UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5
77 WEST JACKSON BOULEVARD
CHICAGO, IL 60604-3590

APR 2 5 2019

REPLY TO THE ATTENTION OF
WC-15J

CERTIFIED MAIL 7009 1680 0000 7646 1092
RETURN RECEIPT REQUESTED

Ex. 6 (Personal Privacy)
FOIA Ex. 6 (Personal Farms, LLC
Ex. 6 (Personal Privacy)
[redacted]

Subject: Administrative Order on Consent Under the Clean Water Act

Dear Ex. 6 (Personal Privacy):

Enclosed please find the fully-executed Administrative Order on Consent (AOC) for compliance with the Clean Water Act (CWA) issued to FOIA Ex. 6 (Personal Farms. The effective date of the AOC is the date the AOC was signed by EPA.

Please note that the AOC sets out measures to correct the alleged violations and bring the facility into compliance with the CWA. The facility remains responsible for implementing all such compliance measures.

Thank you for your efforts to bring your facility into compliance with the CWA. If you have any questions or concerns, please contact Joan Rogers, at (312) 886-2785 or rogers.joan@epa.gov, or your legal counsel may contact Christopher Grubb, Office of Regional Counsel, at (312) 886-7187 or grubb.christopher@epa.gov.

Sincerely,

Linda Holst

for Joan M. Tanaka,
Acting Director, Water Division

Enclosures: Administrative Order on Consent

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5

In the Matter of:	)	
	)	**Administrative Order on Consent**
FOIA Ex. 6 (Personal **Farms, LLC**	)	**Under Section 309(a) of the Clean Water**
FOIA Ex. 6 (Personal Priacy) [redacted]	)	**Act, 33 U.S.C. § 1319(a)**
Kewaunee, WI 54216	)	
	)	
	)	
Respondent.		

I. INTRODUCTION

1. The U.S. Environmental Protection Agency ("EPA") makes the findings of fact and law set forth below (Section IV) and is issuing this Administrative Order on Consent ("Order on Consent" or "Order") to FOIA Ex. 6 (Personal Farms, LLC ("Respondent") under the authority of Section 309(a) of the Clean Water Act ("CWA" or "Act"), 33 U.S.C. § 1319(a). The Administrator of EPA has delegated the authority to issue such orders to the Regional Administrator of EPA Region 5, who has redelegated this authority to the Director of the Water Division, EPA, Region 5.

2. This Order is mutually entered into by EPA and Respondent.

3. At all times relevant to this Order, Respondent has owned and operated the FOIA Ex. 6 (Personal Farms facility, located at FOIA Ex. 6 (Personal Priacy) [redacted], Kewaunee, Wisconsin, 54216.

4. EPA alleges that Respondent violated Section 301(a) of the CWA, 33 U.S.C. § 1311(a), and 40 C.F.R. § 122.23(d), by discharging pollutants from the Site without a permit issued under Section 402 of the CWA, 33 U.S.C. § 1342.

5. By entering into this Order, Respondent: (1) consents to EPA's authority to issue and enforce this Order; (2) neither admits nor denies the factual allegations as set forth in this Order; (3) agrees to undertake all actions required by the terms and conditions of this Order; (4) consents to be bound by the requirements set forth herein; and (5) agrees not to contest the authority of EPA to issue or enforce this Order or the validity of any terms or conditions in this Order.

6. For the purposes of this Order only, Respondent waives any and all remedies, claims for relief, and otherwise available rights to judicial or administrative review that Respondent may have with respect to any issue of fact or law set forth in this Order on Consent, including, but not limited to, any right of judicial review under Chapter 7 of the Administrative Procedure Act, 5 U.S.C. §§ 701-706.

II. STATUTORY AUTHORITY

7. Section 301(a) of the CWA, 33 U.S.C. § 1311(a), prohibits the discharge of any pollutant by any person except, *inter alia*, in compliance with a National Pollutant Discharge Elimination System (NPDES) permit issued pursuant to Section 402 of the CWA, 33 U.S.C. § 1342.

