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

MAR 3 1 2014

REPLY TO THE ATTENTION OF:
WC-15J

**CERTIFIED MAIL 7009 1680 0000 7675 1605**
**RETURN RECEIPT REQUESTED**

Prairie State Gilts, Ltd.
Exemption 6

Subject: Information Request Pursuant to 33 U.S.C. § 1318(a), Section 308 of the Clean Water Act
Docket Number: V-W-14-308-10

To Whom it May Concern:

This letter and enclosure requests certain information from you in connection with your ownership and operation of the swine facility located at Exemption 6
Exemption 6 Section 308 of the Clean Water Act (CWA), 33 U.S.C. § 1318, authorizes EPA to require those subject to the CWA to furnish information, conduct monitoring, sample effluents, and make reports as may be necessary to carry out the objectives of the Act. Accordingly, pursuant to Section 308 of the CWA, you are directed to provide EPA with the information requested in the enclosure.

Pursuant to Section 308(b) of the CWA, you may assert a business confidentiality claim covering all or part of the information requested here in the manner described in 40 C.F.R. § 2.203(b). Information covered by such a claim will be disclosed by EPA only to the extent and by means of the procedures set forth in Subpart B, 40 C.F.R. Part 2. If no claim of confidentiality accompanies the information requested herein when it is received, EPA may make the information available to the public without further notice to you. This inquiry is not subject to review by the Office of Management and Budget under the Paperwork Reduction Act of 1980, 44 United States Code (U.S.C.) Chapter 35. (See 5 C.F.R. § 1320.3(c)).

Compliance with this Information Request is mandatory. Failure to respond fully and truthfully to the Information Request within the time specified, or to adequately justify failure to respond, can result in enforcement action by EPA pursuant to section 309 of the CWA, 33 U.S.C. § 1319. The CWA permits EPA to seek the imposition of penalties up to $37,500 for each day of continued noncompliance. 18 U.S.C. § 1001. All statements provided must be signed by your duly authorized agent and must include certification language required by paragraph 43 of the Information Request.

Recycled/Recyclable • Printed with Vegetable Oil Based Inks on 100% Recycled Paper (100% Post-Consumer)

Please respond in writing with the information requested in the enclosure, within 30 days of receipt of this letter to the following recipient:

U.S. Environmental Protection Agency, Region 5
Water Enforcement & Compliance Assurance Branch (WC-15J)
77 West Jackson Boulevard
Chicago, Illinois 60604-3590
Attention: Cheryl Burdett, CAFO Program Manager

Should you have any questions pertaining to this matter, please contact Cheryl Burdett, of my staff, at 312-886-1463.

Sincerely,

Tinka G. Hyde
Director, Water Division

Enclosure

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY REGION 5**

| | | |
|---|---|---|
| **IN THE MATTER OF:**<br>Prairie State Gilts, Ltd.<br>Exemption 6 | )<br>)<br>)<br>)<br>)<br>) | **Docket No. V-W-14-308-10**<br><br>Proceeding under<br>Section 308(a) of the<br>Clean Water Act, as amended,<br>33 U.S.C. § 1318(a) |

## INFORMATION REQUEST

## I. STATUTORY AUTHORITY

The U.S. Environmental Protection Agency is issuing this Information Request to Prairie State Gilts, Ltd. (Prairie State Gilts, Ltd. or you) pursuant to the authority vested in the Administrator of EPA by Section 308(a) of the Clean Water Act (CWA) 33 U.S.C § 1318(a). This authority has been delegated to the Director of the Water Division, EPA Region 5.

## II. DEFINITIONS

1. The term "agreement" shall mean any written document (e.g., contract, lease, memorandum of understanding, agreement in principle, letter, etc.) or verbal exchange manifesting mutual assent on the part of two or more persons. If asked to "identify and produce" (as defined below) the agreement, you must not only include the main text of the agreement, but also include all exhibits, attachments, and documents incorporated by reference.

2. The term "affiliated" means any officers, directors, shareholders, agents, representatives, employees, servant, family members, or entities owned or controlled by another person to any degree.

