

**STATE OF MICHIGAN
DEPARTMENT OF ENVIRONMENTAL QUALITY
WATER RESOURCES DIVISION**

ADMINISTRATIVE CONSENT ORDER

In the matter of ACO-000252

Date Entered: *1-29-2015*

SECTION I

FACILITY OWNER/OPERATOR

NAME Steve Gremel		OWNER <input checked="" type="checkbox"/>	OPERATOR <input type="checkbox"/>
DEPARTMENT OF LABOR & ECONOMIC GROWTH BUSINESS IDENTIFICATION NUMBER			
ADDRESS 10303 Haist Road			
CITY Bay Port	STATE Michigan	ZIP 48720	
CONTACT NAME/TITLE Steven Gremel		PHONE # 989-553-3461	

FACILITY NAME AND LOCATION

FACILITY NAME Ridge Run Farms Partnership		
FACILITY OWNER IF NOT IDENTIFIED ABOVE		
ADDRESS 10303 Haist Road		
CITY Bay Port	STATE Michigan	ZIP 48720
COUNTY Huron		
CONTACT NAME Kip Cronk, DEQ	PHONE # 989-330-4639	

This document results from allegations by the Department of Environmental Quality (DEQ), Water Resources Division (WRD). The DEQ alleges that the above-referenced Facility Owner/Operator (Owner/Operator), is in violation of Part 31, Water Resources Protection, of the Natural Resources and Environmental Protection Act, 1994 PA 451, as amended (NREPA), MCL324.3101 et seq., as amended.

Specific violations are referenced in DEQ letters attached to this Administrative Consent Order (Consent Order) as Exhibit A. The Owner/Operator and the DEQ agree to resolve the violations set forth herein through entry of this Consent Order. The Owner /Operator further agrees to resolve all compliance issues set forth in Exhibit A in accordance with the requirements contained in this Consent Order. This Consent Order, in its entirety, shall consist of Section I, the attached Sections II, III, and IV, Exhibit A, and any other referenced attachments, exhibits, or appendices. This Consent Order shall be considered null and void if it does not include, at a minimum, Sections I, II, III, and IV, and Exhibit A.

The Owner/Operator agrees to pay a civil fine of **\$6,480.00** for the violations specified in Exhibit A of this Consent Order. Payment shall be made within 30 days of the effective date of this Consent Order. Failure to make timely payment constitutes a violation of this Consent Order. The Owner/Operator agrees to pay all funds due pursuant to this agreement by check made payable to the State of Michigan and delivered to the Accounting Services Division, Cashier's Office for DEQ, P.O. Box 30657, Lansing, MI 48909-8157; or hand delivered to the Accounting Services Division, Cashier's Office for DEQ, 425 W. Ottawa Street, Lansing, MI 48933. To ensure proper credit, all payments made pursuant to this Consent Order must include the **Payment Identification No. WRD40082**. The Owner/Operator agrees not to contest the legality of the civil fine.

Signatories

DEPARTMENT OF ENVIRONMENTAL QUALITY



William Creal, Chief
Water Resources Division

1/27/2015
Date

I undersigned CERTIFY that I am fully authorized by the party identified above to enter into this Consent Order to comply by consent and to EXECUTE and LEGALLY BIND that party to it. I further attest that all information provided herein is accurate and true.

STEVE GREMEL



By: Steve Gremel

Co Partner
Title: Owner

1-21-15
Date

SECTION II - COMPLIANCE SCHEDULE

IT IS THEREFORE AGREED AND ORDERED THAT Owner/Operator shall take the following actions to comply with and to prevent further violations of Part 31 of the NREPA:

1. Nutrient Management Plan

Not later than 90 days after the execution of this Consent Order, the Owner shall develop and submit to the DEQ for review and approval a nutrient management plan (NMP) which includes all types of nutrients (inorganic and organic) based on soil analysis results, nutrient analysis results, realistic crop yield goals, and actual crop yields. The NMP shall include all fields where manure, sugar beet residuals, or other organic fertilizer (organic material) may be applied. The NMP shall incorporate and follow the recommendations in the current version of the Generally Accepted Agricultural and Management Practices for Manure Management and Utilization; and Generally Accepted Agricultural and Management Practices for Nutrient Utilization. The NMP shall be completed by a person certified by NRCS to develop a NMP.