8. Section 402 of the CWA, 33 U.S.C. § 1342, establishes the NPDES by which the Administrator may issue permits for the discharge of pollutants to the waters of the United States subject to certain conditions.

9. Pursuant to Section 402 of the CWA, 33 U.S.C. § 1342, the State of Wisconsin requested approval from EPA to administer its own permit program for discharges into navigable waters within Wisconsin, and such approval was granted by EPA on February 4, 1974. (39 Fed. Reg. 26,061 (July 16, 1974)). Therefore, pursuant to the State's permit program, the Wisconsin Department of Natural Resources ("WDNR") has issued NPDES permits.

10. Section 309(a) of the CWA, 33 U.S.C. § 1319(a), provides that whenever EPA finds that any person is in violation of any condition or limitation that implements, *inter alia*, Sections 301(a) and 402 of the CWA, 33 U.S.C. §§ 1311(a) and 1342, EPA shall issue an order requiring such person to comply with such condition or limitation, and shall specify a time for compliance that EPA determines to be reasonable taking into account the seriousness of the violation and any good faith efforts to comply with applicable requirements.

III. DEFINITIONS

11. All terms used, but not defined, in this Order have the meanings provided to them in the CWA, 33 U.S.C. § 1251 *et seq.*, and the EPA regulations promulgated under the CWA.

12. "Act" or "CWA" means the Clean Water Act, 33 U.S.C. § 1251 *et seq*.

13. "Animal feeding operation" or "AFO" means, among other things, a lot or facility where:

    (i) Animals (other than aquatic 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 and,

    (ii) Crops, vegetation, forage growth, or post harvest residues are not sustained in the normal growing season over any portion of the lot or facility. 40 C.F.R. § 122.23(b)(1).

14. "Compliance Plan" and "Compliance Schedule" mean the plan and schedule described in and required by Section VI.A of this Order.

15. "Concentrated animal feeding operation" or "CAFO" means an AFO that is defined as, among other things, a Medium CAFO. 40 C.F.R. § 122.23(b)(2).

16. "Day" or "days" means a calendar day or calendar days unless expressly stated to be a business day. When computing any period of time under this Order, should the last day fall on a Saturday, Sunday, or federal holiday, the period shall run until the close of business of the next business day.

17. "Discharge" or "discharge of a pollutant" means, among other things, any addition of any pollutant to navigable waters from any point source. Sections 502(12), (16) of the CWA, 33 U.S.C. §§ 1362(12), (16); 40 C.F.R. § 122.2.

18. "Effective Date" has the definition provided in Section VIII of this Order.

19. "EPA" means the United States Environmental Protection Agency and any of its successor departments or agencies.

20. "Manure" means "manure, bedding, compost, and raw materials or other materials commingled with manure or set aside for disposal." 40 C.F.R. § 122.23(b)(5).

21. "Medium CAFO" means an animal feeding operation that stables or confines as many as or more than the numbers of animals specified in the following range: 200 to 699 mature dairy cows, whether milked or dry, and either one of the following conditions is met: (A) pollutants are discharged from the production area into waters of the United States through a man-made ditch, flushing system, or other similar man-made device; or (B) pollutants are discharged directly into waters of the United States which originate outside of and pass over, across, or through the production area or otherwise come into direct contact with the animals confined in the operation. *See* 40 C.F.R. §§ 122.23(b)(6)(i)(A) and 122.23(b)(6)(ii)(A) and (B).

22. "Navigable waters" as defined in Section 502(7) of the CWA, means "the waters of the United States, including the territorial seas." 33 U.S.C. § 1362(7).

23. "Nutrient management plan" and "NMP" means the plan described in and required by Section VI.A of this Order.

24. "Order on Consent" and "Order" means this document, all attachments hereto, and all subsequent modifications thereto, including incorporated submissions from Respondent, as described in paragraph 64.

25. "Paragraph" means a portion of this Order identified by an Arabic numeral.

26. "Parties" means the EPA and Respondent.

27. "Person," as defined in Section 502(5) of the CWA, means an "individual, corporation, partnership, association, State, municipality, commission, or political subdivision of a State, or any interstate body." 33 U.S.C. § 1362(5).