3. The term "correspondence" shall mean any interchange of written communications, including (but not limited to) electronic mail (e-mail), facsimiles, or letters, as well as any and all attachments and enclosures.

4. The term "day" means a calendar day unless expressly stated to be a working day. In computing any period of time under this information request, where the last day would fall on a Saturday, Sunday, or federal or state holiday, the period runs until the close of business day of the next working day.

5. The term "document" means any object that records, stores, or presents information and includes writings of any kind, formal or informal, whether or not wholly or partially in handwriting, including, but not limited to, any invoice, manifest, bill of lading, receipt, enforcement, check, bank draft, canceled check, deposit slip, withdrawal slip, order, correspondence, record book, minutes, memorandum of telephone and other conversations

including meetings, agreements and the like, diary, calendar, desk pad, scrapbook, notebook, bulletin, circular, form, pamphlet, statement, journal, postcard, letter, telegram, telex, report, notice message, analysis, comparison, graph, chart, interoffice or intraoffice communications, photostat or other copy of any documents, microfilm or other film record, any photograph, sound recording on any type of device, any punch card, disk, any tape or other type of memory generally associated with computers and data processing (together with the programming instructions and other written material necessary to use such punch card, disk, tape or other type of memory and together with printouts of such punch card, disk, tape, or other type of memory); and (a) every copy of each document which is not an exact duplicate of a document which is produced, (b) every copy that has any writing, figure or notation, annotation or the like on it, (c) drafts of each document, (d) attachments to or enclosures with any document, and (e) every document referred to in any other document.

6. The term "facility" or "facilities" means: (a) any Animal Feeding Operation (AFO) or AFOs owned or operated by you, or (b) any associated land application area(s)/sites(s) (see 40 C.F.R. § 122.23(b) (3)), including, among other things, any field/land/property owned, operated leased, rented, and/or otherwise used by you to land apply manure, litter, and/or process wastewater.

7. The term "identify" means to provide:

   a. With respect to a natural person, that person's name, job title, business address, and telephone number;

   b. With respect to a corporation, partnership, business trust or other association, or business entity (including a sole proprietorship), its full name, address, legal status, and form (e.g., corporation , partnership, etc.), its owners, members, officers, and directors, and brief description of its business; and

   c. With respect to a document, its customary business description, date, author's identity, addressor, addressee and/or recipient, and the subject matter.

8. The term "manure" includes animal wastes (i.e., solid or liquid animal waste), bedding, compost, and raw materials or other materials (used in or otherwise resulting from the confinement of animals) commingled with manure or set aside for disposal (which includes land application).

9. The term "owner and/or operator" means any person who owns, leases, operates, controls, supervises the operation of a point source.

10. The term "person" means any individual, business, corporation, partnership, association, state, municipality, commission, or political subdivision of a state, or any interstate body.

11. The term "process wastewater" means water directly or indirectly used in the operation of the facility for any or all of the following: spillage or overflow from animal or poultry watering system; washing, cleaning, or flushing pens, barns, manure pits, or other animal

feeding operation facility aspects/structures; direct contact swimming, washing or spray cooling of animals; and dust control. "Process wastewater" also includes any water (e.g. precipitation, water used in the facility in the facility's operation, etc.) which comes into contact with any raw materials, products, or byproducts including manure, litter, feed, milk, eggs, bedding, or other material or product used in, or resulting from, the confinement of animals.

12. The terms "you" or "your" refers to the person who is the addressee of this Information Request.

13. The terms "or" and "and" shall be construed either disjunctively or conjunctively as necessary to bring within the scope of this Information Request any information which might otherwise be construed to be outside the scope.

14. The term "Professional Swine Management, LLC", "Professional Swine Management", and/or "PSM" shall mean any of the following persons or business entities, either individually or collectively, and any person or entity affiliated with entities listed below, as well as their contractors:

    a. Exemption 6

    b. Exemption 6

    c. Exemption 6

    d. Exemption 6

All terms not defined in this Attachment have their ordinary meaning, unless such terms are defined in the CWA and/or its implementing regulations, and in which case the statutory and/or regulatory definitions apply. Words in the masculine shall be construed in the feminine, and vice versa, and words in singular shall be construed in the plural, and vice versa where appropriate in the context of a particular question or questions.

