wastes are land applied and a statement whether the land was frozen or snow-covered at the time of application
- E) The crop, the realistic yield goal, and actual crop yield for each location at which CAFO wastes are land applied
- F) The amount of nitrogen and phosphorus from each source and the total amount of nitrogen and phosphorus actually applied to each field
- G) Appropriate prohibitions and methods for land application
- H) Setback requirements for each field (may be shown on field maps)

h) Non-Production Area Storm Water Management [Section A.4.b.8)]

Records and descriptions appropriate non-production area storm water management practices.

PART I**Section A. Effluent Limitations And Monitoring Requirements****d. Annual Review and Report**

The permittee shall annually review the CNMP and update the CNMP as necessary to meet the requirements of Part I.A.4.

The permittee shall submit an annual report for the preceding January 1 through December 31 (reporting period) to the Department by April 1 of each year. The annual report shall be submitted on a form provided by the Department. The annual report shall include, but is not limited to, all of the following:

- 1) The average number of animals, maximum number of animals at any one time, and the type of animals, whether in open confinement or housed under roof (beef cattle, broilers, layers, swine weighing 55 pounds or more, swine weighing less than 55 pounds, mature dairy cows, dairy heifers, veal calves, sheep and lambs, horses, ducks, turkeys, other)
- 2) Estimated amount of total CAFO waste generated by the CAFO during the reporting period (tons or gallons)
- 3) Estimated amount of total CAFO waste transferred to other persons (manifested waste) by the CAFO during the reporting period (tons or gallons)
- 4) Total number of acres for land application covered by the CNMP developed in accordance with this permit
- 5) Total number of acres under control of the CAFO that were used for land application of CAFO waste during the reporting period
- 6) A field-specific spreading plan which identifies where and how much CAFO waste will be applied to fields for the upcoming 12 months, what crops will be grown on those fields, and the realistic crop yield goals of those crops. The plan must account for all CAFO waste expected to be generated in the upcoming 12 months.
- 7) The following land application records for the reporting period for each field harvested during the reported period which utilized nutrients from previously-applied CAFO waste: actual crops planted, crop yield goals, actual crop yields, actual N and P content of land-applied CAFO waste, calculations conducted and data used in accordance with Part I.A.4.b.7.c., quantity of CAFO waste land applied, soil testing results, and the amount of any supplemental fertilizer applied
- 8) A statement indicating whether the current version of the CAFO's CNMP was developed or approved by a certified CNMP provider
- 9) A summary of all CAFO waste discharges from the production area that have occurred during the reporting period, including date, time, and approximate volume
- 10) The retained self-monitoring certification as required by Part II.C.3

e. CNMP Revisions

Prior to a significant change in the operation of the CAFO, whenever there is an unauthorized discharge (see Parts I.A.1. and I.A.3.) where future discharges could be prevented by revisions to the CNMP, or if the Department determines that the CNMP is inadequate in preventing pollution, the CNMP shall be revised and the revisions approved by a Certified CNMP Provider. Within ninety (90) days of a significant change, an unauthorized discharge, or a Department-requested revision; the revised portions of the CNMP shall be submitted to the Department with a copy of the Certified CNMP Provider certification that the revised CNMP has been approved. Revisions to the CNMP, especially due to a significant change, may result in a permit modification, after opportunity for public comment.

Significant change includes, but is not limited to, any of the following:

- 1) An increase in the number of animals that results in a greater than or equal to 10 percent increase in the volume of either the manure alone or the total CAFO waste generated per year as compared to the volumes identified in the application, as a cumulative total over the life of the COC
- 2) An increase in the number of animals that results in a decrease in the waste storage capacity time, as identified in the application, by 10 percent or greater, as a cumulative total over the life of the COC
- 3) An increase in the number of animals, where the CAFO waste generated by the livestock requires more land for its application than is available at the time of the increase
- 4) A decrease in the number of acres available for land application, where the CAFO waste generated requires more land for application than will be available after the decrease

PART I

Section B. Other Requirements

1. Reporting of Overflows and Discharges from CAFO Waste Storage Structures and Land Application

If, for any reason, there is an overflow from CAFO waste storage structures and/or a discharge of pollutants to a surface water of the state from CAFO waste storage structures, production areas, or land application areas, the permittee shall report the overflow and/or discharge to the Department in accordance with the reporting procedures contained in Part II.C.6. Discharges to surface waters shall also be reported to the Clerk of the local unit of government and the County Health Department. In addition, the permittee shall keep a copy of the report together with the approved CNMP. The report shall include all of the following information:

- a. A description of the overflow and/or discharge and its cause, including a description of the flow path to the surface water of the state
- b. The period of overflow and/or discharge, including exact dates and times, the anticipated time it is expected to continue, and steps taken or planned to reduce, eliminate, and prevent recurrence of the overflow and/or discharge
- c. Monitoring results as required by Part I.A.2
- d. In the event of a discharge through tile lines, the permittee shall identify and document, for field(s) from which the discharge occurred, the location of tile and depth of tile. The permittee shall also document field conditions at the time of the discharge, determine why the discharge occurred, and how to prevent future discharges.
- e. If the permittee believes that the discharge is an authorized discharge, then the permittee shall include a demonstration that the discharge meets the requirements of Part I.A.1.a. and/or Part I.A.1.b., as appropriate.

2. Closure of Structures and Facilities

The following conditions shall apply to the closure of lagoons, CAFO waste storage structures, earthen or synthetic lined basins, other manure and wastewater facilities, and silage facilities (collectively referred to as "structure(s)" for the remainder of this Part):

No structure shall be permanently abandoned. Structures shall be maintained at all times until closed in compliance with this section. All structures must be properly closed if the permittee ceases operation. In addition, any structure that is not in use for a period of twelve (12) consecutive months must be properly closed, unless the permittee intends to resume use of the structure at a later date and either: (a) maintains the structure as though it were actively in use, to prevent compromise of structural integrity and assure compliance with final effluent limitations, or (b) removes CAFO waste to a depth of one foot or less and refills the structure with clean water to preserve the integrity of the synthetic or earthen liner. In either case, the permittee shall conduct routine inspections, maintenance, and recordkeeping in compliance with this permit as though the structure were in use. The permittee shall notify the Department in writing prior to closing structures, or upon making a determination that the structures will be maintained as specified in (a) or (b) above. Prior to restoration of the use of the structure, the permittee shall notify the Department in writing and provide the opportunity for inspection.

The permittee shall accomplish closure by removing all waste materials to the maximum extent practicable. This shall include agitation and the addition of clean water as necessary to remove the waste materials. The permittee shall utilize as guidance the closure techniques contained in NRCS Conservation Practice Standard No. 360, Closure of Waste Impoundments. All removed materials shall be utilized or disposed of in accordance with the permittee's approved CNMP, unless otherwise authorized by the Department.

Unless the structure is being maintained for possible future use in accordance with the requirements above, completion of closure for structures shall occur as promptly as practicable after the permittee ceases to operate or, if the permittee has not ceased operations, 12 months from the date on which the use of the structure ceased, unless otherwise authorized by the Department.

3. Standards, Specifications and Practices

The published standards, specifications, and practices referenced in this permit are those which are in effect upon the effective date of this permit, unless otherwise provided by law. NRCS Conservation Practice Standards referred to in this permit are currently contained in Section IV, Practice Standards and Specifications, of the Michigan NRCS Field Office Technical Guide.

PART I

Section B. Other Requirements

4. Facility Contact

The "Facility Contact" was specified in the application. The permittee may replace the facility contact at any time, and shall notify the Department in writing within 10 days after replacement (including the name, address, and telephone number of the new facility contact). The Department shall be notified in writing within 10 days after a change in any of the contact information (such as address or telephone number) from what was specified in the application.

- a. The facility contact shall be any of the following (or a duly authorized representative of this person):
 - For a corporation or a company, a principal executive officer of at least the level of vice president, or a designated representative, if the representative is responsible for the overall operation of the facility from which the discharge described in the permit application or other NPDES form originates
 - For a partnership, a general partner
 - For a sole proprietorship, the proprietor
 - For a municipal, state, or other public facility, either a principal executive officer, the mayor, village president, city or village manager or other duly authorized employee
- b. A person is a duly authorized representative only if both of the following requirements are met:
 - The authorization is made in writing to the Department by a person described in paragraph a. of this section.
 - The authorization specifies either an individual or a position having responsibility for the overall operation of the regulated facility or activity such as the position of plant manager, operator of a well or a well field, superintendent, position of equivalent responsibility, or an individual or position having overall responsibility for environmental matters for the facility (a duly authorized representative may thus be either a named individual or any individual occupying a named position).

Nothing in this section obviates the permittee from properly submitting reports and forms as required by law.

5. Expiration and Reissuance

On or before October 1, 2014, a permittee seeking continued authorization under this permit beyond the permit's expiration date shall submit to the Department a written application containing such information, forms, and fees as required by the Department. Without an adequate application, a permittee's authorization will expire on April 1, 2015. With an adequate application, a permittee shall continue to be subject to the terms and conditions of the expired permit until the Department takes action on the application, unless this permit is terminated or revoked. However, the permittee need not seek continued permit coverage or reapply for a permit if both of the following apply:

- a. The facility has ceased operation or is no longer a CAFO.
- b. The permittee has demonstrated to the satisfaction of the Department that there is no remaining potential for a discharge of CAFO waste that was generated while the operation was a CAFO.

If this permit is terminated or revoked, all authorizations to discharge under the permit shall expire on the date of termination or revocation.

If this permit is modified, the Department will notify the permittee of any required action. Without an adequate response, a permittee's authorization to discharge will terminate on the effective date of the modified permit. With an adequate response, a permittee shall be subject to the terms and conditions of the modified permit on the effective date of the modified permit unless the Department notifies the permittee otherwise.

If the facility has ceased operation or is no longer a CAFO, the permittee shall request termination of authorization under this permit.

6. Compliance Dates for Existing Permittees

Compliance dates and associated requirements for permittees covered under the version of this permit issued November 18, 2005, shall be carried over, shall remain in effect, and shall be specified in COCs issued under this permit, unless the Department modifies the compliance date in the reissued COC.

PART I

Section B. Other Requirements

7. Requirement to Obtain Individual Permit

The Department may require any person who is authorized to discharge by a COC and this permit to apply for and obtain an individual NPDES permit if any of the following circumstances apply:

- a. the discharge is a significant contributor to pollution as determined by the Department on a case-by-case basis
- b. the discharger is not complying, or has not complied, with the conditions of the permit
- c. a change has occurred in the availability of demonstrated technology or practices for the control or abatement of waste applicable to the point source discharge
- d. effluent standards and limitations are promulgated for point source discharges subject to this permit, or
- e. the Department determines that the criteria under which the permit was issued no longer apply.

Any person may request the Department to take action pursuant to the provisions of Rule 2191 (Rule 323.2191 of the Michigan Administrative Code).