28. "Point source" means, among other things, "any discernible, confined, and discrete conveyance, including but not limited to, any pipe, ditch, channel, tunnel, conduit, … [or] concentrated animal feeding operation … from which pollutants are or may be discharged." Section 502(14) of the CWA, 33 U.S.C. § 1362(14); 40 C.F.R. § 122.2.

29. "Pollutant" means, among other things, solid waste, sewage, garbage, sewage sludge, chemical wastes, biological materials, wrecked or discarded equipment, rock, sand, cellar dirt, and agricultural waste discharged into water. Section 502(6) of the CWA, 33 U.S.C. § 1362(6); 40 C.F.R. § 122.2.

30. "Process wastewater" means water directly or indirectly used in the operation of the animal feeding operation for any or all of the following: spillage or overflow from animal or poultry watering systems; washing, cleaning, or flushing pens, barns, manure pits, or other AFO facilities; direct contact swimming, washing, or spray cooling of animals; or dust control. Process wastewater also includes any water which comes into contact with any raw materials, products, or byproducts including manure, litter, feed, milk, eggs or bedding. 40 C.F.R. § 122.23(b)(7).

31. "Production area" means that part of the facility that includes the animal confinement area, the manure storage area, the raw materials storage area, and the waste containment area. The animal confinement area includes but is not limited to open lots, housed lots, feedlots, confinement houses, stall barns, free stall barns, milkrooms, milking centers, cowyards, barnyards, medication pens, walkers, animal walkways, and stables. The manure storage area includes but is not limited to lagoons, runoff ponds, storage sheds, stockpiles, under house or pit storages, liquid impoundments, static piles, and composting piles. The raw materials storage area includes but is not limited to feed silos, silage bunkers, and bedding materials. The waste containment area includes but is not limited to 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. 40 C.F.R. § 122.23(b)(8).

32. "Respondent" means FOIA Ex. 6 (Personal Farms LLC.

33. "State" means the State of Wisconsin.

34. "Site" means the facility or facilities owned and/or operated by Respondent located at or near FOIA Ex. 6 (Personal Priacy) [redacted], Kewaunee, Wisconsin, 54216, including, but not limited to, the land application area, the production area, and adjacent land used in connection with the land application area and/or production area.

35. "Waters of the United States" means, in accordance with 40 C.F.R. § 122.2, among other things:

    a. all waters which are currently used, were used in the past, or may be susceptible to use in interstate or foreign commerce;

    b. all interstate waters;

c. all other waters such as intrastate lakes, rivers, streams (including intermittent streams), the use, degradation, or destruction of which would affect or could affect interstate or foreign commerce including any such waters;

d. all impoundments of waters otherwise defined as waters of the United States under this definition; and

e. tributaries of waters identified in paragraphs (a) through (d) of this definition.

36. "WDNR" means the Wisconsin Department of Natural Resources and any successor departments, agencies, or instrumentalities of the State.

37. "Work" means any and all activities Respondent is required to undertake and accomplish under this Order.

IV. FINDINGS OF FACT AND CONCLUSIONS OF LAW

38. Respondent is a corporation, so it is a "person," as defined in Section 502(5) of the CWA, 33 U.S.C. § 1362(5), and 40 C.F.R. § 122.2.

39. At all times relevant to this Order, Respondent owned and operated the FOIA Ex. 6 (Personal Farms Facility, a dairy farm, located in Kewaunee, Wisconsin.

40. The Site is an Animal Feeding Operation because:

a. The Site includes lots or facilities where mature dairy (milking and/or dry) 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, within the meaning of 40 C.F.R. § 122.23(b)(1)(i); and

b. crops, vegetation, forage growth, or post-harvest residues are not sustained in the normal growing season over any portion of those lots or facilities, within the meaning of 40 C.F.R. § 122.23(b)(1)(ii).

41. The Site is a "Medium CAFO" because it stables or confines 200 to 699 mature dairy cows, whether milked or dry, and pollutants are discharged into waters of the United States through a man-made ditch, flushing system, or other similar man-made device. 40 C.F.R. § 122.23(b)(6).

