SETTLEMENT AGREEMENT

This Settlement Agreement ("Agreement") is made effective this **27th day of July, 2017** as between the Wisconsin Department of Natural Resources ("WDNR") and Central Sands Dairy, LLC ("Central Sands Dairy") to resolve a pending contested case challenge brought by Central Sands Dairy.

BACKGROUND

WHEREAS, effective July 7, 2016, WDNR modified a Wisconsin Pollution Discharge Elimination System ("WPDES") permit issued to Central Sands Dairy, WPDES Permit No. WI-0063533-02-1 ("Permit") that contains groundwater monitoring of wells and piezometers and the reporting of that data ("groundwater monitoring");

WHEREAS, on September 2, 2016 Central Sands Dairy served on WDNR a petition for a contested case hearing, filed pursuant to WIS. STAT. §§ 283.63 challenging certain terms and conditions of the Permit (the "Petition");

WHEREAS, Central Sands Dairy and WDNR have reached an agreement to fully and finally resolve the issues raised in the Petition, and desire to memorialize such resolution by entering into this Agreement;

IT IS HEREBY AGREED AS FOLLOWS:

Crop History Report

1. Central Sands Dairy agrees to investigate elevated nitrate levels detected coming off field RDO-12 for crop years 2012 through 2016. Based on that investigation, Central Sands Dairy shall file a crop history report ("Crop History Report") with WDNR within 90 days of this settlement.

2. The Crop History Report shall contain at least the following for each of those years 2012 through 2016:

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a. The evidence, if any, of historic crop failure that could lead to excess underutilized Nitrate; and,

b. Actual crop yields from RDO-12; and,

c. Forage quality samples, if available; and,

d. Identify the quantity and nutrient content of the manure and commercial fertilizer applied; and,

e. Identify when manure and commercial fertilizer were applied.

3. Central Sands Dairy shall review the Crop History Report and, within 30 days of its submission to WDNR, propose what changes beyond those set forth in this Agreement, if any, Central Sands Dairy will make to the rotation and application practices at field RDO-12 to address the elevated Nitrate level.

Investigation and Reporting of Nitrate Removal by Alfalfa

4. For crop years 2017 through 2020, Central Sands Dairy shall maintain field RDO-12 in its Nutrient Management Plan and shall maintain the field in continuous alfalfa. Central Sands Dairy shall submit to WDNR documentation of the following actions to improve/evaluate the nitrogen removal efficiency of the alfalfa crop by the following means:

a. Central Sands Dairy will only apply nitrogen to the crop need; and,

b. Central Sands Dairy will test the nitrogen content of the forage from RDO-12 after each cutting; and,

c. Central Sands Dairy will split applications of manure by surface applying manure after each cutting.

Monitoring and Reporting of wells and transducers

5. Except as specifically set forth in this agreement, Central Sands Dairy shall continue to sample the monitoring well network as set forth in the Permit and download and report the continuous groundwater elevation data until July 2017.

6. After submission of the July 2017 monthly results, the groundwater quality monitoring frequency and reporting shall be submitted to WDNR quarterly. Groundwater elevations shall be taken coincident with quality sampling. The five transducer/data loggers referenced in the Permit may be reduced to two, provided that the transducers/data loggers in locations CSD-12 and CSD-7 in the Permit remain.

7. WDNR will not require the installation of proposed monitoring wells denoted in the Permit as "Q" "L" and "M".

Ammonia Investigation Plan Development and Execution

8. Central Sands Dairy agrees, as a first step to address exceedances of the ammonia groundwater quality enforcement standard, in accordance with s. NR 140.26, Wis. Adm. Code, to prepare and submit a report that assesses the cause and significance of ammonia in groundwater at concentrations above the state groundwater quality standard and proposes response actions to achieve compliance with groundwater quality standards at facility points of standard application. (Ammonia Source Investigation Report and Plan).

9. Central Sands Dairy agrees to submit the Ammonia Source Investigation Report and Plan within 30 days of this agreement.

10. The Department agrees to review and approve, conditionally approve or reject the Ammonia Source Investigation Plan within 30 days of its submittal.

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11. Within 60 days of Department approval or conditional approval of the Ammonia Source Investigation plan, Central Sands Dairy agrees to carry out the Ammonia Source Investigation Plan as identified in the approval or conditional approval.

WPDES Permit Procedural Actions

12. If, no later than ninety (90) days following Central Sands Dairy's submission of the reports required by Pars. 2, 3 and 9 of this Agreement, WDNR finds Central Sands Dairy to be in substantial compliance with the Permit as modified by this agreement, WDNR shall provide public notice of a modification or reissuance of the Permit, which shall contain monitoring requirements consistent with terms and conditions of this Agreement (the "New Permit")
13. Central Sands Dairy shall withdraw the Petition within 10 business days of satisfaction of all of the following: (i) WDNR provides public notice of the New Permit in accordance with Wis. Stat. § 283.39 according to the terms of this Agreement on or before December 1, 2017; (ii) no third-party files a petition for judicial review on any aspect of the New Permit within 30 days of its issuance; (iii) no third-party files a petition for a contested case hearing on any aspect of the New Permit within 60 days of its issuance.
14. This Agreement may be executed and delivered in counterpart signature pages executed and delivered via email with scan or email attachment, and any such counterpart executed and delivered via email with scan or email attachment will be deemed an original.

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CENTRAL SANDS DAIRY, LLC

By: _____

Owner/Operator

WISCONSIN DEPARTMENT of NATURAL RESOURCES

By: _____

Kurt A. Thiede, Deputy Secretary

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