

BEFORE THE DEPARTMENT OF WATER, ENERGY, AND ENVIRONMENT

IN THE MATTER OF)	Case No. 3643
)	
DARNALL RANCH, INC.)	COMPLAINT, COMPLIANCE ORDER,
FID: 1371)	AND NOTICE OF OPPORTUNITY FOR
)	HEARING
Respondent.)	

I. INTRODUCTION

1. This Complaint, Compliance Order, and Notice of Opportunity for Hearing (“Order”) is issued pursuant to Neb. Rev. Stat. § 81-1507.

2. The Complainant is the Director of the Nebraska Department of Water, Energy, and Environment (“Department”).

3. The Respondent is Darnall Ranch, Inc., a domestic corporation with its principal office located at 6375 Highway 88 East, Harrisburg, NE 69345.

4. Complainant has determined the Respondent is in violation of the Nebraska Environmental Protection Act (“NEPA”), Neb. Rev. Stat. §§ 81-1501 to 81-1532, the Livestock Waste Management Act (“LWMA”), Neb. Rev. Stat. §§ 54-2416 to 54-2438, and Title 130 of the Nebraska Administrative Code (“NAC”) – *Livestock Waste Control Regulations*.

II. JURISDICTION

5. The Department is the agency of the State of Nebraska charged with the duty, pursuant to Neb. Rev. Stat. §§ 81-1504(1), of exercising exclusive general supervision, administration, and enforcement of the NEPA, the LWMA, and Title 130.

III. COMPLAINT

6. Respondent is engaged in the livestock business and owns and operates an animal feeding operation (“AFO”) in Banner County.

7. Respondent is a person,” as defined in Neb. Rev. Stat. § 81-1502(10). *See also* Neb. Rev. Stat. § 54-2417(16); 130 NAC 1-040.

8. Respondent’s AFO is located along Pumpkin Creek, a “water of the state,” as defined in Neb. Rev. Stat. 81-1502(21).

9. Respondent’s AFO houses approximately 32,500 head of cattle in pens that are substantially exposed to the outside environment. *See* Title 130, Form B, Permit Application at B-1 (Aug. 2, 2024), *in* 2025 NPDES Permit Renewal (rec’d Aug. 15, 2024) [DEQ Doc. 20240180885]; Feedlot Site Overview, *in* 2025 NPDES Permit Renewal (rec’d Aug. 15, 2024) [DEQ Doc. 20240180885].

10. Respondent’s AFO is a “large concentrated animal feeding operation,” as defined in 130 NAC 1-024.03.

11. Respondent’s AFO is also an “open lot animal feeding operation,” as defined in 130 NAC 1-036.

12. Respondent’s AFO includes at least one livestock waste control facility (“LWCF”), as defined in Neb. Rev. Stat. § 54-2417 and 130 NAC 1-026, located within Section 22, Township 19 North, Range 53 West, of the sixth principal meridian (“Section 22 LWCF”).

13. The Section 22 LWCF consists of one holding pond (“Holding Pond 1”), three unlined basins (“Basin 1A,” “Basin 1B,” and “Basin 1C”; collectively, “Basins”), and a series of pipes and lifting stations that directly or indirectly connect Holding Pond 1 to the Basins.

14. LWCFs are generally required to maintain certain minimum storage period capacities. *See* 130 NAC 8-002.

15. For open lot AFOs, “the minimum storage period capacity shall be no less than the calculated average runoff for the month of June, runoff from a 25-year, 24-hour rainfall event, and any manure, litter, and process wastewater produced for the month of June.” 130 NAC 8-002.01.

16. On or about September 10, 2019, the Department received from Respondent an application to renew Respondent’s National Pollutant Discharge Elimination System (“NPDES”) Permit. Title 130 Form B (Sept. 9, 2019) (rec’d Sept. 10, 2019) [DEQ Doc. 20190062393].

17. On or about September 27, 2019, the Department received from Respondent a Nutrient Management Plan dated September 20, 2019 (“2019 NMP”) as part of the NPDES Permit renewal application materials. Nutrient Management Plan (Sept. 20, 2019) (rec’d Sept. 27, 2019) [DEQ Doc. 20190063894].

18. As relevant here, the 2019 NMP stated that “[a]ll basins without a liner must be maintained to completely empty into the lift station and/or holding pond within 84 hours.” 2019 NMP at 13.