## III. INSTRUCTIONS

15. Provide a separate narrative response to each question and subpart of a question set forth in this information request.

16. You must respond separately to each request and subparts of each of the requests. Precede each answer with the number of the request to which it corresponds. For each document produced in response to this Information Request, indicate on the document, or in some other reasonable manner, the number of the request to which it corresponds.

17. For each request, identify the person(s) answering and/or who provided the information used or considered in responding to that question, as well as each person consulted in the preparation of that response.

18. If information and/or documents are not known or not available to you as of the date of your response to this information request and should later become known or available to you, you must supplement your response to EPA. Moreover, should you find at any time after the submission of your response that any portion of the submitted information is false or misrepresents the truth, you must notify the EPA of this fact as soon as possible and provide EPA with a corrected response.

19. If you do not have documents responsive to a particular request, state in your written response that you do not have responsive documents, and provide an explanation of why such documents are unavailable, if applicable.

20. Where this information request seeks data or records, provide such information in electronically editable, tabular format (e.g. Excel spreadsheet, etc.) where that data already exists in, or can be organized and provided in, electronically editable, tabular format.

21. You must keep the reports and all records reviewed or generated in the course of responding to this Information Request until EPA informs you in writing that you are no longer required to keep the reports and records, or for three years, whichever is sooner.

## IV. INFORMATION REQUEST

Pursuant to Section 308 of the CWA, 33 U.S.C. § 1318, provide the following requested information to EPA. The questions seek information for the last five years, unless a particular question specifies a different period.

**Ownership and Operation**

22. Provide a detailed description of any relationship between PSM and Prairie State Gilts, Ltd. and each person's respective affiliates, from beginning to end, including the relationship with any persons operating Prairie State Gilts, Ltd. on a daily basis.

23. Identify the persons who have been primarily responsible for the business affairs concerning Prairie State Gilts, Ltd. from its commencement through the present.

    - Describe and produce a copy of all agreements entered into between Prairie State Gilts, Ltd. and PSM or its affiliates, and any person or entity operating Prairie State Gilts, Ltd.

24. Did you or any person enter into any agreements pertaining to Prairie State Gilts, Ltd. that are not covered by your responses to the questions above? If so please identify each such agreement, the parties to the agreement and describe the terms.

    a. Have you or any person received or provided advice or assistance with respect to swine management at Prairie State Gilts, Ltd.? If so, identify each person who provided such advice and guidance and answer the following questions with respect to each such person:

        - Describe the advice and assistance.

    b. Have you or any person received or provided advice or assistance from any person with respect to manure management and other environmental controls? If so, identify each person who provided such advice and assistance and answer the following questions with respect to each person:

        - Describe the advice or assistance.

    c. Did you or any person submit an application to a state agency for approval to build a confined feeding operation on the site where the Prairie State Gilts, Ltd. is now located? If so, please produce this application and all correspondence relating to the application.

        - Identify each person who participated in the preparation of the application.

25. Has Professional Swine Management, LLC or its contractors provided assistance with respect to other permits necessary for the operation of Prairie State Gilts, Ltd.? If so, please produce all documents and correspondence relating to this assistance and identify each person who provided such assistance.

26. Has Professional Swine Management ever prepared any plans, procedures, or manuals that the people operating Prairie State Gilts, Ltd. have used with respect to environmental controls (e.g. manure management plans, spill prevention plans, nutrient management plan, etc.)? If so, identify each such plan, procedure, or manual and answer the following questions:

    a. Does the owner or operator use or rely on the plan, procedure, or manual? If so, how?

b. Has the owner or operator made any modifications to the plan, procedure, or manual? If so, please describe each modification.

c. Has Professional Swine Management, LLC ever provided information relating to environmental monitoring activities conducted by citizen groups to any person? If so, produce all documents and correspondence and identify each person who provided this instruction and guidance. Also, describe the substance of the guidance and instruction.

d. Has Professional Swine Management, LLC ever provided such instruction and guidance with respect to inspections by state agencies and EPA? If so, produce all documents and correspondence relating to this instruction and guidance and identify each person who provided this instruction and guidance. Please also answer the following question.