8. Requirements for Land Application Not Under the Control of the CAFO Permittee

In cases where CAFO waste is sold, given away, or otherwise transferred to another person (recipient) such that the land application of that CAFO waste is no longer under the operational control of the CAFO owner or operator that generates the CAFO waste (generator), a manifest shall be completed and used to track the transfer and use of the CAFO waste.

- a. Prior to transfer of the CAFO waste, the CAFO owner or operator shall do all of the following:
 - 1) Prepare a manifest for tracking the CAFO waste before transferring the CAFO waste
 - 2) Designate on the manifest the recipient of the CAFO waste
- b. The generator shall use a manifest form which is approved by the Department and which provides for the recording of all of the following information:
 - 1) A manifest document number
 - 2) The generator's name, mailing address, and telephone number
 - 3) The name and address of the recipient of the CAFO waste
 - 4) The nutrient content of the CAFO waste to be transferred, in sufficient detail to determine the appropriate land application rates
 - 5) The total quantity, by units of weight or volume, and the number and size of the loads or containers used to transfer that quantity of CAFO waste
 - 6) A statement that informs the recipient of his/her responsibility to properly manage the land application of the CAFO waste as necessary to assure there is no illegal discharge of pollutants to waters of the state
 - 7) The following certification by the generator: "I hereby declare that the CAFO waste is accurately described above and is suitable for land application"
 - 8) Other certification statements as may be required by the Department
 - 9) The address or other location description of the site or sites used by the recipient for land application or other disposal or use of the CAFO waste
 - 10) Signatures of the generator and recipient with dates of signature
- c. The generator shall do all of the following with respect to the manifest:
 - 1) Sign and date the manifest certification prior to transfer of the CAFO waste.
 - 2) Obtain a dated signature of the recipient on the manifest and the date of acceptance of the CAFO waste.
 - 3) Retain a copy of the signed manifest.
 - 4) Provide a signed copy to the recipient.
 - 5) Advise the recipient of his or her responsibilities to complete the manifest and, if not completed at time of delivery, return a copy to the generator within 30 days after completion of the land application or other disposal or use of the CAFO waste.
- d. One manifest may be used for multiple loads or containers of the same CAFO waste transferred to the same recipient. The manifest shall list separately each address or location used by the recipient for land application or other disposal or use of the CAFO waste. Each different address or location listing shall include the quantities of CAFO waste transferred to that location and dates of transfer.

PART I

Section B. Other Requirements

- e. The generator shall not sell, give away, or otherwise transfer CAFO waste to a recipient if any of the following are true:
 - 1) The recipient fails or refuses to provide accurate information on the manifest in a timely manner.
 - 2) The use or disposal information on the manifest indicates improper land application, use, or disposal.
 - 3) The generator learns that there has been improper land application, use, or disposal of the manifested CAFO waste.
 - 4) The generator has been advised by the Department that the Department or a court of appropriate jurisdiction has determined that the recipient has improperly land applied, used, or disposed of a manifested CAFO waste.
- f. If the generator has been prohibited from selling, giving, or otherwise transferring CAFO waste to a particular recipient under Part I.B.8.e, above, and the generator wishes to resume selling, giving, or otherwise transferring CAFO waste to that particular recipient, then one of the following shall be accomplished:
 - 1) For improper paperwork only, such as incomplete or inaccurate information on the manifest, the recipient must provide the correct, complete information.
 - 2) For improper land application, use, or disposal of the CAFO waste by the recipient, the generator must demonstrate, in writing, to the Department that the improper land application, use, or disposal has been corrected, and the Department has provided approval of the demonstration.
- g. All manifests shall be kept on-site with the CAFO owner or operator's CNMP for a minimum of five years and made available to the Department upon request.
- h. The requirements of Part I.B.8. do not apply to quantities of CAFO waste less than one pickup truck load, one cubic yard, or one ton per recipient per day.

9. Water Quality Impaired Waters

- a. Nitrogen or Phosphorus Impairment

The Department expects that full compliance with the conditions of this permit will allow the permittee to meet the pollutant loading capacity(ies) set forth for nitrogen or phosphorus in an approved Total Maximum Daily Load (TMDL).
- b. *Escherichia coli*, Biota, Dissolved Oxygen Impairment

The permittee's COC will indicate if the permittee's production area or land application areas are located within a watershed(s) covered by an approved *E. coli*, biota, or dissolved oxygen TMDL. The Department will develop and publish guidance regarding how to evaluate operations and determine additional pollutant control measures. After the guidance is published, the permittee shall complete the following actions within 15 months of receiving notification from the Department:

 - 1) Conduct a comprehensive evaluation of its operations.
 - 2) Determine whether additional pollutant control measures need to be identified and implemented to meet the permittee's pollutant loading (or "concentration" in the case of *E. coli*) capacity(ies) set forth in the approved TMDL.
 - 3) Submit a written report to the Department based on one of the following:
 - a) If the permittee determines that the pollutant loading or concentration capacity(ies) established in the approved TMDL is not being exceeded, then the written report submitted to the Department shall justify that determination, or
 - b) If the permittee determines that the pollutant loading or concentration capacity(ies) established in the approved TMDL is being exceeded, then the written report submitted to the Department shall identify additional pollutant control measures that need to be implemented by the permittee to achieve compliance with the pollutant loading capacity(ies) established in the approved TMDL. The permittee's written report shall also include an implementation schedule for each identified additional pollutant control measure.

Upon approval of the Department, and if the written report identifies needed additional pollutant control measures, the permittee shall implement the additional pollutant control measures according to the schedule. The approved written report detailing the additional pollutant control measures and the associated implementation schedule shall be included in the CNMP and shall be an enforceable part of this permit.

PART I

Section B. Other Requirements

10. Treatment System

The CAFO may include an anaerobic digester-based treatment system. The application for coverage under this permit shall include a description of the construction and operation of the anaerobic digester-based treatment system, including a schematic or flow diagram of the process, a listing of all outside materials (non-CAFO waste) to be added to the digester, the percentage input to the digester comprised of outside materials, and a contingency plan in the event of system failures including computer malfunctions. The contingency plan shall address the actions to be taken by the permittee if the digester-based treatment system must be by-passed for any reason, including handling and storage of partially-digested contents.

Up to 20 percent of outside materials may be added to the digester to enhance operation. Quantities above 5 percent will be listed in the COC issued under this permit. The Department may prohibit the use of certain outside materials. The permittee shall keep with the CNMP the quantities and identity of outside materials added to the digester. Outside materials not listed in the application shall not be added to the digester without prior approval from the Department. The outputs from the treatment system shall be stored and managed in accordance with the permit. The digester shall be operated consistently with the information provided in the application for coverage under this permit.

11. Document Availability

Copies of all documents required by this permit, including the CNMP, Land Application Log, inspection records, etc., shall be kept at the permitted farm and made available to the Department upon request.

PART II

Section A. Definitions

Animal Feeding Operation (AFO) means a lot or facility that meets both of the following conditions:

1. Animals, other than aquatic animals, have been, are, or will be stabled or confined and fed or maintained for a total of 45 calendar days or more in any 12-month period
 2. Crops, vegetation, forage growth, or post-harvest residues are not sustained in the normal growing season over the portion of the lot or facility where animals are confined
- Two or more AFOs under common ownership are considered to be a single AFO if they adjoin each other or if they use a common area or system for the disposal of wastes. Common area includes land application areas.

Concentrated Animal Feeding Operation (CAFO) means any AFO that requests coverage under the permit for which the Department determines that this permit is appropriate for the applicant's operation. A CAFO includes both production areas and land application areas.

CAFO Process Wastewater means water directly or indirectly used in the operation of a CAFO for any of the following:

1. Spillage or overflow from animal or poultry watering systems
2. Washing, cleaning, or flushing pens, barns, manure pits, or other AFO facilities
3. Direct contact swimming, washing, or spray cooling of animals
4. Dust control
5. Any water which comes into contact with, or is a constituent of, any raw materials, products, or byproducts, including manure, litter, feed, milk, eggs, or bedding

CAFO Waste means CAFO process wastewater, manure, production area waste, effluents from the property and successfully operated treatment system, or any combination thereof.

Certified CNMP Provider is a person that attains and maintains certification requirements through a program approved by the United States Department of Agriculture Natural Resources Conservation Service (NRCS).

CNMP means Comprehensive Nutrient Management Plan and is the plan developed by the permittee to implement the requirements of the NMP.

Department means the Michigan Department of Natural Resources and Environment (formerly the Michigan Department of Environmental Quality).

Discharge as used in this permit means the addition of any waste, waste effluent, wastewater, pollutant, or any combination thereof to any surface water of the state.

Grassed Waterway means a natural or constructed channel for storm water drainage that originates and is located within a field used for growing crops, and that is used to carry surface water at a non-erosive velocity to a stable outlet and is established with suitable and adequate permanent vegetation.

Incorporation means a mechanical operation that physically mixes the surface-applied CAFO waste into the soil so that a significant amount of the surface-applied CAFO waste is not present on the land surface within one hour after mixing. Incorporation also means the soaking into the soil of "liquids being used for irrigation water" such that liquids and significant solid residues do not remain on the land surface. "Liquids being used for irrigation water" are contaminated runoff, milk house waste, or liquids from CAFO waste treated to separate liquids and solids. "Liquids being used for irrigation water" does not include untreated liquid manures.

Land Application means spraying or spreading of biosolids, CAFO waste, wastewater and/or derivatives onto the land surface, injecting below the land surface, or incorporating into the soil so that the biosolids, CAFO waste, wastewater and/or derivatives can either condition the soil or fertilize crops or vegetation grown in the soil.

Land Application Area means land under the control of an AFO owner or operator, whether it is owned, rented, leased, or subject to an access agreement to which CAFO waste is or may be applied. Land application area includes land not owned by the AFO owner or operator but where the AFO owner or operator has control of the land application of CAFO waste.

PART II

Section A. Definitions

Large CAFO is an AFO that stables or confines as many as or more than the numbers of animals specified in any of the following categories:

1. 700 mature dairy cattle (whether milked or dry cows)
2. 1,000 veal calves
3. 1,000 cattle other than mature dairy cows or veal calves. Cattle include heifers, steers, bulls, calves, and cow/calf pairs
4. 2,500 swine each weighing 55 pounds or more
5. 10,000 swine each weighing less than 55 pounds
6. 500 horses
7. 10,000 sheep or lambs
8. 55,000 turkeys
9. 30,000 laying hens or broilers, if the AFO uses a liquid manure handling system
10. 125,000 chickens (other than laying hens), if the AFO uses other than a liquid manure handling system
11. 82,000 laying hens, if the AFO uses other than a liquid manure handling system

Large CAFOs are required to obtain NPDES permits under Michigan Rule No. 323.2196.

Manure means animal excrement and is defined to include bedding, compost, and raw materials, or other materials commingled with animal excrement or set aside for disposal.

Maximum Annual Phosphorus Land Application Rate means the maximum quantity, per calendar year, of phosphorus (usually expressed in pounds per acre) that is allowed to be applied to crop fields where CAFO waste is spread, including the phosphorus contained in the CAFO waste.

MGD means million gallons per day.