2. Map of setbacks for the fields (following GAAMPs)

Not later than 90 days after the execution of this Consent Order, the Owner shall develop and submit to the DEQ for review and approval a land application field maps. The land application field maps shall show setbacks and no organic material shall be applied within these setbacks. An acceptable setback is 100 feet from 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. A substitute to the 100-foot setback may be a 35-foot wide permanent vegetated buffer within the field boundary.

3. Beet or manure application to frozen or snow covered ground.

For application of organic material on frozen or snow-covered ground without incorporation within 24 hours or injection the owner must follow the protocols in the following standard: *Technical Standard for the Application of Concentrated Animal Feeding Operations Waste on Frozen or Snow-Covered Ground Without Incorporation or Injection* (attached to this Consent Order). The technical standard shall be completed and documented prior to this type of land application. This information shall be included in the NMP.

4. Keep records for 5 years.

The owner shall keep all manifests, land application, nutrient analysis, and soil sample records for a minimum of 5 years and shall produce them for DEQ review if requested.

5. Stockpiling

The owner shall ensure that all stockpiled organic material is compliant with the requirements in the 2014 Generally Accepted Agricultural and Management Practices (GAAMPs) for Manure Management and Utilization. The GAAMPs can be obtained by the Michigan Department of Agriculture and Rural Development, Right-to-Farm program at 517-284-5619.

Sections III and IV of this Consent Order shall not be altered in any way, including adding or eliminating any language, striking terms or parts of terms, retyping in whole or in part, or using a different format. Any changes to this document without written approval from the DEQ render the Consent Order null and void.

SECTION III - STIPULATIONS

The Owner/Operator and the DEQ stipulate as follows:

1. The DEQ reserves all rights afforded to it under law or laws under which this Consent Order is being entered. The DEQ is authorized to enter this Consent Order to comply with state law under Section 3112(4) of Part 31 of the NREPA.
2. The Owner/Operator 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 the appropriate provisions of state law identified in this Consent Order. The Owner/Operator 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.
3. The Owner/Operator and the DEQ agree that the signing of this Consent Order is for settlement purposes only and does not constitute an admission by the Owner/Operator that the law has been violated.
4. The Signatory to this Consent Order on behalf of the Owner/Operator agrees and attests that he is fully authorized to assure that the Owner/Operator will comply with all requirements under this Consent Order.
5. The Owner/Operator shall achieve compliance with the aforementioned regulations in accordance with the requirements contained in Section II of this Consent Order.

SECTION IV - GENERAL PROVISIONS

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 the Owner to comply with the requirements of the NREPA and its rules. Entry of this Consent Order does not relieve Owner from future liability for the potential need to conduct remedial actions if contaminants originating from the discharge are discovered at limits that exceed the criteria under applicable law. The DEQ further expressly reserves the right to pursue the Owner for injunctive relief and costs associated with overseeing and conducting these remedial actions.

2. The DEQ and the Owner/Operator consent to enforcement of this Consent Order in the same manner and by the same procedures for all final orders entered pursuant to the provisions of the NREPA, as amended.
3. This Consent Order in no way affects the Owner/Operator's responsibility to comply with any other applicable state, federal, or local laws or regulations.
4. The WRD reserves its right to pursue appropriate action, including injunctive relief to enforce the provisions of this Consent Order, and applicable statutory fines for any violation of this Consent Order.
5. Nothing in this Consent Order is or shall be considered to affect any liability the Owner/Operator may have for natural resource damages caused by the Owner/Operator's acts or omissions at the facility. The State of Michigan does not waive any rights to bring an appropriate action to recover such damages to the natural resources.
6. In the event the Owner/Operator 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, the Owner/Operator shall also notify the WRD 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 District Supervisor within 30 days of assuming the obligations of this Consent Order.
7. The provisions of this Consent Order shall apply to and be binding upon the parties to this action, and their successors and assigns.
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.
9. REPORTING

The Owner/Operator shall verbally report any violation(s) of the terms and conditions of this Consent Order to the 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). The Owner/Operator shall report any anticipated violation(s) of this Consent Order to the above-referenced individual in advance of the relevant deadlines whenever possible.