42. On November 6, 2018, personnel from EPA conducted an inspection at the Site (the 2018 Inspection). A copy of the inspection report generated by EPA as a result of the 2018 Inspection (2018 Inspection Report) is included as Attachment 1 to this Order.

43. During the 2018 Inspection, EPA personnel made several observations, including the following:

a. There was no containment to prevent manure and process wastewater from flowing through the weep holes in the concrete wall east of the open pens by the Heifer and Steer Barns to the intermittent unnamed tributary. Pollutant-laden runoff from the barns and open pens flowed through the weep holes, along the ground to the east, and eventually discharged to the intermittent unnamed tributary, which flowed east for approximately 1.8 miles until it becomes a perennial unnamed stream. It then flows 0.10 miles to Lake Michigan. During heavy rains, there is a significant potential for pollutants to reach Lake Michigan.

b. There was no containment to prevent manure and process wastewater from the Feedlot north of the facility from reaching the intermittent unnamed tributary. Runoff from the Feedlot would flow along the ground to the south and eventually to the intermittent unnamed tributary which flowed east for approximately 1.8 miles until it becomes a perennial unnamed stream. It then flows 0.10 miles to Lake Michigan. During heavy rains, there is a significant potential for pollutants to reach Lake Michigan.

c. There was no containment to prevent process wastewater from the feed trough north of the Heifer Barn from reaching intermittent unnamed tributary. Runoff from the feed trough would flow with precipitation along the ground to the north and eventually to the intermittent unnamed tributary which flowed east for approximately 1.8 miles until it becomes a perennial unnamed stream. It then flows 0.10 miles to Lake Michigan. During heavy rains, there is a significant potential for pollutants to reach Lake Michigan.

d. There was no containment to prevent manure and process wastewater from the Cattle Walkway from reaching intermittent unnamed tributary. Runoff from the Cattle Walkway would flow along the ground to the north and eventually to the intermittent unnamed tributary which flowed east for approximately 1.8 miles until it becomes a perennial unnamed stream. It then flows 0.10 miles to Lake Michigan. During heavy rains, there is a significant potential for pollutants to reach Lake Michigan.

e. There was no containment to prevent process wastewater from the silage bags west of the Open Front Heifer Barn from reaching the intermittent unnamed tributary. Runoff from the silage bags would flow along the ground to the north and eventually to the intermittent unnamed tributary which flowed east for approximately 1.8 miles until it becomes a perennial unnamed stream. It then flows 0.10 miles to Lake Michigan. During heavy rains, there is a significant potential for pollutants to reach Lake Michigan.

f. There was no containment to prevent manure and process wastewater from the open pen of the Open Front Heifer Barn from reaching the intermittent unnamed tributary. Runoff from the open pen of the Open Front Heifer Barn would flow along the ground to the north and eventually to the intermittent unnamed tributary which flowed east for approximately 1.8 miles until it becomes a perennial unnamed stream. It then flows 0.10

miles to Lake Michigan. During heavy rains, there is a significant potential for pollutants to reach Lake Michigan.

g. There was no containment to prevent manure and process wastewater from the concrete bunker for solids stacking west of the Open Front Heifer Barn from reaching the intermittent unnamed tributary. Runoff from the concrete bunker for solids stacking west of the Open Front Heifer Barn would flow along the ground to the north and eventually to the intermittent unnamed tributary which flowed east for approximately 1.8 miles until it becomes a perennial unnamed stream. It then flows 0.10 miles to Lake Michigan. During heavy rains, there is a significant potential for pollutants to reach Lake Michigan.

h. There was no containment to prevent process wastewater from the silage bags along Sandy Bay Road from reaching a culvert and then flowing to a storm water inlet which outlets in the intermittent unnamed tributary. Process wastewater from the silage bags would flow with precipitation to the culvert and then to the storm water inlet and eventually to the intermittent unnamed tributary which flowed east for approximately 1.8 miles until it becomes a perennial unnamed stream. It then flows 0.10 miles to Lake Michigan. During heavy rains, there is a significant potential for pollutants to reach Lake Michigan.