New CAFO means a CAFO that is newly built and was not in production (i.e., animals were not on site) prior to January 30, 2004. New CAFO also means existing facilities where, due to expansion in production, the process or production equipment is totally replaced or new processes are added that are substantially independent of an existing source at the same site, after February 27, 2004. This does not include replacement due to acts of God or upgrades in technology that serve the existing production.

NMP means Nutrient Management Plan and is the section in the permit that sets forth requirements and conditions to assure that water quality standards are met.

NRCS means the Natural Resources Conservation Service of the United States Department of Agriculture.

NRCS 313 (date) means the NRCS Michigan Statewide Technical Guide, Section IV, Conservation Practice No. 313, Waste Storage Facility, dated either June 2003 or November 2005.

Overflow means a release of CAFO waste resulting from the filling of CAFO waste storage structures beyond the point at which no more CAFO waste or storm water can be contained by the structure.

Pasture Land is land that is primarily used for the production of forage upon which livestock graze. Pasture land is characterized by a predominance of vegetation consisting of desirable forage species. Sites such as loafing areas, confinement areas, or feedlots which have livestock densities that preclude a predominance of desirable forage species are not considered pasture land. Heavy-use areas within pastures adjacent to, or associated with, the CAFO are part of the pasture and are not part of the production area. Examples of heavy-use areas include livestock travel lanes and small areas immediately adjacent to feed and watering stations.

Production Area is the portion of the CAFO that includes all areas used for animal product production activities. This includes, but is not limited to: the animal confinement area, the manure storage area, the raw materials storage area, and the waste containment areas. The animal confinement area includes open lots, housed lots, feedlots, confinement houses, stall barns, free stall barns, milk rooms, milking centers, cow yards, barnyards, medication pens, walkers, animal walkways (not within pasture areas), and stables. The manure storage area includes lagoons, runoff ponds, storage sheds, stockpiles, under-house or pit storages, liquid impoundments, static piles, and composting piles. The raw materials storage area includes feed silos, silage bunkers, and bedding materials. The waste containment area includes settling basins and areas within berms and diversions which separate uncontaminated storm water. Also included in the definition of "production area" is any egg washing or egg processing facility and any area used in the storage, handling, treatment, or disposal of mortalities. Production areas do not include pasture lands or land application areas.

PART II

Section A. Definitions

Production Area Waste means manure and any waste from the production area and any precipitation (e.g., rain or snow) which comes into contact with, or is contaminated by, manure or any of the components listed in the definition for "production area." Production area waste also includes contaminated runoff from digester and treatment system areas. Production area waste does not include clean water that is diverted nor does it include water from land application areas.

Realistic Crop Yield Goals means expected crop yields based on soil productivity potential, the crop management practices utilized, and crop yield records for multiple years for the field. Yield goals shall be adjusted to counteract unusually low or high yields. When a field's history is not available, another referenced source shall be used to estimate yield goal. A realistic crop yield goal is one which is achievable in three out of five crop years. If the goal is not achieved in at least three out of five years, then the goal shall be re-evaluated and revised.

Regional Administrator is the Region 5 Administrator, United States Environmental Protection Agency (USEPA), located at R-19J, 77 West Jackson Boulevard, Chicago, Illinois 60604.

Silage Leachate means a liquid, containing organic constituents, that results from the storage of harvested plant materials, which usually has a high water content.

Solid Stackable Manure means manure and manure mixed with bedding that can be piled up or stacked and will maintain a piled condition. It will also have the characteristic that it can be shoveled with a pitchfork.

Swale means a shallow, channel-like, linear depression within a field used for growing crops that is at a low spot on a hillslope and is used to transport storm water. It may or may not be vegetated.

Waste Storage Structure means both pond-type storage structures and fabricated storage structures.

Tile means a conduit, such as corrugated plastic tubing, tile, or pipe, installed beneath the ground surface to collect and/or convey drainage water.

Vegetated Buffer means a narrow, permanent strip of dense perennial vegetation, established parallel to the contours of and perpendicular to the dominant slope of the field, for the purposes of slowing water runoff, enhancing water infiltration, and minimizing the risk of any potential nutrients or pollutants from leaving the field and reaching surface waters.

Water Quality Standards means the Part 4 Water Quality Standards developed under Part 31 of Act No. 451 of the Public Acts of 1994, as amended, being Rules 323.1041 through 323.1117 of the Michigan Administrative Code.

25-year, 24-hour rainfall event or 100-year, 24-hour rainfall event means the maximum 24-hour precipitation event with a probable recurrence interval of once in 25 years or 100 years, respectively, as defined by the "Rainfall Frequency Atlas of the Midwest," Huff and Angel, Illinois State Water Survey, Champaign, Bulletin 71, 1992, and subsequent amendments, or equivalent regional or state rainfall probability information developed there from.

PART II

Section B. Monitoring Procedures

1. Representative Monitoring and Sampling

Monitoring shall be representative of the monitored activity. Samples and measurements taken as required herein shall be representative of both the CAFO waste that is applied to the land and the soils that receive the CAFO waste.

2. Test Procedures

Test procedures for the analysis of pollutants shall conform to regulations promulgated pursuant to Section 304(h) of the Federal Act (40 CFR Part 136 - Guidelines Establishing Test Procedures for the Analysis of Pollutants), unless specified otherwise in this permit. Requests to use test procedures not promulgated under 40 CFR Part 136 for pollutant monitoring required by this permit shall be made in accordance with the Alternate Test Procedures regulations specified in 40 CFR 136.4. These requests shall be submitted to the Chief of the Permits Section, Water Bureau, Michigan Department of Environmental Quality, P.O. Box 30273, Lansing, Michigan, 48909-7773. The permittee may use such procedures upon approval.

The permittee shall periodically calibrate and perform maintenance procedures on all analytical instrumentation at intervals to ensure accuracy of measurements. The calibration and maintenance shall be performed as part of the permittee's laboratory Quality Control/Quality Assurance program.

3. Recording Results

For each measurement or sample taken pursuant to the requirements of this permit, the permittee shall record the following information: 1) the exact place, date, and time of measurement or sampling; 2) the person(s) who performed the measurement or sample collection; 3) the dates the analyses were performed; 4) the person(s) who performed the analyses; 5) the analytical techniques or methods used; 6) the date of and person responsible for equipment calibration; and 7) the results of all required analyses.

4. Records Retention

All records and information resulting from the monitoring activities required by this permit including all records of analyses performed and calibration and maintenance of instrumentation and recordings from continuous monitoring instrumentation shall be retained for a minimum of five (5) years, or longer if requested by the Regional Administrator or the Department.

PART II**Section C. Reporting Requirements****1. Start-up Notification**

If the permittee will not populate with animals during the first 60 days following the effective date of the certificate of coverage issued under this permit then the permittee shall notify the Department within 14 days following the effective date of the certificate of coverage issued under this permit. Subsequently, the Department shall be notified 60 days prior to population with animals.

2. Submittal Requirements for Self-Monitoring Data

Part 31 of Act 451 of 1994, as amended, specifically Section 324.3110(3) and Rule 323.2155(2) of Part 21 allows the department to specify the forms to be utilized for reporting the required self-monitoring data. Unless instructed on the effluent limitations page to conduct "Retained Self Monitoring" the permittee shall submit self-monitoring data via the Michigan DEQ Electronic Environmental Discharge Monitoring Reporting (e2-DMR) system.

The permittee shall utilize the information provided on the e2-Reporting website @ <https://secure1.state.mi.us/e2rs/> to access and submit the electronic forms. Both monthly summary and daily data shall be submitted to the department no later than the 20th day of the month following each month of the authorized discharge period(s).

3. Retained Self-Monitoring Requirements

The permittee shall maintain with the CNMP a year-to-date log of inspection, monitoring and record keeping results required by this permit and, upon request, provide such log for inspection to the staff of the Department. Such inspection, monitoring and record keeping results shall be submitted to the Department upon request.

The permittee shall certify, in writing, to the Department, on or before April 1st of each year, that: 1) all retained self-monitoring requirements have been complied with and a year-to-date log has been maintained; and 2) the application on which this permit is based still accurately describes the animal feeding operation.

Retained self-monitoring may be denied to a permittee by notification in writing from the Department. In such cases, the permittee shall submit self-monitoring data in accordance with Part II.C.2., above. Such a denial may be rescinded by the Department upon written notification to the permittee.

Reissuance or modification of this permit or reissuance or modification of an individual permittee's authorization to discharge shall not affect previous approval or denial for retained self-monitoring unless the Department provides notification in writing to the permittee.

4. Additional Monitoring by Permittee

If the permittee monitors any pollutant at the location(s) designated herein more frequently than required by this permit, using approved analytical methods as specified above, the results of such monitoring shall be included in the calculation and reporting of the values required in the Discharge Monitoring Report. Such increased frequency shall also be indicated.

5. Compliance Dates Notification

Within 14 days of every compliance date specified in this permit, the permittee shall submit a written notification to the Department indicating whether or not the particular requirement was accomplished. If the requirement was not accomplished, the notification shall include an explanation of the failure to accomplish the requirement, actions taken or planned by the permittee to correct the situation, and an estimate of when the requirement will be accomplished. If a written report is required to be submitted by a specified date and the permittee accomplishes this, a separate written notification is not required.

PART II

Section C. Reporting Requirements

6. Discharge and Noncompliance Reporting

Compliance with all applicable requirements set forth in the Federal Act, Parts 31 and 41 of the Michigan Act, and related regulations and rules is required. All instances of discharge or noncompliance shall be reported as follows:

- a. 6-hour reporting – Any discharge shall be reported, verbally, as soon as practicable but no later than 6 hours from the time the permittee becomes aware of the discharge. A written report shall also be provided within five (5) days.
- b. other reporting – The permittee shall report, in writing, all other instances of noncompliance not described in a. above at the time monitoring reports are submitted; or, in the case of retained self-monitoring or inspection results or records, within five (5) days from the time the permittee becomes aware of the noncompliance.

Written reporting shall include: 1) a description of the discharge and/or cause of noncompliance and steps taken to correct the noncompliance; and 2) the period of noncompliance, including exact dates and times; or, if not corrected, the anticipated time the noncompliance is expected to continue, and the steps taken to reduce, eliminate and prevent recurrence of the noncomplying discharge. All reporting shall be to all of the following: the Department, the clerk of the local unit of government and the county health department. Verbal reporting to the Department after regular working hours shall be made by calling the Department's 24-hour Pollution Emergency Alerting System telephone number, 1-800-292-4706 (calls from out-of-state dial 1-517-373-7660). Verbal reporting to the clerk of the local unit of government and the county health department after regular working hours shall be made as soon as those agencies are next open for business unless those agencies provide after hours contact information.

7. Spill Notification

The permittee shall immediately report any release of any polluting material which occurs to the surface waters or groundwaters of the state, unless the permittee has determined that the release is not in excess of the threshold reporting quantities specified in the Part 5 Rules (Rules 324.2001 through 324.2009 of the Michigan Administrative Code), by calling the Department at the number indicated in the certificate of coverage, or if the notice is provided after regular working hours call the Department's 24-hour Pollution Emergency Alerting System telephone number, 1-800-292-4706 (calls from out-of-state dial 1-517-373-7660).