- What was the substance of the guidance and instruction?

e. Does Professional Swine Management, LLC maintain any control or influence over Prairie State Gilts, Ltd., operational or otherwise, that you have not discussed anywhere else herein? If so, explain.

f. Have you or any person received advice or assistance from Professional Swine Management, LLC with respect to the procurement and management of human resources and labor? If so, identify all persons who provided such advice and guidance and answer the following questions with respect to each such person:

- What was the advice and assistance that you received?

g. Identify each person with whom you consulted in preparing your response to this information request and, for each such person, identify the number/letter of each question listed above on which he or she was consulted.

h. Identify all persons with control or access to any financial accounts relating to the operation of Prairie State Gilts, Ltd. from its inception through the present.

i. Identify any employees, contractors or affiliates who perform any services, e.g., land application, construction, management, purchasing, etc., related to Prairie State Gilts, Ltd. and describe each party's relationship (if any) to Professional Swine Management, LLC?

**Facility Information**

27. Identify all facilities owned, operated, or affiliated with Prairie State Gilts, Ltd. (as defined in the Definitions Section above). Provide the following information for each facility in electronically editable, tabular format (e.g., Excel spreadsheet):

    a. Facility name(s);

    b. Facility address;

    c. Facility address identified on a map;

    d. Facility owners and operators;

    e. Person(s) responsible for managing the facility records;

    f. Address of record storage location;

    g. Facility latitude and longitude (at entrance if possible);

    h. Type of animal(s) confined at the facility;

    i. Number and type of animal confinement structures *(i.e.,* number of barns, houses, pens, feedlots, etc.) at the facility;

    j. Number and type of manure containment structures at the facility, and indicate the storage capacity for each containment structure;

    k. The total number of animals the facility was designed to confine;

    l. The total number of animals the facility is permitted to confine (if applicable);

    m. The total number of animals actually confined at the facility;

    n. Whether the facility possesses a federal or state-issued National Pollutant Discharge Elimination System (NPDES) permit, and if so, the permit number and permit holder; and

    o. Whether the facility land applies manure and/or process wastewater on fields owned, rented or leased by the facility or the President or members of the LLC (as defined in the Definitions section).

28. Provide copies of all federal and/or state issued NPDES permits for the facilities identified in paragraph 27. This includes permit applications and/or notices of seeking permit coverage if the facility is not currently permitted, and any attachments/enclosures related or required by such permits and /or applications and/or notices of intent seeking permit coverage. For each

facility that does not possess a federal or state-issued NPDES permit or has not sought NPDES permit coverage, explain why that facility does not possess an NPDES permit or has not sought permit coverage.

29. For each facility identified in paragraphs 27 provide a copy of the facility's nutrient management plan. This includes comprehensive nutrient management plans, manure management plans, etc., and land application records which document all applications of manure, process wastewater, synthetic fertilizer, biosolids, and/or any soil amendment(s); conditioner(s).

30. For each land application area identified in paragraph 27 that applies manure, litter, and/or process wastewater, provide the following information in an electronically editable, tabular format (e.g. Excel spreadsheet):

    a. The location of the area;

    b. The location of the area on a map;

    c. The size of the area;

    d. Expected and actual crop yields;

    e. The dates and times manure, litter, and/or process wastewater was applied;

    f. An estimate of the amount of precipitation 24 hours prior to, and for 24 hours after, each application;

    g. Soil water conditions at the time of each land application (e.g., dry saturated, flooded, frozen, snow-covered);

    h. Test methods used to sample and analyze manure, litter, process wastewater, and soil;

    i. Results of the soil and manure tests;

    j. The amount of manure, litter, or process wastewater applied in either gallons, net tons, or dry tons per acre;

    k. Total nitrogen and phosphorus to be applied, including sources other than manure, litter, or process wastewater. Include documentation of calculations used to determine amount to be applied;

    l. Total amount of nitrogen and phosphorus actually applied, including documentation of calculations used to determine the total amount applied;

    m. The method used to apply the manure, litter or process wastewater (e.g., surface, surface with incorporation, injection); and

n. Explanation of the basis for determining application rates for manure, litter, and process wastewater.