44. The intermittent unnamed tributary, the perennial unnamed stream, and Lake Michigan are each navigable waters and waters of the United States. Lake Michigan is a traditional navigable water.

45. The Site is a point source.

46. Respondent is a person who discharges pollutants from a point source into navigable waters without a permit authorizing such discharges under Section 402 of the CWA, 33 U.S.C. § 1342, in violation of Section 301(a) of the CWA, 33 U.S.C. § 1311(a).

V. ORDER ON CONSENT

47. Based on the foregoing findings and the authority vested in the undersigned Director, Water Division, it is hereby ordered and agreed to in accordance with Section 309(a) of the CWA, 33 U.S.C. § 1319(a), that Respondent comply with all provisions of this Order, including, but not limited to, all attachments to this Order and all documents incorporated by reference into this Order, including the following Compliance Requirements.

A. Permanent and Interim Measures

48. Upon the effective date of this Order, Respondent shall cease all unpermitted discharges from the Site.

49. Within thirty (30) calendar days of the effective date of this Order, Respondent shall develop and submit to EPA and WDNR for approval a Compliance Plan which describes in detail the actions to

be taken by Respondent to permanently remedy all discharges from the Site. The Compliance Plan shall require Respondent to notify EPA upon completion of major actions undertaken pursuant to the Compliance Plan. The Compliance Plan shall also include a Compliance Schedule which shall not exceed two hundred and seventy (270) days from the effective date of this Order.

50. After receipt and review of Respondent's Compliance Plan as required by this Order, EPA shall notify Respondent whether the Compliance Plan and the Compliance Schedule are acceptable by EPA. Once approved by EPA, the Compliance Plan and Compliance Schedule shall be fully incorporated into and made an enforceable part of this Order. Upon receipt of EPA's written approval, Respondent shall commence work in accordance with the schedule and provisions contained therein.

51. The Compliance Plan and Compliance Schedule shall include a provision for the development of a Nutrient Management Plan that reflects the actions to be taken by Respondent to permanently remedy all discharges from the Site, and that:

    a. ensures adequate storage of manure, litter, and process wastewater, including procedures to ensure proper operation and maintenance of the storage facilities;

    b. ensures that mortalities (*i.e.*, dead animals) are not disposed of in a liquid manure, storm water, or process wastewater storage or treatment system that is not specifically designed to treat mortalities;

    c. ensures that clean water is diverted, as appropriate, from the production area;

    d. prevents direct contact of confined animals with waters of the United States;

    e. ensures that chemical wastes and other non-livestock wastes handled on-site are not disposed of in any manure, litter, process wastewater, or storm water storage or treatment system unless such system is specifically designed to treat such chemicals and other contaminants;

    f. identifies site-specific conservation practices to be implemented, including, as appropriate, buffers, or equivalent practices, to control discharges of manure, litter, or process wastewater to waters of the United States;

    g. identifies protocols for appropriate testing of manure, litter, process wastewater, and soil;

    h. establishes protocols to land apply manure, litter, and process wastewater in accordance with site-specific nutrient management practices that ensure appropriate agricultural utilization of the nutrients in the manure, litter, or process wastewater;

    i. identifies specific records that will be maintained to document the implementation and management of the requirements of the Order;

j. defines the total number of acres for land application covered by the Nutrient Management Plan;

k. describes the total number of acres under the control of Respondent that were used for land application of manure, litter, and process wastewater in the last 12 months; and

l. includes a summary of all manure, litter, and process wastewater discharges from the production area that have occurred in the previous 12 months, including the date, time, and approximate volume of such discharges.

52. Upon the effective date of this Order, Respondent shall put into place interim measures to ensure that there are no unpermitted discharges from the areas of concern identified in paragraph 43 while the Compliance Plan is being developed, reviewed, and implemented.