Within ten (10) days of the release, the permittee shall submit to the Department a full written explanation as to the cause of the release, the discovery of the release, response (clean-up and/or recovery) measures taken, and preventative measures taken or a schedule for completion of measures to be taken to prevent reoccurrence of similar releases.

8. Upset Noncompliance Notification

If a process "upset" (defined as an exceptional incident in which there is unintentional and temporary noncompliance with technology based permit effluent limitations because of factors beyond the reasonable control of the permittee) has occurred, the permittee who wishes to establish the affirmative defense of upset, shall notify the Department by telephone within 24-hours of becoming aware of such conditions; and within five (5) days, provide in writing, the following information:

- a. that an upset occurred and that the permittee can identify the specific cause(s) of the upset;
- b. that the permitted wastewater treatment facility was, at the time, being properly operated; and
- c. that the permittee has specified and taken action on all responsible steps to minimize or correct any adverse impact in the environment resulting from noncompliance with this permit.

In any enforcement proceedings, the permittee, seeking to establish the occurrence of an upset, has the burden of proof.

PART II**Section C. Reporting Requirements****9. Bypass Prohibition and Notification**

- a. **Bypass Prohibition** - Bypass is prohibited unless:
- 1) bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;
 - 2) there were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate backup equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass; and
 - 3) the permittee submitted notices as required under 9.b. or 9.c. below.
- b. **Notice of Anticipated Bypass** - If the permittee knows in advance of the need for a bypass, it shall submit prior notice to the Department, if possible at least ten (10) days before the date of the bypass, and provide information about the anticipated bypass as required by the Department. The Department may approve an anticipated bypass, after considering its adverse effects, if it will meet the three (3) conditions listed in 9.a. above.
- c. **Notice of Unanticipated Bypass** - The permittee shall submit notice to the Department of an unanticipated bypass by calling the Department at the number indicated in the certificate of coverage (if the notice is provided after regular working hours, use the following number: 1-800-292-4706) as soon as possible, but no later than 24 hours from the time the permittee becomes aware of the circumstances.
- d. **Written Report of Bypass** - A written submission shall be provided within five (5) working days of commencing any bypass to the Department, and at additional times as directed by the Department. The written submission shall contain a description of the bypass and its cause; the period of bypass, including exact dates and times, and if the bypass has not been corrected, the anticipated time it is expected to continue; steps taken or planned to reduce, eliminate, and prevent reoccurrence of the bypass; and other information as required by the Department.
- e. **Bypass Not Exceeding Limitations** - The permittee may allow any bypass to occur which does not cause effluent limitations to be exceeded, but only if it also is for essential maintenance to assure efficient operation. These bypasses are not subject to the provisions of 9.a., 9.b., 9.c., and 9.d., above. This provision does not relieve the permittee of any notification responsibilities under Part II.C.10. of this permit.
- f. **Definitions**
- 1) **Bypass** means the intentional diversion of waste streams from any portion of a treatment facility.
 - 2) **Severe property damage** means substantial physical damage to property, damage to the treatment facilities which causes them to become inoperable, or substantial and permanent loss of natural resources which can reasonably be expected to occur in the absence of a bypass. Severe property damage does not mean economic loss caused by delays in production.

PART II

Section C. Reporting Requirements

10. Notification of Changes in Discharge

The permittee shall notify the Department, in writing, within 10 days of knowing, or having reason to believe, that any activity or change has occurred or will occur which would result in the discharge of: 1) detectable levels of chemicals on the current Michigan Critical Materials Register, priority pollutants or hazardous substances set forth in 40 CFR 122.21, Appendix D, or the Pollutants of Initial Focus in the Great Lakes Water Quality Initiative specified in 40 CFR 132.6, Table 6, which were not acknowledged in the application or listed in the application at less than detectable levels; 2) detectable levels of any other chemical not listed in the application or listed at less than detection, for which the application specifically requested information; or 3) any chemical at levels greater than five times the average level reported in the complete application (see the certificate of coverage for the date(s) the complete application was submitted). Any other monitoring results obtained as a requirement of this permit shall be reported in accordance with the compliance schedules.

11. Changes in Facility Operations

Any anticipated action or activity, including but not limited to facility expansion, production increases, or process modification, which will result in new or increased loadings of pollutants to the receiving waters must be reported to the Department by a) submission of an increased use request (application) and all information required under Rule 323.1098 (Antidegradation) of the Water Quality Standards or b) by notice if the following conditions are met: 1) the action or activity will not result in a change in the types of wastewater discharged or result in a greater quantity of wastewater than currently authorized by this permit; 2) the action or activity will not result in violations of the effluent limitations specified in this permit; 3) the action or activity is not prohibited by the requirements of Part II.C.12.; and 4) the action or activity will not require notification pursuant to Part II.C.10. Following such notice, the permit may be modified according to applicable laws and rules to specify and limit any pollutant not previously limited.

12. Bioaccumulative Chemicals of Concern (BCC)

Consistent with the requirements of Rules 323.1098 and 323.1215 of the Michigan Administrative Code, the permittee is prohibited from undertaking any action that would result in a lowering of water quality from an increased loading of a BCC unless an increased use request and antidegradation demonstration have been submitted and approved by the Department.

13. Transfer of Ownership or Control

In the event of any change in control or ownership of facilities from which the authorized discharge emanates, the permittee shall submit to the Department 30 days prior to the actual transfer of ownership or control a written agreement between the current permittee and the new permittee containing: 1) the legal name and address of the new owner; 2) a specific date for the effective transfer of permit responsibility, coverage and liability; and 3) a certification of the continuity of or any changes in operations, wastewater discharge, or wastewater treatment.

If the new permittee is proposing changes in operations, wastewater discharge, or wastewater treatment, the Department may propose modification of this permit in accordance with applicable laws and rules.

PART II

Section D. Management Responsibilities

1. Duty to Comply

All discharges authorized herein shall be consistent with the terms and conditions of this permit and the facility's certificate of coverage (COC). The discharge of any pollutant identified in this permit and/or the facility's COC more frequently than or at a level in excess of that authorized shall constitute a violation of the permit.

It is the duty of the permittee to comply with all the terms and conditions of this permit and the facility's COC. Any noncompliance with the Effluent Limitations, Special Conditions, or terms of this permit or the facility's COC constitutes a violation of the Michigan Act and/or the Federal Act and constitutes grounds for enforcement action, for COC termination, revocation and reissuance, or modification; or denial of an application for permit or COC renewal.

It shall not be a defense for a permittee in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of this permit.

2. Operator Certification

The permittee shall have the waste treatment facilities under direct supervision of an operator certified at the appropriate level for the facility certification by the Department, as required by Sections 3110 and 4104 of the Michigan Act.

3. Facilities Operation

The permittee shall, at all times, properly operate and maintain all treatment or control facilities or systems installed or used by the permittee to achieve compliance with the terms and conditions of this permit. Proper operation and maintenance includes adequate laboratory controls and appropriate quality assurance procedures.

4. Power Failures

In order to maintain compliance with the effluent limitations of this permit and prevent unauthorized discharges, the permittee shall either:

- a. provide an alternative power source sufficient to operate facilities utilized by the permittee to maintain compliance with the effluent limitations and conditions of this permit; or
- b. upon the reduction, loss, or failure of one or more of the primary sources of power to facilities utilized by the permittee to maintain compliance with the effluent limitations and conditions of this permit, the permittee shall halt, reduce or otherwise control production and/or all discharge in order to maintain compliance with the effluent limitations and conditions of this permit.

5. Adverse Impact

The permittee shall take all reasonable steps to minimize any adverse impact to the surface waters or groundwaters of the state resulting from noncompliance with any requirement of this permit including, but not limited to, such accelerated or additional monitoring as necessary to determine the nature and impact of the discharge in noncompliance.

6. Containment Facilities

The permittee shall provide facilities for containment of any accidental losses of polluting materials in accordance with the requirements of the Part 5 Rules (Rules 324.2001 through 324.2009 of the Michigan Administrative Code).

PART II**Section D. Management Responsibilities****7. Waste Treatment Residues**

Residuals (i.e. solids, sludges, biosolids, filter backwash, scrubber water, ash, grit, or other pollutants or wastes) removed from or resulting from treatment or control of wastewaters, including those that are generated during treatment or left over after treatment or control has ceased, shall be disposed of in an environmentally compatible manner and according to applicable laws and rules. These laws may include, but are not limited to, the Michigan Act, Part 31 for protection of water resources, Part 55 for air pollution control, Part 111 for hazardous waste management, Part 115 for solid waste management, Part 121 for liquid industrial wastes, Part 301 for protection of inland lakes and streams, and Part 303 for wetlands protection. Such disposal shall not result in any unlawful pollution of the air, surface waters or groundwaters of the state.

8. Right of Entry

The permittee shall allow the Department, any agent appointed by the Department or the Regional Administrator, upon the presentation of credentials and following appropriate biosecurity protocols:

- a. to enter upon the permittee's premises where an effluent source is located, production areas, land application areas or any place in which any records are required to be kept under the terms and conditions of this permit; and,
- b. at reasonable times to have access to and copy any records required to be kept under the terms and conditions of this permit; to inspect process facilities, treatment works, monitoring methods and equipment regulated or required under this permit; and to sample any discharge of pollutants.

9. Availability of Reports

Except for data determined to be confidential under Section 308 of the Federal Act and Rule 2128 (Rule 323.2128 of the Michigan Administrative Code), all reports prepared in accordance with the terms of this permit shall be available for public inspection at the offices of the Department and the Regional Administrator. As required by the Federal Act, effluent data shall not be considered confidential. Knowingly making any false statement on any such report may result in the imposition of criminal penalties as provided for in Section 309 of the Federal Act and Sections 3112, 3115, 4108 and 4110 of the Michigan Act.

PART II

Section E. Activities Not Authorized by This Permit

1. Discharge to the Groundwaters

This permit does not authorize any discharge to the groundwaters. Such discharge may be authorized by a groundwater discharge permit issued pursuant to the Michigan Act.

2. Facility Construction

This permit does not authorize or approve the construction or modification of any physical structures or facilities. Such approvals, if required, shall be obtained in accordance with applicable law.

3. Civil and Criminal Liability

Except as provided in permit conditions on "Bypass" (Part II.C.9. pursuant to 40 CFR 122.41(m)), nothing in this permit shall be construed to relieve the permittee from civil or criminal penalties for noncompliance, whether or not such noncompliance is due to factors beyond the permittee's control, such as accidents, equipment breakdowns, or labor disputes.

4. Oil and Hazardous Substance Liability

Nothing in this permit shall be construed to preclude the institution of any legal action or relieve the permittee from any responsibilities, liabilities, or penalties to which the permittee may be subject under Section 311 of the Federal Act except as are exempted by federal regulations.