19. On or about October 4, 2019, the Department issued to Respondent an NPDES General Permit (“2019 NPDES Permit”). NPDES General Permit NEG020000 (eff. Apr. 1, 2015) [DEQ Doc. 20140068333].

20. The 2019 NPDES Permit incorporated the 2019 NMP into the 2019 NPDES Permit. 2019 NPDES Permit at 1.

21. Also on October 4, 2019, the Department issued to Respondent a Construction and Operating Permit (“C&O Permit”) [DEQ Doc. 20190060237].

22. The C&O Permit indicates that Respondent operates three unlined debris basins. C&O Permit at 1.

23. On or about April 27, 2020, the Department issued to Respondent a renewed NPDES General Permit (“2020 NPDES Permit”). NPDES General Permit NEG02000 (eff. Apr. 1, 2020) [DEQ Doc. 20190041125].

24. The 2020 NPDES Permit incorporated the 2019 NMP into the 2020 NPDES Permit. 2020 NPDES Permit at 1.

25. On or about November 16, 2023, the Department conducted an inspection of Respondent’s facility, during which the Department inspector noted that Basin 2A was not in proper working condition and that there were some debris basins in the Section 22 LWCF that were not identified in the 2019 NMP. Inspection Report at 3, 7–10 (Nov. 17, 2023) [DEQ Doc. 20230939248].

26. On or about November 27, 2023, the Department sent to Respondent a corrective action letter directing Respondent to, among other things (a) remove the solids from Basin 2A to allow

for dewatering within 84 hours; (b) submit to the Department an updated site map for the unidentified debris basins used in the Section 22 LWCF; and (c) submit to the Department an engineering evaluation for the unidentified debris basins used in the Section 22 LWCF. Letter from Brad Edeal to Lane Darnall, *Re: Issued Inspection Results – Corrective Action Required* (Nov. 27, 2023) [DEQ Doc. 20230939245].

27. On or about February 21, 2024, the Department received from Respondent, through Respondent’s engineer, a letter containing an updated site map and engineering evaluation (“2024 Engineering Evaluation”). Letter from Chad Schechinger, Settje Agri-Services & Engineering, Inc., to Brad Edeal *Re: Request for Engineering Evaluation* (Feb. 21, 2024) [DEQ Doc. 20240014528].

28. In the 2024 Engineering Evaluation, Respondent’s engineer states that “many of the storm water conveyance, detention and retention structures are not sufficient to satisfy current [Department] requirements.” 2024 Engineering Evaluation at 1.

29. The site map in the 2024 Engineering Evaluation also identified three additional debris basins: Basin 1A, Basin 1B, and Basin 1C. 2024 Engineering Evaluation at 15.

30. The addition of these three debris basins constitutes a “major modification,” as defined in 130 NAC 1-028.

31. On or about May 15, 2024, the Department conducted another inspection of Respondent’s facility, during which the Department inspector observed that the solids had not been removed from Basin 2A. File Memorandum, *Re: Compliance Status Inspection – Darnall Ranch* (May 17, 2024) [DEQ Doc. 20240108830].

32. On or about May 17, 2024, the Department sent to Respondent via certified mail a Letter of Noncompliance directing Respondent to remove the solids from Basin 2A by July 15, 2024. Letter from Brad Edeal to Lane Darnall, *Re: Darnall Ranch Inc. Concentrated Animal Feeding Operation* (May 17, 2024) [DEQ Doc. 20240108827].

33. The May 17, 2024, Letter of Noncompliance was delivered to Respondent on May 31, 2024. Certified Mail Return Receipt (Jun. 1, 2024) [DEQ Doc. 20240104732].

34. On or about August 15, 2024, the Department received from Respondent an application to renew Respondent's NPDES General Permit, including an updated Nutrient Management Plan ("2024 NMP"). *See* 2025 NPDES Permit Renewal (rec'd Aug. 15, 2024) [DEQ Doc. 20240180885].

35. As relevant here, the 2024 NMP stated that "[a]ll basins without a liner must be maintained to completely empty into the lift station and/or holding pond within 84 hours." 2025 NPDES Permit Renewal at 29.

36. On or about September 25, 2024, the Department conducted an inspection of Respondent's facility, during which the Department inspector observed solids in Basin 2A. File Memorandum, *Re: Compliance Status Inspection – Darnall Ranch Inc.* (Sept. 26, 2024) [DEQ Doc. 20240187071].

