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UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 10
1200 Sixth Avenue, Suite 900
Seattle, Washington 98101-3140

DEC 1 4 2017

OFFICE OF
COMPLIANCE AND ENFORCEMENT

Reply To: OCE-101

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

NOTICE OF VIOLATION

Mr. Leo Ray
Owner
Fish Breeders of Idaho – Jack's Pond
P.O. Box 479
Hagerman, Idaho 83332

Re: Fish Breeders of Idaho – Jack's Pond
NPDES Permit Number IDG130053

Dear Mr. Ray:

On behalf of the U.S. Environmental Protection Agency (EPA), I would like to express my appreciation for your time and cooperation during the July 14, 2017, Clean Water Act (CWA) inspection of Jack's Pond ("Facility") conducted by the Idaho Department of Environmental Quality (IDEQ) on behalf of EPA. The purpose of the inspection was to determine the Facility's compliance with the requirements of the Clean Water Act (CWA) and the National Pollutant Discharge Elimination System (NPDES) general permit IDG130000 ("Permit") for *Aquaculture Facilities in Idaho, subject to Wasteload Allocations under Selected Total Maximum Daily Loads*. The purpose of this letter is to notify you of the results of the IDEQ inspection.

JULY 2017 INSPECTION

1. Part II.F of the Permit states, in part, "The permittee must develop a quality assurance (QA) plan for all monitoring required by this permit…A permittee must certify that a QA Plan has been developed and is being implemented…"

   At the time of the inspection, the inspector found that the Facility did not have a QA plan. Failure to develop, implement and certify a QA plan is a violation of Part II.F of the Permit.

2. Part III.C of the Permit states, in part, "A permittee must certify that a BMP *(Best Management Practice)* plan has been developed and is being implemented, and must submit the certification, which includes the information specified in Appendix F, to EPA and to the responsible IDEQ office."

   At the time of the inspection, the inspector found that the Facility did not have a BMP plan. Failure to develop, implement and certify a BMP plan is a violation of Part III.C of the Permit.

3. Part V.A of the Permit states, in part, "Samples and measurements must be representative of the volume and nature of the monitored discharge or source water."

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Part V.B of the Permit states, in part, "The permittee must summarize monitoring results, including influent, effluent, and net results, each month on the Discharge Monitoring Report (DMR) form (EPA No. 3320-1) or equivalent."

Part V.C of the Permit states, "Monitoring must be conducted according to test procedures approved under 40 CFR Part 136, unless other test procedures have been specified in this permit or approved by EPA as an alternate test procedure under 40 CFR §136.5."

At the time of the inspection, the inspector found that while the Facility was submitting its scheduled DMRs, the Facility was not collecting influent or effluent samples and was not conducting monitoring per 40 CFR Part 136. Failure to collect representative samples, conduct monitoring per 40 CFR Part 136 and submit complete and accurate DMRs are violations of Parts V.A, V.B and V.C of the Permit.

During the inspection, the inspector learned that the Facility has not raised fish since it was acquired in 2015. Although the Facility is currently not raising fish, it must still follow the Permit requirements. In this situation, the Facility might want to consider exercising Part I.F.1 of the Permit, Permanent Termination of Authorization to Discharge, or Part I.F.2 of the Permit, Temporary Shutdown of Production Activities. Either of the previously mentioned sections of the Permit would relieve the Facility of all monitoring requirements, as well as the need to implement the QA and BMP plans.

Although our goal is to ensure NPDES facilities comply fully with their permits, the ultimate responsibility rests with the permittee. As such, I want to strongly encourage you to continue your efforts to maintain full knowledge of the Permit requirements, and other appropriate statutes, and to take appropriate measures to ensure compliance. Notwithstanding your response to this letter, EPA retains all rights to pursue enforcement actions to address these and any other violations.

If you have any questions concerning this matter, please do not hesitate to contact Raymond Andrews of my staff at (206) 553-4252.

Sincerely,

Edward J. Kowalski
Director

cc: Mr. Tyler Fortunati
Idaho Department of Environmental Quality

Mr. Dave Anderson
Idaho Department of Environmental Quality

Ms. Maria Lopez
Environmental Protection Agency