5. State Laws

Nothing in this permit shall be construed to preclude the institution of any legal action or relieve the permittee from any responsibilities, liabilities, or penalties established pursuant to any applicable state law or regulation under authority preserved by Section 510 of the Federal Act.

6. Property Rights

The issuance of this permit does not convey any property rights in either real or personal property, or any exclusive privileges, nor does it authorize violation of any federal, state or local laws or regulations, nor does it obviate the necessity of obtaining such permits, including any other Department of Natural Resources and Environment permits, or approvals from other units of government as may be required by law.

PART III**Technical Standard for the Surface Application of
Concentrated Animal Feeding Operations Waste on Frozen or Snow-Covered Ground Without
Incorporation or Injection**

When Concentrated Animal Feeding Operation (CAFO) waste is surface-applied to frozen or snow-covered ground, without incorporation or injection, and that application is followed by rainfall or temperatures rising above freezing, the CAFO waste can run off into lakes, streams, or drains. Documented evidence shows that this runoff can cause resource damage to the surface waters of the state. Therefore, in accordance with Title 40 of the Code of Federal Regulations, Section 123.36, Establishment of Technical Standards for Concentrated Animal Feeding Operations, and State Rule 323.2196(5), CAFO Permits, the Michigan Department of Environmental Quality, Water Bureau, establishes the following Technical Standard. This Technical Standard shall be used for field-by-field assessments, as required by National Pollutant Discharge Elimination System permits issued to CAFOs, to assure that the land application of CAFO waste to frozen or snow-covered ground, without incorporation or injection, will not result in CAFO waste entering the waters of the state.

Based on the frozen and/or snow-covered conditions, the minimal settling and breaking down of the waste during these conditions, and the inability to predict or control snowmelt and rainfall, there are no practices that can ensure the runoff from fields with surface-applied waste on frozen or snow-covered ground will not be polluted. This standard assumes that surface runoff from snowmelt and/or rainfall will occur, and that the runoff will be polluted if CAFO waste is surface-applied on frozen or snow-covered ground. Therefore, the way to prevent these discharges is to apply CAFO waste only to fields, or portions of fields, where the runoff will not reach surface waters.

A field-by-field assessment must be completed, and all of the following requirements must be met and documented:

1. The Natural Resources Conservation Service's Manure Application Risk Index (MARI)* has been completed to identify fields, or portions of fields, that scored 37 or lower on the MARI.
2. An on-site field inspection of the entire field, or portion of field, that scored 37 or lower under the MARI has been completed. The inspection will take into consideration the slope and location of surface waters, tile line risers, and other conduits to surface water.
3. Based on the on-site field inspection, the Comprehensive Nutrient Management Plan (CNMP) will include documentation on topographic maps, the fields or portions of fields where the runoff will not flow to surface waters, and designate those areas as the only areas authorized for surface application without incorporation to frozen or snow-covered ground.
4. The findings of the inspection and documentation in the CNMP will be approved by a certified CNMP provider.

This assessment must be incorporated into the CNMP, and submitted as part of the CNMP Executive Summary each year.

* Grigar, J., and Lemunyon, J. A Procedure for Determining the Land Available for Winter Spreading of Manure in Michigan. NRCS publication. (Available on the MDEQ NPDES website)

ORIGINAL SIGNED

Richard A. Powers, Chief
Water Bureau

April 19, 2005

Date

EXHIBIT D



MICHIGAN DEPARTMENT OF ENVIRONMENTAL QUALITY
WATER RESOURCES DIVISION
NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM (NPDES)
Authorized by Michigan Act 451, Public Acts of 1994, as amended, Part 31

CERTIFICATE OF COVERAGE (COC)

Under General Permit No. MIGO19000
CAFO General Permit

COC NO.:

MIGO10204

DESIGNATED NAME:

Slater Farms-CAFO

PERMITTEE MAILING ADDRESS:

Allen Slater
8061 West 88th Street
Freemont, Michigan 49412

This COC requires Allen Slater to operate facilities in accordance with the conditions set forth in General Permit MIGO19000. The Slater Farms facilities are located at 7374 & 7680 Brunswick, Holton, MI 49425 and 9061 West 88th Street, Freemont, Michigan 49412.

References in the general permit to the 'Department' shall be defined as the Grand Rapids District Supervisor of the Water Resources Division. The Grand Rapids District Office is located at the State Office Building, Fifth Floor, 350 Ottawa N.W., Unit 10, Grand Rapids, Michigan 49503-2341, telephone: 616-356-0500, fax: 616-356-0202.

The magnitude of the 25-year 24-hour storm at the Slater Farms facility is 4.48 inches of rain.

On or before November 28, 2014 the permittee shall attain storage volume capacity for all of the large CAFO waste generated by the Slater Farms facility in a six month time period.

On or before November 28, 2014 all large CAFO waste storage structures at the Slater Farms facility shall be constructed in accordance with NRCs standards, set forth in Conservation Practice Standard No. 313, Waste Storage Facility, dated November 2005.

In accordance with Part (A.2)(b)(D) of General Permit No. MIGO19000, on or before November 28, 2014 the permittee shall cease using storage structures at the Slater Farms facility that do not meet NRCs Practice Standard No. 313.

Any person to whom this certificate of coverage is not acceptable may file a sworn petition with the Michigan Administrative Hearing System within the Michigan Department of Licensing and Regulatory Affairs, c/o the Michigan Department of Environmental Quality, setting forth the conditions of the permit which are being challenged and specifying the grounds for the challenge. The Department of Licensing and Regulatory Affairs may reject any petition filed more than 60 days after issuance as being untimely.

This COC is based on a complete application received by the Department on April 2, 2013. The permittee is subject to all conditions specified in General Permit No. MIGO19000 issued March 30, 2010, expiring April 1, 2015. This COC may be modified, terminated, reassued, or revoked as allowed for in General Permit No. MIGO19000.

This COC takes effect on the date of issuance.

June 7, 2013.
Date Issued

EOP 4677 (10/97)

Original Permit Signed by Tiffany Myers
Tiffany J. Myers, Chief
Lakes Michigan and Superior Permits Unit
Permits Section
Water Resources Division

EXHIBIT E



RICK SNYDER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF ENVIRONMENTAL QUALITY
LANSING



C. HEIDI GRETHOR
DIRECTOR

November 14, 2018

CERTIFIED MAIL 7014 0150 0001 0740 2901

Mr. Allen Slater
Slater Farms, LLC
7374 Brunswick Road
Holton, Michigan 49425

Dear Mr. Slater:

SUBJECT: Administrative Consent Order (ACO)

On December 18, 2012, Slater Farms, LLC (Slater Farms) and the Department of Environmental Quality (DEQ), Water Resources Division (WRD), entered into ACO-000170 which resolved violations of Part 31, Water Resources Protection, of the Natural Resources and Environmental Protection Act, 1994 PA 451, as amended.

Paragraph 3.7 of the ACO states: "By March 4, 2013, Slater Farms shall modify the silage pad runoff transfer system at Slater Home Farms to have the proper pump and detention capacity to contain the 25 year/24 hour storm event." The DEQ identified that Slater Farms has failed meet the requirements of this section in an inspection conducted on May 11, 2017.

Additionally, Paragraph 3.8 states: "By November 28, 2014, Slater Farms shall design and construct a new waste storage structure at Slater Home Farms to Natural Resources Conservation Service (NRCS) standard 313 of 2005. This waste storage structure shall be constructed to hold a combined minimum of six months of waste production." Slater Farms requested multiple extensions for the construction of this waste storage structure and based on the last extension, Slater Farms was required to meet this requirement by November 28, 2016, and has failed to design and construct the waste storage structure.

Paragraph 8.1 of the ACO states: "For each failure to comply with a specific deadline contained in Section III of this Consent Order, Slater Farms shall pay stipulated penalties of \$100 per violation per day." Slater Farms has failed to comply with Paragraphs 3.7 and 3.8 since May 11, 2017 (2,040 days as of November 13, 2018); and November 28, 2016 (715 days as of November 13, 2018), respectfully.

Slater Farms was notified of the failure to comply with the ACO at the inspection on May 11, 2017, and documented in a Violation Notice (VN) dated June 8, 2017 (VN-007246), and in a Second Violation Notice (SVN) dated August 11, 2017 (SVN-00664). In order to return to compliance and not accrue additional stipulated penalties or civil fines, Slater Farms shall work with DEQ, WRD, Grand Rapids District Office staff to correct all of the violations referenced in the aforementioned VN and SVN.

Mr. Allen Slater
Page 2
November 14, 2018

The DEQ has tried to obtain compliance with the ACO on multiple occasions but Slater Farms has not adequately responded to the VN and SVN. In order to settle this matter, the DEQ is willing to reduce the amount of stipulated penalties related to failing to comply with Paragraph 3.8 for a total stipulated penalty amount of \$36,000 (six months of stipulated penalties).

Please consider this letter a demand of payment in the amount of \$36,000. This amount must be submitted to the DEQ with the enclosed invoice by December 15, 2018, by check made payable to the State of Michigan and mailed to the DEQ, Revenue Control Unit, P.O. Box 30657, Lansing, Michigan 48909-8157. To ensure proper credit, include the payment identification number WRD90003.

If the payment is not received in the full amount of \$36,000 by December 15, 2018, the DEQ, WRD, will seek assistance from the Department of Attorney General for compliance with the ACO and collection of the payment, as well as compliance with the ACO.

If you have any questions or concerns, please contact me at 517-230-1430; dotys2@michigan.gov; or DEQ, P.O. Box 30458, Lansing, Michigan 48909-7958.

Sincerely,



Susan Doty, Enforcement Specialist
Enforcement Unit
Water Resources Division

Enclosure

cc: Mr. Jerrod Sanders, DEQ
Mr. David Pingel, DEQ
Mr. Michael Worm, DEQ
Ms. Melissa Sandborn, DEQ

MICHIGAN DEPARTMENT OF ENVIRONMENTAL QUALITY
Water Resources Division
Enforcement
INVOICE

Issued under authority of Public Act 451 of 1994,
FED ID # 38-6000134

SLATER FARMS LLC
7374 BRUNSWICK RD.
HOLTON, MI 49425
US

Invoice Number: 761-10388184
Customer Id: 428492
Invoice Date: November 15, 2018
Total Due: \$36,000.00

SLATER FARMS LLC
7374 BRUNSWICK RD.
HOLTON, MI 49425
US

Failure to submit payment by the date due will result in penalties as described by law. Please be sure to reference the settlement ID# on the check when you remit payment.

Reference
WRD00003

Invoice Item	Qty	Unit Cost	Sales Tax	Total Cost
SETTLEMENT ID# WRD00003 - DUE NO LATER THAN 12/15/2018	1.00	\$30,000.00	\$0.00	\$30,000.00

Total Invoice: \$36,000.00

Payment Due: Upon Receipt

REMIT PAYMENT TO: STATE OF MICHIGAN
TO ENSURE PROPER CREDIT, SEND THIS PORTION WITH PAYMENT TO:
MDEQ - QWDP
CASHIER'S OFFICE
PO BOX 30657
LANSING, MI 48909-8157

(Please note or make any address corrections below.)