37. On or about April 30, 2025, the Department issued to Respondent a renewed NPDES General Permit ("2025 NPDES Permit"). NPDES Permit NEG020000 (Apr. 30, 2025) (eff. Apr. 1, 2025) [DEQ Doc. 20240166454].

38. The 2025 NPDES Permit incorporated the 2024 NMP into the 2025 NDES Permit. *See* 2025 NPDES Permit at 1.

39. Neb. Rev. Stat. § 81-1506(5)(c) makes it unlawful to violate any term or condition of an animal feeding operation permit.

40. Neb. Rev. Stat. § 81-1506(5)(d) makes it unlawful to violate any rule or regulation adopted and promulgated by the Environmental Quality Council pursuant to the NEPA or the LWMA.

41. Furthermore, 130 NAC 11-001 requires animal feeding operations and livestock waste control facilities to be “operated and maintained to prevent water pollution and to protect the environment of the State.”

42. Finally, 130 NAC 8-002.01 provides “[f]or open lot animal feeding operations, the minimum storage period capacity [of an LWCF] shall be no less than the calculated average runoff for the month of June, runoff from a 25-year, 24-hour rainfall event, and any manure, litter, and process wastewater produced for the month of June.”

FIRST CAUSE OF ACTION

43. On or about November 16, 2023, May 15, 2024, and September 26, 2024, Respondent violated 130 NAC 11-001 by failing to maintain Debris Basin 2A to allow for complete dewatering within 72 to 84 hours following a runoff event.

44. This constitutes a violation of Neb. Rev. Stat. § 81-1506(5)(d).

SECOND CAUSE OF ACTION

45. On or about November 16, 2023, May 15, 2024, and September 26, 2024, Respondent violated a term of an animal feeding operation permit by failing to remove solids from Debris Basin 2A pursuant to the Nutrient Management Plans of 2019 and 2024 incorporated into the NPDES Permits of 2019, 2024, and 2025.

46. This constitutes a violation of Neb. Rev. Stat. § 81-1506(5)(c).

THIRD CAUSE OF ACTION

47. From February 21, 2024, to the date of this order, Respondent violated 130 8-002.01 by failing to meet the minimum storage capacity requirements.

48. This constitutes a violation of Neb. Rev. Stat. § 81-1506(5)(d).

IV. COMPLIANCE ORDER

49. IT IS HEREBY ORDERED that Respondent shall:

- a. By February 1, 2026:
 - i. Submit to the Department a complete application for a major modification to Respondent's C&O Permit;
 - ii. In such complete application for major modification:
 - A. Identify any and all other debris basins that exist on Respondent's property and which are not currently identified in Respondent's C&O Permit; and
 - B. Include appropriate construction details for how Respondent will ensure the minimum storage capacity requirements will be met; and

- iii.** The submission of the application shall comply with Title 130, Livestock Waste Control Regulations.
 - b.** By May 1, 2026:
 - i.** Remove the solids and sediment from Debris Basin 2A to allow for the designed function of being able to be dewatered within 84 hours following a runoff event; and
 - ii.** Submit to the Department a written notification that the work described in ¶ 49(b)(i) is completed.

V. NOTICE OF OPPORTUNITY TO REQUEST A HEARING

50. This Order shall become final, pursuant to Neb. Rev. Stat. § 81-1507(1), unless Respondent files an answer and requests, in writing, a hearing no later than 30 days after receipt of this Order. Failure to answer within 30 days shall be deemed an admission of the allegations made herein.

51. Any written answer to this Order must conform to the requirements of Title 115 of the Nebraska Administrative Code.

52. The answer and hearing request may be filed via either postal mail or hand delivery to: Jesse Bradley, Director, Nebraska Department of Water, Energy, and Environment, 245 Fallbrook Blvd., Suite 100, Lincoln, NE 68521.

VI. INJUNCTIVE RELIEF AND PENALTY PROVISIONS

53. The Department reserves the right to pursue or seek, and nothing in this Order precludes the Department from so pursuing or so seeking, additional administrative or judicial enforcement for the violations alleged herein.

Dated this 25 day of November, 2025.

BY THE DIRECTOR



Jesse Bradley, Director
Nebraska Department of Water,
Energy, and Environment.