10. RETENTION OF RECORDS

Upon request by an authorized representative of the DEQ, the Owner/Operator shall make available to the DEQ all records, plans, logs, and other documents required to be maintained under this Consent Order or pursuant to applicable laws or rules. All such documents shall be retained by the Owner/Operator 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 the applicable law or its rules.

11. RIGHT OF ENTRY

The Owner/Operator shall allow any authorized representative or contractor of the DEQ, upon presentation of proper credentials, to enter upon the premises of the facility 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.

12. DEQ APPROVAL OF SUBMITTALS

- a. For any work plan, proposal, or other document, excluding applications for permits or licenses, that are required by this Consent Order to be submitted to the DEQ by the Owner/Operator, the following process and terms of approval shall apply.
- b. All work plans, proposals, and other documents required to be submitted by this Consent Order shall include all of the information required by the applicable statute and/or rule, and all of the information required by the applicable paragraph(s) of this Consent Order.
- c. In the event the DEQ disapproves a work plan, proposal, or other document, it will notify the Owner/Operator, in writing, specifying the reasons for such disapproval. The Owner/Operator shall submit, within 30 days of receipt of such disapproval, a revised work plan, proposal, or other document which adequately addresses the reasons for the DEQ's disapproval. If the revised work plan, proposal, or other document is still not acceptable to the DEQ, the DEQ will notify the Owner/Operator of this disapproval.
- d. In the event the DEQ approves with specific modifications, a work plan, proposal, or other document, it will notify the Owner/Operator, in writing, specifying the modifications required to be made to such work plan, proposal, or other document prior to its implementation and the specific reasons for such modifications. The DEQ may require the Owner/Operator to submit, prior to implementation and within 30 days of receipt of such approval with specific modifications, a revised work plan, proposal, or other document which adequately addresses such modifications. If the revised work plan, proposal, or other document is still not acceptable to the DEQ, the DEQ will notify the Owner/Operator of this disapproval.

- e. Upon DEQ approval, or approval with modifications, of a work plan, proposal, or other document, such work plan, proposal, or other document shall be incorporated by reference into this Consent Order and shall be enforceable in accordance with the provisions of this Consent Order.
- f. Failure by the Owner/Operator to submit an approvable work plan, proposal, or other document, within the applicable time periods specified above, constitutes a violation of this Consent Order and shall subject the Owner/Operator to the enforcement provisions of this Consent Order.
- g. Any delays caused by the Owner/Operator 's failure to submit an approvable work plan, proposal, or other document when due shall in no way affect or alter the Owner/Operator 's responsibility to comply with any other deadline(s) specified in this Consent Order.
- h. No informal advice, guidance, suggestions, or comments by the DEQ regarding reports, work plans, plans, specifications, schedules or any other writing submitted by the Owner/Operator will be construed as relieving the Owner/Operator of its obligation to obtain written approval, if and when required by this Consent Order.

13. EXTENSIONS

The Owner/Operator and the DEQ agree that the DEQ may grant the Owner/Operator a reasonable extension of the specified deadlines set forth in this Consent Order. Any extension shall be preceded by a written request to the District Supervisor no 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 the Owner/Operator from meeting the deadline(s).
- c. A description of the measures the Owner/Operator 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.

No change or modification to this Consent Order shall be valid unless in writing from the DEQ, and if applicable, signed by both parties.

14. TERMINATION

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, the Owner/Operator shall submit a request consisting of a written certification that the Owner/Operator 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 II, 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.