SLATER FARMS LLC
7374 BRUNSWICK RD.
HOLTON, MI 49425
US

Reference
WRD00003

INVOICE NUMBER
761-10388184
WRD ACO

Total Due: \$36,000.00



GRETCHEN WHITMER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF ENVIRONMENTAL QUALITY
LANSING



LIESL EICHLER CLARK
DIRECTOR

January 4, 2019

Mr. Allen Slater
Slater Farms, LLC
7374 Brunswick Road
Holton, Michigan 49425

Mr. Allen Slater
Slater Farms, LLC
9061 West 88th Street
Fremont, Michigan 49412

Dear Mr. Slater:

SUBJECT: Administrative Consent Order (ACO-000170), Stipulated Penalty Demand

On November 14, 2018, the enclosed stipulated penalty demand letter was via the United States Postal Service, Certified Mail, from the Michigan Department of Environmental Quality (DEQ), to Mr. Allen Slater at 7374 Brunswick Road, Holton, Michigan 49425. The demand letter was never picked up from the post office. A stipulated penalty amount was due on December 15, 2018, in the amount of \$36,000. The revised due date for the stipulated penalty demand is **February 8, 2019**.

Please consider this letter a demand of payment in the amount of \$36,000. This amount must be submitted to the DEQ with the enclosed invoice by **February 8, 2019**, with a check made payable to the State of Michigan and mailed to the DEQ, Revenue Control Unit, P.O. Box 30657, Lansing, Michigan 48909-8157. To ensure proper credit, include the payment identification number **WRD90003**.

If the payment is not received in the full amount of \$36,000 by **February 8, 2019**, the DEQ will seek assistance from the Department of Attorney General for compliance with the ACO and collection of the payment, as well as compliance with the ACO.

If you have any questions or concerns, please contact me at 517-230-1430; dotys@michigan.gov; or DEQ, P.O. Box 30458, Lansing, Michigan 48909-7958.

Sincerely,

Susan Doty, Enforcement Specialist
Enforcement Unit
Water Resources Division

Enclosure

cc: Mr. Jerrod Sanders, DEQ
Mr. David Pingel, DEQ
Mr. Michael Worm, DEQ
Ms. Melissa Sandborn, DEQ



RICK SNYDER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF ENVIRONMENTAL QUALITY
LANSING



C. HEIDI GREYER
DIRECTOR

November 14, 2018

CERTIFIED MAIL 7014 0150 0001 0740 2901

Mr. Allen Slater
Slater Farms, LLC
7374 Brunswick Road
Holton, Michigan 49425

Dear Mr. Slater:

SUBJECT: Administrative Consent Order (ACO)

On December 18, 2012, Slater Farms, LLC (Slater Farms) and the Department of Environmental Quality (DEQ), Water Resources Division (WRD), entered into ACO-000170 which resolved violations of Part 31, Water Resources Protection, of the Natural Resources and Environmental Protection Act, 1994 PA 451, as amended.

Paragraph 3.7 of the ACO states: "By March 4, 2013, Slater Farms shall modify the sludge pad runoff transfer system at Slater Home Farms to have the proper pump and detention capacity to contain the 25 year/24 hour storm event." The DEQ identified that Slater Farms has failed meet the requirements of this section in an inspection conducted on May 11, 2017.

Additionally, Paragraph 3.8 states: "By November 28, 2014, Slater Farms shall design and construct a new waste storage structure at Slater Home Farms to Natural Resources Conservation Service (NRCS) standard 313 of 2005. This waste storage structure shall be constructed to hold a combined minimum of six months of waste production." Slater Farms requested multiple extensions for the construction of this waste storage structure and based on the last extension, Slater Farms was required to meet this requirement by November 28, 2016, and has failed to design and construct the waste storage structure.

Paragraph 8.1 of the ACO states: "For each failure to comply with a specific deadline contained in Section III of this Consent Order, Slater Farms shall pay stipulated penalties of \$100 per violation per day." Slater Farms has failed to comply with Paragraphs 3.7 and 3.8 since May 11, 2017 (2,040 days as of November 13, 2018); and November 28, 2016 (715 days as of November 13, 2018), respectfully.

Slater Farms was notified of the failure to comply with the ACO at the inspection on May 11, 2017, and documented in a Violation Notice (VN) dated June 8, 2017 (VN-007246), and in a Second Violation Notice (SVN) dated August 11, 2017 (SVN-00664). In order to return to compliance and not accrue additional stipulated penalties or civil fines, Slater Farms shall work with DEQ, WRD, Grand Rapids District Office staff to correct all of the violations referenced in the aforementioned VN and SVN:

Mr. Allen Slater
Page 2
November 14, 2018

The DEQ has tried to obtain compliance with the ACO on multiple occasions but Slater Farms has not adequately responded to the VN and SVN. In order to settle this matter, the DEQ is willing to reduce the amount of stipulated penalties related to failing to comply with Paragraph 3.8 for a total stipulated penalty amount of \$36,000 (six months of stipulated penalties).

Please consider this letter a demand of payment in the amount of \$36,000. This amount must be submitted to the DEQ with the enclosed invoice by December 15, 2018, by check made payable to the State of Michigan and mailed to the DEQ, Revenue Control Unit, P.O. Box 30657, Lansing, Michigan 48909-8157. To ensure proper credit, include the payment identification number WRD90003.

If the payment is not received in the full amount of \$36,000 by December 15, 2018, the DEQ, WRD, will seek assistance from the Department of Attorney General for compliance with the ACO and collection of the payment, as well as compliance with the ACO.

If you have any questions or concerns, please contact me at 517-230-1430; dotys2@michigan.gov; or DEQ, P.O. Box 30458, Lansing, Michigan 48909-7958.

Sincerely,



Susan Doty, Enforcement Specialist
Enforcement Unit
Water Resources Division

Enclosure

cc: Mr. Jerrod Sanders, DEQ
Mr. David Pingel, DEQ
Mr. Michael Worm, DEQ
Ms. Melissa Sandborn, DEQ

MICHIGAN DEPARTMENT OF ENVIRONMENTAL QUALITY
Water Resources Division
Enforcement
INVOICE

Issued under authority of Public Act 451 of 1994,
FED ID # 36-6000134

SLATER FARMS LLC
7374 BRUNSWICK RD.
HOLTON, MI 48425
US

Invoice Number:	761-10388184
Customer Id:	428492
Invoice Date:	November 15, 2018
Total Due:	\$36,000.00

SLATER FARMS LLC
7374 BRUNSWICK RD.
HOLTON, MI 48425
US

Failure to submit payment by the date due will result in penalties as described by law. Please be sure to reference the settlement ID# on the check when you remit payment.

Reference
WRD90003

Invoice Item	Qty	Unit Cost	Sales Tax	Total Cost
SETTLEMENT ID# WRD90003 - DUE NO LATER THAN 12/15/2018	1.00	\$36,000.00	\$0.00	\$36,000.00

Total Invoice: \$36,000.00

Payment Due: Upon Receipt

REMIT PAYMENT TO: **STATE OF MICHIGAN**
TO ENSURE PROPER CREDIT, SEND THIS PORTION WITH PAYMENT TO:
MDEQ - GWDP
CASHIERS OFFICE
PO BOX 30657
LANSING, MI 48906-8157

Reference
WRD90003

INVOICE NUMBER 761-10388184 WRD ACO

(Please note or make any address corrections below.)

SLATER FARMS LLC
7374 BRUNSWICK RD.
HOLTON, MI 48425
US

Total Due: **\$36,000.00**

EXHIBIT F



RICK SNYDER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF ENVIRONMENTAL QUALITY
GRAND RAPIDS DISTRICT OFFICE



C. HEIDI GRETHNER
DIRECTOR

June 8, 2017

CERTIFIED MAIL
RETURN RECEIPT

Mr. Allen Slater, Owner
Slater Farms
7374 Brunswick
Holton, Michigan 49425

VN No. VN-007246

Dear Mr. Slater:

SUBJECT: Violation Notice
National Pollution Discharge Elimination System (NPDES)
Certificate of Coverage (COC) No. MIG010204
Designated Name: Slater Farms – CAFO

The Department of Environmental Quality (DEQ), Water Resources Division (WRD) (the "Department"), inspected Slater Farms-CAFO, located at 7374 Brunswick Rd, Holton, Michigan 49425; at 7680 Brunswick Road, Holton, Michigan 49425; and 9061 West 88th Street, Fremont, Michigan 49412 on May 11, 2017. The purpose of the inspection was to determine compliance with Part 31, Water Resources Protection, of the Natural Resources and Environmental Protection Act, 1994 PA 451, as amended (NREPA), MCL 324.3101 et seq.; NPDES Permit No. MIG019000 COC No. MIG010204; and Administrative Consent Order (ACO) No. ACO-000170. This inspection included a records review, production area walk-through, and land application site inspection.

During the records review, the follow items were identified as violations or areas of concern:

1. Slater Farms was missing records for the weekly clean storm waters system inspections, daily water line inspections, and annual land application equipment calibration records. Failure to keep these records is a violation of your permit. Slater Farms must begin to keep these records **immediately**.
2. The facility has not provided documentation showing that the 88th Street waste storage structure meets Natural Resource Conservation Service (NRCS) 313 2005 standards or equivalency. In a letter dated October 10, 2016, the Department requested this documentation be submitted by December 17, 2017. The documentation was not received by the Department. Failure to provide documentation verifying that NRCS 313 2005 standards or equivalency have been met is a violation of your permit. Slater Farms must submit this documentation by **September 1, 2017**.

During the walk-through of the production area, the following items were identified as violations or areas of concern:

3. It was noted that small, woody vegetation had begun to establish on the banks of the North Pit and South Pit waste storage structures at the Home Farm location. Slater Farms must remove this vegetation from the storage structures by **August 1, 2017**.
4. Solid waste was accumulating on the south wall of the Joe's Place waste storage structure. Vegetation had begun to establish on the accumulated solids inside the storage structure. Slater Farms must scrape out these solids by **September 1, 2017**.
5. The farm had some measures in place to divert clean water. However, a freestall barn, commodity barn, and straw barn at the Home Farm lacked the proper mechanisms to divert clean roof water. As a result, this runoff was collected in waste storage structures. Efforts should be made to divert all clean roof water whenever possible.
6. It was discovered that Slater Farms has been discharging overflow plate cooler water, which is considered non-contact cooling water, into waters of the state without an appropriate NPDES permit. This discharge is occurring through a clean storm water system at the 88th Street farm location. The discharge of non-contact cooling water without the appropriate NPDES permit is considered an unlawful discharge and is a violation of Part 31. Slater Farms must cease the discharge of overflow non-contact cooling water or apply for a Non-Contact Cooling Water NPDES permit by **September 1, 2017**.