53. Within thirty (30) calendar days after the effective date of this Order, Respondent shall submit to EPA written documentation (e.g. as-built, photographs, affidavits, costs, etc.) concerning the interim measures implemented according to this Order, showing that Respondent completed installation of the interim measures.

B. Discharge Minimization and Notification

58. Within thirty (30) calendar days of the effective date of this Order, Respondent shall post at the Site, a summary of procedures to effectively respond to any spill or discharge to waters of the United States and shall ensure that all employees are aware of and follow those procedures. The posted procedures shall contain detailed response and instructions which shall include, but not be limited to, the names of the officials to be notified, State and Federal Agencies to be notified, local or downstream public water supply and public health entities to be notified, appropriate phone numbers, addresses, safety precautions, and immediate actions to abate the occurrence.

59. This Order does not authorize Respondent to discharge pollutants to waters of the United States at or from the Site, and any such discharges are subject to enforcement. Upon the effective date of this Order and until Respondent receives notification from EPA that they have satisfied all requirements of this Order, if for any reason Respondent discharges pollutants to waters of the United States, Respondent must visually monitor the discharge and immediately notify EPA by contacting Joan Rogers by telephone (312) 886-27853, and by e-mail rogers.joan@epa.gov. Respondent must also immediately notify WDNR's 24-hour spill emergency hotline at 1-800-943-0003. In addition, Respondent must document the following information and submit a written report to EPA and WDNR within five (5) calendar days of becoming aware of the discharge, including:

a. the cause of the discharge, including an estimate of the discharge volume, an estimate of the flow rate if the discharge is continuing and any analytical data;

b. the area receiving the discharge (*i.e.*, field, ditch, stream, or other description);

c. the specific location of the discharge;

d. the period of discharge, including exact beginning and end dates and times, and if not corrected, the anticipated time the discharge is expected to continue;

e. steps taken or to be taken to respond to, contain and mitigate the discharge;

f. corrective action taken to prevent recurrence of the discharge; and

g. apparent impacts to health or the environment resulting from the discharge, including, but not limited to, threats to surface water supplies, waters supply wells, recreational areas, and water quality.

C. Record Retention and Reporting

54. Respondent shall maintain and make available to EPA and WDNR personnel upon request the completed Nutrient Management Plan and copies of all records identified by the Nutrient Management Plan.

55. Respondent shall submit an annual report to EPA and WDNR no later than March 15 of each calendar year following the effective date of the Order. In each annual report, Respondent shall include the following information for the calendar year prior to submittal of the annual report.

a. The number and type of animals, whether in open confinement or housed under roof;

b. Estimated amount of total manure, litter, and process wastewater generated by the CAFO in the previous 12 months (tons/gallons);

c. Estimated amount of total manure, litter, and process wastewater transferred to other persons by the CAFO in the previous 12 months;

d. Total number of acres for land application covered by the Nutrient Management Plan developed in accordance with 40 C.F.R. § 122.42(e)(1);

e. Total number of acres under control of the CAFO that were used for land application of manure, litter, and process wastewater in the previous 12 months;

f. Summary of all manure, litter, and process wastewater discharges from the production area that have occurred in the previous 12 months, including date, time and approximate volume;

g. A statement indicating whether the current version of the CAFO's Nutrient Management Plan was developed and approved by a certified nutrient management crop planner; and

h. The actual crop(s) planted and actual yield(s) for each field, the actual nitrogen and phosphorus content of the manure, litter, and process wastewater, the results of calculations conducted in accordance with 40 C.F.R § 122.42(e)(5)(i)(B) and 40 C.F.R.

§ 122.42 (e)(5)(ii)(D) and the amount of manure, litter, and process wastewater applied to each field during the previous 12 months; and for any CAFO that implements a nutrient management plan that addresses rates of application in accordance with 40 C.F.R. § 122.42(e)(5)(ii), the results of any soil testing for nitrogen and phosphorus taken during the preceding 12 months; the data used in calculations in accordance with 40 C.F.R § 122.42(e)(5)(ii)(D) and the amount of supplemental fertilizer applied during the previous 12 months.