31. Have any of the facilities identified in paragraph 27 ever transferred the manure and/or process wastewater to another AFO, farm, or third party? If so, provide the following information for each such transfer:

    a. Identify the facility that generated and transferred the manure and/or process wastewater;

    b. Recipient's identity and location where the manure and/or process wastewater was transferred (i.e., recipient's name, farm/facility name, and farm/facility address etc.);

    c. Type of facility that received manure and/or process wastewater (e.g., AFO (specify with or without crop fields), crop farm, or other facility);

    d. Date of transfer;

    e. Amount of manure and/or process wastewater transferred;

    f. Identify the person/entity who/that transferred the manure and/or process wastewater; and

    g. Copies of agreements with AFOs, farms, or third-party entities responsible for transferring, receiving and/or applying manure and/or process wastewater.

Provide your response to paragraph 31 in electronically editable, tabular format (e.g., Excel Spreadsheet). If you do not possess documentation of such transfers and cannot provide the requested information, provide a narrative response that identifies: all facilities identified in paragraph 27 that have transferred manure and/or process wastewater; the recipients of the transferred manure and/or process wastewater; and, the person/entity who/that transferred the manure and/or process wastewater.

32. Provide copies of all documents regarding compliance with federal, state, and/or local environmental laws and regulations for each facility identified in paragraph 27. Such documents should include, but not be limited to, copies of: all inspection and/or site visit reports; and, records concerning discharges of manure or process wastewater to surface waters, and provide all records concerning events in which manure process wastewater was land applied in a manner inconsistent with the applicable nutrient management plan.

33. For each facility identified in paragraph 27, identify all facility tile drains, swales, ditches, outfalls, or similar conveyances on facility diagram or map (e.g., satellite image of the facility or U.S. Geological Survey topographic map). Identify all surface waters which are present on and/or abut the facility.

34. Provide copies of any policies, procedures, etc., for monitoring facility process wastewater and storm water runoff at the facilities identified in paragraph 27, including copies of all documents and records of process wastewater and stormwater runoff monitoring and inspection activities that support your response.

35. For all land not owned by Prairie State Gilt, Ltd. that is used or may be used by the facilities identified in paragraph 27 to land apply manure and process wastewater, provide written certification from all land owners to confirm that the land is available for Prairie State Gilts, Ltds.' use or future use.

36. Provide records documenting the current design of any wastewater storage structures for the facilities identified in paragraph 27, including volume for solids accumulation, design treatment volume, total design volume, and approximate number of days of storage capacity.

37. For the facilities identified in paragraph 27, provide documentation on existing runoff control systems, feed storage areas, and plans for future construction.

38. Provide a list of all custom applicators used for land application of manure and process wastewater for the facilities identified in paragraph 27.

39. For all facilities identified in paragraph 27, provide the methods and records of land application equipment.

40. For all facilities identified in paragraph 27, provide maps of the land application areas and any setback and surface drainage locations.

41. For all facilities identified in paragraph 27, provide identification of land application areas for winter (frozen or snow covered ground) land application.