Exhibit A
Administrative Consent Order

<u>Enforcement Type</u>	<u>Enforcement Number</u>	<u>Issued Date</u>
Violation Notice	VN-005849	06-18-2014
Enforcement Notice	EN-000252	11-18-2014



RICK SNYDER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF ENVIRONMENTAL QUALITY
SAGINAW BAY DISTRICT OFFICE



DAN WYANT
DIRECTOR

June 18, 2014

CERTIFIED MAIL

Mr. Steven Gremel
Ridge Run Farms Partnership
10303 Haist Road
Bay Port, MI 48720

VN No. VN-005849

Dear Mr. Gremel:

SUBJECT: Violation Notice

The Department of Environmental Quality (DEQ), Water Resources Division (WRD), has determined that the Ridge Run Farms Partnership 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 the Administrative Rules promulgated there under being 2006 AACRS R 323.2101 *et seq.*, as amended.

On May 28, 2014, WRD staff observed the unlawful discharge of by-products of sugar beet pieces, tailings and dirt to the Henne Drain. The water coming out of the tile created septic conditions in Henne Drain (blackish water and a strong odor). The septic conditions also included dissolved oxygen levels in the drain of less than 1.0 mg/L. According to neighbors this situation has been going on for several weeks prior to our site inspection. As a result of this discharge, the receiving water contained unnatural color, floating solids, foams and suspended solids, which is a violation of Part 31.

The violation(s) identified in this Violation Notice have continued as of June 11, 2014.

Ridge Run Farms Partnership should take immediate action to achieve and maintain compliance with Part 31.

Please submit the following information no later than **July 18, 2014**:

1. Contact information for Ridge Run Farms Partnership including full names, addresses, phone numbers and email addresses.
2. Date the application of sugar beet pieces, tailings and dirt were applied to the fields.
3. Size of the fields.
4. The amount of sugar beet pieces, tailings and dirt applied to the fields (include receipt from Michigan Sugar or other provider).
5. Completed *Guidelines for Land Application of Sugar Beet Pulp* form from Michigan Sugar.

Mr. Steve Gremel
Ridge Run Farms Partnership

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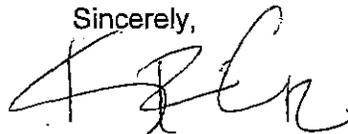
June 18, 2014

6. If the sugar beet pieces, tailings and dirt were not taken directly from Michigan Sugar – Sebewaing, please provide the name and contact information of the company that provided them to you. Include any written agreements and/or receipts between you and the company that delivered the sugar beet material.
7. A copy of your nutrient management plan for the fields where the sugar beet pieces and tailings were applied.
8. Date the sugar beet pieces and tailings were worked into the soil. If they were not worked into the soil within 48 hours submit the reason why there were not.
9. Date you first noticed the septic conditions of Henne Drain.
10. Steps you have taken to correct the septic conditions of Henne Drain.
11. Plan to eliminate impacts to Henne Drain from the application of sugar beet pieces and tailings and/or any other type of fertilizer/manure in the future.

If you have any factual information you would like us to consider 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 me at cronkk@mi.gov; or Department of Environmental Quality, 401 Ketchum Street, Suite B, Bay City, Michigan 48708.

Sincerely,



Kip R. Cronk
Saginaw Bay District Office
Water Resources Division
989.894.6278

cc: Mr. Gary Osminski, Huron County Drain Commissioner
Michigan Department of Agriculture and Rural Development, Right to Farm (RTF)



RICK SNYDER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF ENVIRONMENTAL QUALITY
SAGINAW BAY DISTRICT OFFICE



DAN WYANT
DIRECTOR

November 18, 2014

CERTIFIED MAIL

Mr. Steven Gremel
Ridge Run Farms Partnership
10303 Haist Road
Bay Port, MI 48720

Dear Mr. Gremel:

SUBJECT: ENFORCEMENT NOTICE - EN-000252
Ridge Run Farms Partnership
10303 Haist Road
Bay Port, Michigan 48720

The Department of Environmental Quality (DEQ), Water Resources Division (WRD), Saginaw Bay District Office, is pursuing an escalated enforcement action for violations of law by (hereinafter "facility") as set forth herein.