During the inspection, we discussed several complaints that had arisen prior to the inspection. There were several violations or areas of concern that were discussed as a result:

7. The Department received a concern that Slater Farms was stockpiling manure on fields in several locations in Newaygo County. During the inspection, Slater Farms confirmed that they had stockpiled waste on several fields. Stockpiling waste on a field and not incorporating within 24 hours is a violation of your permit. Slater Farms must discontinue the practice of stockpiling manure **immediately**, and must spread the piled manure at previously stockpiled locations by **July 1, 2017**.
8. On May 5, 2017, the Department received concerns about a manure discharge in Brayden Creek after land application of manure was done to a field upstream earlier that day. Portions of the field receiving the waste application is included in Slater Farm's Comprehensive Nutrient Management Plan (CNMP). During the inspection, Slater Farms learned that one of their equipment operators mistakenly applied several loads of CAFO waste to this field, when no waste applications to the field were planned. Slater Farms did not incorporate this waste with-in 24 hours. This was an improper application of CAFO waste and is a violation of your permit.

During the inspection, an evaluation was done to determine what compliance program items from ACO-000170 have been completed by the farm. It was determined that the following items have been completed: 3.1, 3.2, 3.3, 3.4, 3.5, 3.6, 3.9, 3.10, 3.11, 3.12, 3.13, and 3.14. A discussion was had regarding items 3.7 and 3.8:

9. Item 3.7 in ACO-000170 stated that the silage pad runoff transfer system at Slater Home Farm would be modified to have the proper pump and detention capacity to contain the 25-year/24-hour storm event. While the farm maintains that the transfer system meets these requirements, no documentation has been provided regarding the capacity of the transfer system, the amount of water and runoff generated in a 25-year/24 hour storm event, and the proper size pump to handle that volume. The farm must provide documentation, including design capacity of the transfer system, pump size used for the transfer system, and volume of water and runoff produced by a 25-year/24 hour storm event to the Department to illustrate item 3.7 has been met by **September 1, 2017**.
10. Item 3.8 in ACO-000170 stated that Slater Farms shall design and construct a new waste storage structure at Slater Home Farms to NRCS 313 2005 standards. This storage structure must be constructed to hold a combined minimum of six months production of waste. Item 3.8 of ACO-000170 has not been completed. The original deadline for this requirement was November 28, 2014. The farm requested several extension requests, and these requests were granted. The most recent deadline for construction of the storage structure was November 28, 2016. The farm has not constructed this pit. This is a violation of ACO-000170. This matter will be followed up on by the Department's Enforcement Unit in a separate correspondence.

During a post inspection review, the following item was noted as an area of concern:

11. Historically, the silage pad runoff detention basin system located east of the freestall barns at the Slater Home Farm has been termed as a transfer system. The Department has concerns that with the lack of a permanent pump out or emptying mechanism, the basin may actually be classified as a waste storage structure rather than a transfer system. If classified as a waste storage structure, documentation must be submitted to the Department showing that the structure meets NRCS 313 2005 standards or equivalency. Therefore, Slater Farms must install a permanent pump/emptying mechanism OR submit documentation regarding NRCS 313 2005 standard or equivalency by **September 1, 2017**.

The violations identified in this Violation Notice are continuing and ongoing.

The violations identified in this Violation Notice are violations of Part 31 of the NREPA; NPDES Permit No. MIG019000 COC No. MIG010204; and ACO-000170.

Slater Farms should take immediate action to achieve and maintain compliance with the terms and conditions of Part 31 of the NREPA; NPDES Permit No. MIG019000 COC No. MIG010204; and ACO-000170.

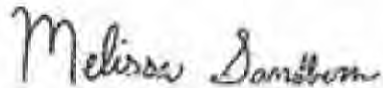
Please submit a written response to the items listed above by July 7, 2017. At a minimum, the response shall include:

1. A description of how each item listed above will be addressed.
2. A timeline of when each item listed above will be addressed.

If you have any factual information you would like us to consider regarding the violations identified in this Violation Notice, please provide them with your written response.

We anticipate and appreciate your cooperation in resolving this matter. Should you require further information regarding this Violation Notice, or if you would like to arrange a meeting to discuss it, please contact me at 616-401-1396; at SandbornM1@michigan.gov; or DEQ, WRD, Grand Rapids District Office, 350 Ottawa Avenue NW, Unit 10, Grand Rapids, Michigan, 49503-2341.

Sincerely,



Melissa Sandborn
Environmental Quality Analyst

ms/lr

cc: Mr. Aaron Slater, Slater Farms
Mr. Lawrence Slater, Slater Farms
Mr. James DeYoung, CJD Farm Consulting (via email)
Ms. Susan Doty, DEQ Enforcement Unit (via email)

EXHIBIT G



RICK SNYDER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF ENVIRONMENTAL QUALITY
GRAND RAPIDS DISTRICT OFFICE



C. HEIDI GRETHOR
DIRECTOR

August 11, 2017

CERTIFIED MAIL
RETURN RECEIPTS

Mr. Allen Slater, Owner
Slater Farms
7374 Brunswick Road
Holton, Michigan 49425

SVN No. SNV-00664

Dear Mr. Slater:

SUBJECT: Second Violation Notice
National Pollutant Discharge Elimination System (NPDES)
Certificate of Coverage (COC) No. MIG010204
Designated Name: Slater Farms - CAFO

The Department of Environmental Quality (DEQ), Water Resources Division (WRD), issued a Violation Notice VN-007246 on June 6, 2017, in response to violations of Part 31, Water Resources Protection, of the Natural Resources and Environmental Protection Act, 1994 PA 451, as amended (NREPA), MCL 324.3101 et seq., and NPDES COC No. MIG010204. Slater Farms-CAFO has not provided a response to the Violation Notice.

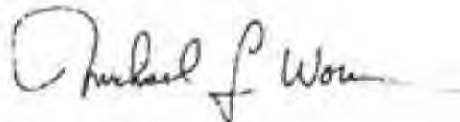
On May 11, 2017, staff of the DEQ WRD performed a Concentrated Animal Feeding Operation (CAFO) inspection at Slater Farms to determine compliance the NPDES COC MIG010204 and Part 31, Water Resources Protection, of the NREPA. Violation Notice No. VN-007246 was issued on June 6, 2017, to address several violations and other items of concern found during the inspection. Violation Notice No. VN-007246 stated that a response should be submitted to the DEQ by July 7, 2017. In an email sent to the DEQ on July 7, 2017, Mr. Allen Slater requested additional time to respond to the Violation Notice. DEQ staff responded to the emailed request on July 10, 2017, granting an extended deadline of July 17, 2017. To date, a response to VN-007246 has not been received by the DEQ.

It is therefore directed that Slater Farms submit a response to Violation Notice VN-007246 to the DEQ by **September 5, 2017**. Failure to submit an acceptable response may result in escalated enforcement actions.

Slater Farms-CAFO shall take immediate action to achieve and maintain compliance with the terms and conditions of NPDES COC No. MIG010204 and Part 31, Water Resources Protection, of the NREPA. If you have any factual information you would like to share with us regarding the violations identified in this Notice, please provide them with your written response.

We anticipate and appreciate your cooperation in resolving this matter. Should you require further information regarding this Notice, or if you would like to arrange a meeting to discuss it, please contact Ms. Melissa Sandborn, Environmental Quality Analyst, DEQ, WRD, Grand Rapids District Office, 350 Ottawa Avenue NW, Unit 10, Grand Rapids, Michigan 49503-2341.

Sincerely,

A handwritten signature in black ink, appearing to read "Michael J. Worm". The signature is fluid and cursive, with a long horizontal line extending from the end.

Michael J. Worm, District Supervisor
Grand Rapids District Office
Water Resources Division – DEQ

mjlw/mas/lr

cc: Mr. Lawrence Slater, Slater Farms
Ms. Melissa Sandborn, DEQ-WRD (via email)

EXHIBIT H



GRETCHEN WHITMER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF
ENVIRONMENT, GREAT LAKES, AND ENERGY
GRAND RAPIDS DISTRICT OFFICE

EGLE

LINDA ECHLER CLARK
DIRECTOR

January 30, 2020

CERTIFIED MAIL
RETURN RECEIPT and VIA EMAIL

Mr. Allen Slater, Owner
Slater Farms, L.L.C.
7374 Brunswick Road
Holton, Michigan 49425

VN No. VN-010358

Dear Mr. Slater:

SUBJECT: Violation Notice VN-010358
Concentrated Animal Feeding Operation (CAFO)
National Pollutant Discharge Elimination System (NPDES)
Certificate of Coverage (COC) No. MIG010204
Designated Name: Slater Farms-CAFO

The Department of Environment, Great Lakes, and Energy (EGLE), Water Resources Division (WRD), Grand Rapids District Office (GRDO) has determined that the Slater Farms L.L.C. (Slater Farms), with locations at 7374 and 7680 Brunswick Road, Holton, Michigan 49425, and 9061 West 88th Street, Fremont, Michigan 49412, is in violation of Part 31, Water Resources Protection, of the Natural Resources and Environmental Protection Act, 1994 PA 451, as amended (NREPA), MCL 324.3101 et seq., and NPDES Permit COC No. MIG010204. You are receiving this notice because you may be liable for the violations herein.

On May 22, 2019, WRD was notified that manure was stockpiled on fields on the northwest corner of the intersection at 16th Street and Comstock Avenue, in Newaygo County. These fields are listed as the "Rottier fields" in the Comprehensive Nutrient Management Plan (CNMP) for Slater Farms. The parcel numbers of these properties are 62-13-08-400-001 and 62-13-08-400-005, both parcels jointly owned by Silver Sky West, L.L.C. and Silver Sky East, L.L.C. The complaint included information that the manure had been stockpiled at that location since October or November of 2018. Pictures of the stockpiled waste were submitted to WRD on May 22, 2019. In addition, the stockpiled waste could be seen from aerial imagery from Google Earth, date stamped May 15, 2018.

On May 24, 2019, staff of the Material Management Division (MMD), EGLE drove by the "Rottier fields" and confirmed that manure stockpiles were present on the field and appeared to have been there for some time.

On December 29, 2019, WRD was sent an email which contained information that manure had been stockpiled on fields located on the east side of Comstock Avenue, between 16th Street and 20th Avenue, in Newaygo County. These fields are listed as the "Konkel fields" in the CNMP for Slater Farms. The parcel number of this property is 62-13-16-100-011 and is jointly owned by Silver Sky East, L.L.C and Silver Sky West, L.L.C. Information in the complaint indicated that the waste had been piled on these fields for at least a week.

On December 30, 2019, WRD emailed Mr. Lawrence Slater, a Farm Manager for Slater Farms, inquiring about the waste on the "Konkel Fields". A response was received the same day with information that the waste had been on the "Konkel Fields" since the previous Wednesday (December 25, 2019). Mr. Lawrence Slater indicated that the piles were being spread on the fields within a 24 hour period; however, due to the holiday and weather conditions, some piles were not going to be able to be spread until the ground had frozen again.

Stockpiling CAFO waste on a field(s) and not incorporating within 24 hours is a violation of NPDES Permit COC MIG010204.

The concern of stockpiling waste was previously discussed with Slater Farms during a CAFO inspection on May 11, 2017, as well as in Violation Notice VN-007246, issued on June 8, 2017. No response to VN-007246 was received by WRD.