D. Site Access

56. If the Site, or any other property where access is needed to implement this Order, is owned or controlled by Respondent, then Respondent shall, commencing on the Effective Date, provide EPA, WDNR, and their representatives, including contractors, access at all reasonable times to the Site, or such other property, for the purpose of conducting any activity related to this Order.

57. Notwithstanding any provisions of this Order, EPA and WDNR retain all of their access autorities and rights, including enforcement authorities related thereto, under the CWA and any other applicable statutes or regulations.

VI. DOCUMENTATION AND SUBMISSIONS

58. All reports, notifications, documentation, submissions, and other correspondence required to be submitted by this Order shall be submitted to the following people and, to the extent possible, by electronic mail in final and searchable format (*e.g.* pdf OCR-readable), unless otherwise specified herein, or, if not possible, by certified mail (return receipt requested). All electronic submittals must include the certification statement in paragraph 60. The subject of the electronic mail correspondence must include the facility name, and the name of the deliverable.

U.S. Environmental Protection Agency, Region 5
Water Enforcement Compliance Assurance Branch (WC-15J)
Attn: Joan Rogers
77 West Jackson Boulevard
Chicago, Illinois 60604-3590
Tel. (312) 886-2785
Rogers.joan@epa.gov
And
R5weca@epa.gov

Christopher Grubb, Associate Regional Counsel
Office of Regional Counsel (C-14J)
U.S. Environmental Protection Agency, Region 5
77 West Jackson Boulevard
Chicago, Illinois 60604-3590
Tel. (312) 886-7187
Grubb.Christopher@epa.gov

59. Any documents or notifications required by this Order shall be submitted to WDNR by Respondent to the following address:

Wisconsin Department of Natural Resources
Attention: Thomas Bauman
Agricultural Runoff Program
WT/3, 101 South Webster Street
PO Box 7921
Madison, Wisconsin 53707

60. All reports, notifications, documentation, and submissions required by this Order shall be signed by a duly authorized representative of Respondent as specified by 40 C.F.R. § 122.22(b) and (d) and shall include the following statement:

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

61. Respondent may not withhold information based on a claim that it is confidential. However, pursuant to 40 C.F.R. Part 2, Subpart B, Respondent may assert a claim of business confidentiality regarding any portion of the information submitted in response to this Order. The manner of asserting such claims is specified in 40 C.F.R. § 2.203(b). Certain information related to effluent data (as defined in 40 C.F.R. § 2.302(a)(2)) and NPDES permit applications may not be entitled to confidential treatment. 40 C.F.R. § 122.7. Information subject to a business confidentiality claim is available to the public only to the extent, and by means of the procedures, set forth in 40 C.F.R. Part 2, Subpart B. If Respondent does not assert a claim of business confidentiality when it submits the information, EPA may make the information available to the public without further notice. 40 C.F.R. § 2.203(c).

62. If Respondent finds at any time after submitting information that any portion of that information is false or incorrect, the signatory must notify EPA immediately. Knowingly submitting false information to EPA in response to this Order may subject Respondent to criminal prosecution under Section 309(c) of the CWA, 33 U.S.C. § 1319(c), as well as 18 U.S.C. § 1001 and 1341.

63. Submissions required by this Order shall be deemed submitted on the date they are sent electronically or on the date postmarked if sent by U.S. mail.

64. Upon EPA approval, submissions by Respondent are incorporated and enforceable as part of this Order. In case of inconsistency between any submission by Respondent and this

document and its subsequent modifications, this document and its subsequent modifications shall control.

65. EPA may use any information submitted in response to this Order in support of an administrative, civil, or criminal action against Respondent.

66. The information required to be submitted pursuant to this Order is not subject to the approval requirements of the Paperwork Reduction Act of 1995, 44 U.S.C. § 3501 *et seq*.

VII. GENERAL PROVISIONS

67. Respondent has had the opportunity to confer with and submit information to EPA concerning the validity and provisions of this Order.

68. The terms of this Order are binding on Respondent and its assignees and successors. Respondent must give notice of this Order to any successors in interest prior to transferring ownership, and must simultaneously verify to EPA, at the address specified in paragraph 58, that Respondent has given the notice.