Please be advised that the facility has failed to comply with Part 31 by having an unlawful discharge of liquids mixed with sugar beet pieces, tailing and dirt into the Henne Drain. The liquid being discharge from the drain tile on the property into the Henne Drain created septic conditions in the drain (blackish water and a strong odor). The septic conditions also included dissolved oxygen levels in the drain of less than 1.0 mg/L. According to the neighbors this unlawful discharge had been going on for several weeks prior to our site inspection. As a result of the unlawful discharge the receiving water contained unnatural color, floating solids, foams and suspended solids, which is a violation of Part 31.

The facility is hereby notified that the violations identified in this Enforcement Notice are 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 the Administrative Rules promulgated there under being 2006 AACS R 323.2101 *et seq.*, as amended.

The violations identified herein, as well as any additional violations discovered hereafter must be formally resolved through entry of a legal document. The DEQ is proposing to resolve this violation through entry of an Administrative Consent Order (ACO). The ACO will include an agreed-upon compliance program to resolve the WRD's allegations, any additional requirements, and a civil fine. Negotiations to resolve this matter through an ACO shall not exceed 90 days.

The DEQ reserves its right to take all necessary and appropriate enforcement actions for all violations of Part 31 that have occurred to date and any violations of Part 31 that may occur in the future. These actions may include, but are not limited to, seeking civil fines, injunctive relief, natural resources damages, all costs associated with this enforcement action, including attorney costs and any other relief available to the DEQ.

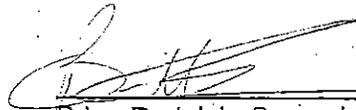
Mr. Steven Gremel
Ridge Run Farms Partnership
Page 2.

The facility's failure to comply with Part 31 or any other requirements set forth in this Notice, or failure to resolve these violations through entry of an ACO within the 90 day time frame may result in additional fines, penalties or other actions.

Pursuant to Section 1511 of the NREPA, may request a preliminary meeting with DEQ, WRD enforcement staff to discuss the issues detailed in this ENFORCEMENT NOTICE and their potential resolution. If you would like to participate in such a meeting, please contact Kip Cronk, Water Enforcement Unit, WRD, at, NOT LATER than 10 days from your receipt of this ENFORCEMENT NOTICE.

**STATE OF MICHIGAN
DEPARTMENT OF ENVIRONMENTAL QUALITY
WATER RESOURCES DIVISION**

Date Issued: 11/13/14



Brian Rudolph, Supervisor
Saginaw Bay District Office
Water Resources Division

ADDRESS FOR FURTHER CORRESPONDENCE:

Kip Cronk
Saginaw Bay District Office
Water Resources Division
401 Ketchum Street
Bay City, Michigan 48708

cc: ✓ Peter Ostlund; DEQ
✓ Kip Cronk, DEQ

**Michigan Department of Environmental Quality
Water Bureau**

**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, of the Part 21 Rules, Wastewater Discharge Permits, promulgated under Part 31, Water Resources Protection, of the Natural Resources and Environmental Protection Act, 1994 PA 451, as amended, 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.

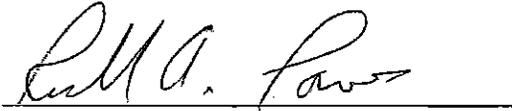
Based on the frozen and/or snow-covered conditions, the minimal settling and breaking down of the waste during these conditions, and the inability to predict or control snowmelt and rainfall, there are no practices that can ensure the runoff from fields with surface-applied waste on frozen or snow-covered 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)

A handwritten signature in cursive script, appearing to read "Richard A. Powers", is written over a horizontal line.

Richard A. Powers, Chief
Water Bureau

4/19/05

Date