Slater Farms-CAFO should take immediate action to achieve and maintain compliance with the terms and conditions of NPDES Permit COC MIG010204.

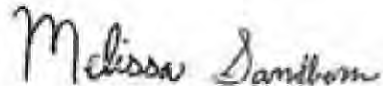
Please submit a written response to this letter by February 13, 2020. At a minimum, the response shall include:

1. A description of where the stockpiled waste was generated from, in both the May 2019 and December 2019 incidents identified above.
2. A description of why waste was stockpiled on both the "Konkel fields" and the "Rottier fields", as described in the May 2019 and December 2019 incidents identified above, and the actions that Slater Farms is taking to ensure that manure is no longer stockpiled and is incorporated into fields within 24 hours, as required by its permit.

If you have any factual information you would like us to consider regarding the violations identified in this Violation Notice, please provide them with your written response.

We anticipate and appreciate your cooperation in resolving this matter. Should you require further information regarding this Violation Notice or if you would like to arrange a meeting to discuss it, please contact me at 616-401-1396; at SandbornM1@michigan.gov; or at EGLE, WRD, Grand Rapids District Office, 350 Ottawa Avenue NW, Unit 10, Grand Rapids, Michigan 49503-2341.

Sincerely,

A handwritten signature in cursive script that reads "Melissa Sandborn".

Melissa Sandborn
Senior Environmental Quality Analyst

ms/lr

cc: Messrs. Aaron and Allen Slater, Slater Farms Estates, LLC
Mr. Aaron Slater, Slater Farms (via email)
Mr. Lawrence Slater, Slater Farms (via email)
Mr. Devren Beecham
Ms. Elizabeth Morrisseau, Department of Attorney General (via email)
Ms. Susan Doty, Enforcement Unit WRD EGLE (via email)
Mr. Michael J. Worm, GRDO Supervisor WRD EGLE (via email)

EXHIBIT I



GRETCHEN WHITMER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF
ENVIRONMENT, GREAT LAKES, AND ENERGY
GRAND RAPIDS DISTRICT OFFICE

EGLE

LIESL EICHLER CLARK
DIRECTOR

March 5, 2020

CERTIFIED MAIL
RETURN RECEIPT AND EMAIL

Mr. Allen Slater, Owner
Slater Farms, LLC.
Slater Custom Farming, LLC
Slater Estates, LLC
Slater Farms 88th LLC
Slater Farms Baseline, LLC
7374 Brunswick Road
Holton, Michigan 49425

VN No. VN-010478

Dear Mr. Slater

SUBJECT: Violation Notice VN-010478
Concentrated Animal Feeding Operation (CAFO) Inspection
National Pollutant Discharge Elimination System (NPDES)
Certificate of Coverage (COC) No. MIG010204
Designated Name: Slater Farms-CAFO

The Department of Environment, Great Lakes, and Energy (EGLE), Water Resources Division (WRD), Grand Rapids District Office (GRDO) inspected animal feeding operations managed by Slater Farms L.L.C., Slater Custom Farming, L.L.C., and Slater Estates, L.L.C. (Slater Farms), with locations at 7374 (Home Farm) and 7680 (Joe's Place) Brunswick Road, Holton, Michigan 49425, and 9061 West 88th Street (88th Street), Fremont, Michigan 49412, on February 13th and February 21st, 2020. The purpose of the inspection was to determine compliance with Part 31, Water Resources Protection, of the Natural Resources and Environmental Protection Act, 1994 PA 451, as amended (NREPA), MCL 324.3101 et seq., NPDES Permit COC No. MIG010204; and Administrative Consent Order (ACO) No. ACO-000170. In addition, WRD visited another livestock operation location managed by Slater Farms Baseline, LLC, with livestock owned by Messer. Allen Slater and Aaron Slater, located at 9133 Baseline Road, Hesperia, Michigan 49421 (Silver Skies). Cattle are regularly moved between Home Farm, Joe's Place, 88th Street and Silver Skies.

The inspection included a records review and production area walk-throughs. On February 13th, 2020, the following people were present during the inspection: Mr. Lawrence Slater of Slater Farms, Ms. Melissa Sandborn, Ms. Susan Doty, and Mr. Bruce Washburn of EGLE. On February 21st, 2020, the following people were present during the inspection: Mr. Allen Slater and Mr. Lawrence Slater of Slater Farms, Mr. James DeYoung of CJD Farm Consulting, Ms. Melissa Sandborn and Ms. Susan Doty of EGLE, and Ms. Elizabeth Morrisseau and Ms. Gillian Wener of the Attorney General's Office.

During the inspection, the following violations were identified:

1. During the records review, EGLE observed that Slater Farms was missing records for weekly clean storm water inspections, annual land application equipment calibrations, and the date of six month storage between November 1 and December 31, 2019. Missing records (specifically weekly clean storm water inspections, daily water line inspections, and annual land application equipment calibrations) were also noted during the May 11, 2017, inspection, and is an ongoing violation of NPDES Permit COC No. MIG010204.
2. During the records review, Slater Farms did not have documentation showing that the 88th Street Storage Structure meets the Natural Resource Conservation Service (NRCS 313) standard or equivalency. This documentation was also missing during the May 11, 2017, inspection, and is an ongoing violation of NPDES Permit COC No. MIG010204. Slater Farms stated that they have plans to obtain documentation this year.
3. During the walk-through of the production area at Home Farm location, EGLE observed that roof water from the Straw Barn and Commodity Barn was entering the silage pad area and being collected in the silage leachate transfer system. This was also noted during the May 11, 2017, inspection, and is an ongoing violation of NPDES Permit COC No. MIG010204.
4. During the walk-through of the production area, EGLE observed that tall vegetation had established on the sides and top of the following storage structures: 88th Street Storage Structure, Home Farm – North Storage Structure, Home Farm – South Storage Structure/Old Pit, and the Joe's Place Storage Structure. Deficiencies with vegetation maintenance on storage structures were also noted during the May 11, 2017, inspection, and is an ongoing violation of NPDES Permit COC No. MIG010204.
5. During the walk-through of the production area at the 88th Street and Home Farm locations, EGLE Observed that there was a substantial amount (approximately a quarter of the storage structure) of solid waste accumulation on the 88th Street Storage Structure. In addition, the Home Farm – South Storage/Old Pit was missing a depth gauge. Deficiencies in storage structure maintenance (specifically, solid waste accumulation) were also noted during the May 11, 2017, inspection, and is an ongoing violation of permit MIG010204.

During the inspection, the following requirements from ACO-000170 were discussed:

6. Item 3.8 in ACO-000170 requires that Slater Farms shall design and construct a new waste storage structure at Slater Home Farms to NRCS 313 2005 standards. This storage structure must be constructed to hold a combined minimum of six months production of waste. Item 3.8 of ACO-000170 has not been completed. The original deadline for this requirement was November 28, 2014. Slater Farms requested several extension requests, and these requests were granted by WRD. The most recent deadline for construction of the storage structure was November 28, 2016. At the time of the inspection, this storage structure had not been constructed.

Failure to comply with Item 3.8 is a violation of ACO-000170. Slater Farms stated they intended to build it this year. This is an ongoing violation of ACO-000170.

7. Item 3.7 in ACO-000170 requires that the silage pad runoff transfer system at Slater Home Farm be modified to have the proper pump and detention capacity to contain the 25-year/24-hour storm event. In Violation Notice VN-007246, issued on June 8, 2017, WRD requested the following documentation from Slater Farms: design capacity of the transfer system, pump size used for the transfer system, and volume of water and runoff produced by a 25-year/24 hour storm event. Slater Farms has not provided this information to WRD, and was unable to provide to WRD during the inspection. Slater Farms stated that this information would be provided to WRD. This is an ongoing violation of ACO-000170.

During the inspection, the following concern was also discussed:

8. On January 29, 2020, WRD received an odor concern regarding manure that was land applied without incorporation on the fields called Skowronski NEA, Skowronski NEB, and Skowronski SW. WRD contacted Lawrence Slater on January 30, 2020, with concerns that these fields did not meet the Technical Standard for the Surface Application of Concentrated Animal Feeding Operations Waste on Frozen or Snow-Covered Ground Without Incorporation or Injection, due to improper documentation. On January 31, 2020, Mr. Lawrence Slater submitted the required documentation to the WRD. Failure to have the proper documentation submitted prior to land application with incorporation on frozen and snow covered ground is a violation of permit MIG010204.

The violations identified in this Violation Notice are violations of Part 31 of the NREPA; NPDES Permit COC No. MIG010204; and ACO-000170.

9. During the inspection, EGLE also observed some poor housekeeping practices. Examples include empty oil buckets piled near the 88th Street Storage Structure and uncontained waste as a result of scraping at Joe's Place. NPDES Permit COC No. MIG010204 states that preventative maintenance and good housekeeping practices should be implemented to minimize the risk of pollutants impacting clean storm water.

Slater Farms should take immediate action to achieve and maintain compliance with the terms and conditions of Part 31 of the NREPA; NPDES Permit COC No. MIG010204; and ACO-000170.

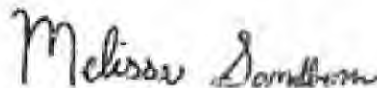
Please submit a written response by March 17th, 2020. At a minimum, the response shall include:

1. A detailed plan describing how the items detailed in 1-7 and 9 above will be addressed. The plan shall include a timeline for implementation and completion.
2. Information regarding Slater Farms Baseline, L.L.C., and the operation at Silver Skies. Details shall include the following: the number of animals at Silver Skies, annual manure production at Silver Skies, number of acres used for land application, location of land application sites used for waste from Silver Skies.

If you have any factual information you would like WRD to consider regarding the violations identified in this Violation Notice, please provide them with your written response.

We anticipate and appreciate your cooperation in expeditiously resolving these long standing compliance concerns. Should you require further information regarding this Violation Notice, please contact me at 616-401-1396; at SandbornM1@Michigan.gov; or Department of Environment, Great Lakes, and Energy, WRD, Grand Rapids District Office, 350 Ottawa Avenue NW, Unit 10, Grand Rapids Michigan 49503-2341. Please carbon copy (cc) Ms. Susan Doty at dotys2@michigan.gov or Department of Environment, Great Lakes, and Energy, WRD, P.O. Box 30458, Lansing, Michigan 48909-7958 in all correspondence.

Sincerely,



Melissa Sandborn
Senior Environmental Quality Analyst

ms/lr

cc: Mr. Aaron Slater, Slater Farms (via email)
Mr. Lawrence Slater, Slater Farms (via email)
Mr. Devren Beecham
Mr. James DeYoung, CJD Farm Consulting (via email)
Ms. Elizabeth Morrisseau, Department of Attorney General (via email)
Ms. Gillian Wener, Department of Attorney General (via email)
Ms. Susan Doty, Enforcement Unit WRD EGLE (via email)
Mr. Bruce Washburn, EGLE WRD (via email)
Mr. Michael J. Worm, GRDO Supervisor WRD EGLE (via email)