69. The undersigned signatory for each party has the authority to bind each respective party to the terms and conditions of this Order.

70. Failure to comply with this Order may subject Respondent to penalties up to $52,414 per day for each violation pursuant to Section 309(d) of the CWA, 33 U.S.C. § 1319(d), and 40 C.F.R. Part 19.

71. This Order does not affect Respondent's responsibility to comply with the CWA, and any other local, state, and federal laws and regulations.

72. This Order does not restrict EPA's authority to enforce any section of the CWA or its implementing regulations.

73. If Respondent seeks permission to deviate from any approved plan or schedule, Respondent shall submit a written request to EPA for approval outlining the proposed modification and its basis. Respondent may not proceed with the requested deviation until receiving written approval from EPA.

74. EPA reserves all rights and remedies, legal and equitable, available to address any violation cited in this Order and any other violation of the CWA, and to enforce this Order. Neither issuance of this Order by EPA nor compliance with its terms precludes further enforcement action pursuant to Section 309 of the CWA, 33 U.S.C. § 1319, for the violations cited in this Order, for any other violations of the CWA committed by Respondent, or to enforce this Order.

75. The CWA includes provisions for administrative penalties, for civil injunctive relief and penalties, and for criminal sanctions for violations of the CWA. Specifically, EPA may:

a) assess civil administrative penalties under 33 U.S.C. § 1319(g) and 40 C.F.R. Part 19 of up to $16,000 per day of violation up to a total of $177,500 for violations that occurred after January 12, 2009 through December 6, 2013; up to $16,000 per day for each violation up to a total of $187,500 that occurred after December 6, 2013 through November 2, 2015, or are assessed before August 1, 2016; or up to $21,393 per day of violation up to $267,415 for violations that occurred after November 2, 2015 and assessed on or after January 15, 2018.

b) seek civil injunctive relief and penalties for violations of the CWA under 33 U.S.C. § 1319(b) and 40 C.F.R. Part 19. EPA may seek civil judicial penalties of up to $37,500 per day for violations that occurred after January 12, 2009 through December 6, 2013; $37,500 per day for violations that occurred after December 6, 2013 through November 2, 2015, or that are assessed before August 1, 2016; up to $53,484 per day for violations that occurred after November 2, 2015 and assessed on or after A January 15, 2018; and,

c) seek criminal sanctions, including fines and imprisonment, for negligent or knowing violations of the CWA under 33 U.S.C. § 1319(c).

VIII. EFFECTIVE DATE

76. This Order shall become effective upon signature by EPA below and will remain in effect until Respondent has demonstrated compliance and EPA has notified Respondent pursuant to paragraph 78 or 79.

IX. FINAL REPORT AND TERMINATION OF THIS ORDER

77. Within 30 days after Respondent concludes that it has complied with all requirements of this Order, Respondent must submit to the EPA Case Manager a written final report and certification of completion describing all actions taken to comply with all requirements of this Order.

78. After receipt and review of Respondent's final report and certification of completion submitted pursuant to paragraph 77, EPA will notify Respondent whether it has satisfied all requirements of this Order. If EPA concludes that Respondent has failed to satisfy the requirements of this Order, EPA may require further actions as set forth under this Order or it may pursue administrative or civil judicial actions. This Order shall remain in effect until EPA notifies Respondent that Respondent has complied with all requirements of this Order.

79. EPA reserves the right to terminate this Order based on a determination that the terms of the Order have been satisfied.

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IT IS SO AGREED AND ORDERED:

FOR RESPONDENT, FOIA Ex. 6 (Personal Farms LLC:

Ex. 6 (Personal Privacy)

Signature

4-8-19

Date

Ex. 6 (Personal Privacy)

Name

Ex. 6 (Personal Privacy)

Title

FOR THE COMPLAINANT, U.S. ENVIRONMENTAL PROTECTION AGENCY:

Linda Holst

for Joan Tanaka
Acting Director
Water Division
U.S. EPA Region 5

04/25/19
Date