## V. SUBMISSION OF INFORMATION

42. You must submit a response to this information request within 30 days of receipt of this information request to Cheryl Burdett at the following location:

    U.S. Environmental Protection Agency
    Attention: Cheryl Burdett
    Water Enforcement and Compliance Assurance Branch
    Water Division, WC-15J
    77 West Jackson Boulevard
    Chicago, Illinois 60604-3590
    Burdett.cheryl@epa.gov

43. You must submit all requested information under an authorized signature with the following certification:

I certify under penalty of law that this document and all attachments were prepared under my direction on 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. If you find any time after submitting information to EPA that any portion is false or incorrect, you must notify EPA immediately. Knowing submittal of false information to EPA in response to the Information Request may subject you to criminal prosecution under Section 309(c) of the CWA, 33 U.S.C. § 1319(c), and 18 U.S.C. §§ 1001 and 1341.

44. EPA may use the information submitted in response to this Information Request in an administrative, civil, or criminal action.

45. There can be significant civil or criminal penalties for failing to adequately respond to requests for information issued under the Section 308(a) of the CWA, 33 U.S.C. § 1318 (a).

46. You must provide the information requested even though you may contend that it includes confidential information. You may assert a business confidentiality claim covering any portion of the information requested in this Information Request as provided in 40 C.F.R § 2.203(b). Effluent data (as defined in 40 C.F.R. § 2.302 (A)(2)) and information in an NPDES permit application are not entitled to confidential treatment. 40 C.F.R. § 122.7.

    To assert a confidentiality claim, you must submit the requested information and indicate that you are asserting a claim of confidentiality. You must mark any document over which you assert a claim of confidentiality by attaching a cover sheet stamped or typed with a legend indicating your intent to claim confidentiality. The stamped or typed legend, or other suitable form of notice, should employ language such as "confidential" or "business confidential," and indicate a date, if any, when the information should no longer be treated as confidential. EPA will only disclose the information covered by such a claim to the extent permitted and by means of the procedures set forth in Section 308(b) of the CWA, 33 U.S.C. § 1318(b), and 40 C.F.R. Part 2. You must clearly identify allegedly confidential portions of otherwise non-confidential documents.

    Please submit your response to this information request so that all non-confidential information, including any redacted versions of documents, is in one package and all materials for which you desire confidential treatment are in another package. EPA will construe the failure to furnish a confidentiality claim with your response as a waiver of that claim, and the information may be made available to the public without further notice to you. All confidentiality claims are subject to EPA verification. It is important that you satisfactorily show that you have taken reasonable measures to protect the confidentiality of the information, that you intend to continue to do so, and that the information is not and has not been obtainable by legitimate means without your consent.

If you assert a confidentiality claim for any information you submit to EPA, you bear the burden of substantiating that claim. EPA will give conclusory allegations little or no weight in its determination. For each document or response that you claim as confidential, you must separately address the following points:

a. The portion of the information alleged to be entitled to confidential treatment;

b. The period of time for which confidential treatment is desired (e.g., until a certain date, until the occurrence of a specific event, or permanently);

c. Measures taken by you to guard against undesired disclosure of the information to others;

d. The extent to which the information has been disclosed to others, and the precautions taken in connection therewith;

e. Pertinent confidentiality determinations or reference to them, if available; and

f. Whether you assert that disclosure of the information would likely result in substantial harmful effects on your business competitive position, and if so, what those harmful effects would be, why they should be viewed as substantial, and an explanation of the casual relationship between disclosure and such harmful effects.

Finally, EPA may disclose information which you submit in response to this information request to authorized representatives of the United States pursuant to 40 C. F.R. 2.302(h) even if you assert that all or part of the information is confidential business information. Please be advised that EPA may disclose all responses to this information request to one or more private contractors for the purpose of organizing and/or analyzing the information contained in the responses to this information request. If you are submitting information which you assert is entitled to confidential treatment, you may comment on this potential disclosure to authorized representatives when you submit your response to this information request.

47. This Information Request is not subject to the Paperwork Reduction Act, 44 U.S.C § 3501 *et seq.*, because it seeks collection of information from individuals or entities as part of an administrative action or investigation.

48. Please contact Cheryl Burdett, of my staff, by telephone at (312) 886-1463, or via e-mail at Burdett.cheryl@epa.gov, if you have any questions about this information Request.

March 31, 2014
Date

Tinka G. Hyde
Director, Water Division