

STATE OF NEVADA

Department of Conservation & Natural Resources

DIVISION OF ENVIRONMENTAL PROTECTION

Brian Sandaval, Governor

Leo M. Drozdoff, P.E., Director

Colleen Cripps, Ph.D., Administrator

February 18, 2015

Certified Mail # 9171 9690 0935 0012 2550 82

Return Receipt Requested

Mr. Dirk Vlot, Owner
Smith Valley Dairy
P.O. Box 497
Wellington, Nevada 89444

Re: Formal Enforcement #NOV021815W1 – Smith Valley Dairy

Dear Mr. Vlot:

The enclosed Finding of Alleged Violation and Order issued by the Administrator of the Nevada Division of Environmental Protection (NDEP), pursuant to Nevada Revised Statutes (NRS) 445A.675 and 445A.690, requires compliance with the terms and conditions of the Order. Any violation of the enclosed Order could subject Smith Valley Dairy to an action for relief pursuant to NRS 445A.695, NRS 445A.700 and NRS 445A.705.

The Finding of Alleged Violation and Order were developed as a result of an unauthorized construction of wastewater ponds and associated appurtenance.

Pursuant to NRS 445A.690, the enclosed Finding of Alleged Violation and Order is final and not subject to review unless, within thirty (30) days after the date the Order is served, a request by written petition for a hearing (Form #3, attached) is received by the State Environmental Commission. Send required documents to: Mrs. Val King, 901 S. Stewart St., Suite 4001, Carson City, NV 89701, or by telefax at (775) 687-5856. Please provide us with a copy of any correspondence which you have with the State Environmental Commission concerning this matter.

Finally, if you have any questions on this matter, please contact me at (775) 687-9435.

Sincerely,

Joseph Maez, P.E., Supervisor
Compliance Branch
Bureau of Water Pollution Control



Mr. Dirk Vlot, Owner
Smith Valley Dairy

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Enclosures: Finding of Alleged Violation
Order
SEC Form # 3

Electronic cc: Colleen Cripps, Ph.D., Administrator, NDEP
Dave Gaskin, P.E., Deputy Administrator NDEP Administrator
Alan Tinney, P.E., Bureau Chief, BWPC
Katrina Pascual, E.I., NDEP
Mickie Reid, NDEP

Cc: Tom Haren, CEO, AGPROfessionals, 3050 67th Avenue,
Greeley, CO 80634

FINDING OF ALLEGED VIOLATION

- I. This Finding is made on the basis of the following facts:
- A. Relevant Statutory & Regulatory Authority
1. The State of Nevada Department of Conservation and Natural Resources, Division of Environmental Protection (NDEP), under the authority of Nevada Revised Statutes (NRS) 445A.445 subsection 1, has the power and duty to administer and enforce the provisions of NRS 445A.300 to 445A.730, inclusive, and all rules, regulations and standards promulgated by the Commission and all Orders and permits promulgated by the Department.
 2. NRS 445A.585 - Permit required for construction of treatment works. A person shall not begin the construction of any treatment works without a permit issued by the Department.
 3. NRS 445A.410 "Treatment works" defined. "Treatment works" means:
 - i. Any devices and systems used in the storage, treatment, recycling and reclamation of municipal sewage or industrial wastes of a liquid nature, including intercepting sewers, outfall sewers, sewage collection systems, pumping, power and other equipment, and their appurtenances;
 - ii. Extensions, improvements, remodeling, additions, and alterations of any device or system mentioned in subsection 1;
 - iii. Units essential to provide a reliable recycled supply such as stand-by treatment units and clear well facilities;
 - iv. Any works, including site acquisition of the land that will be an integral part of the treatment process or is used for ultimate disposal of residues resulting from such treatment; and
 - v. Any other method or system for preventing, abating, reducing, storing, treating, separating or disposing of municipal waste, including storm water runoff, industrial waste or waste in combined storm water and sanitary sewer systems.
 4. NAC445A.283 Permit required to construct, install, expand or modify treatment works. (NRS 445A.425, 445A.585) No person without first obtaining a permit from the Department may:

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SMITH VALLEY DAIRY)

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- i. Construct, install, expand or significantly modify any factory, mill, plant or other industrial or commercial facility which will result in a discharge not authorized by an existing permit to waters of the State.
- ii. Add extensions to existing municipal or privately owned sewer systems or provide new sewer service to existing or newly constructed buildings which could cause the raw sewage influent to the treatment plant to exceed the limits prescribed by the permit issued in accordance with NAC 445A.228 to 445A.263, inclusive.
- iii. Construct, install or significantly modify any facilities designed or used for treatment or discharge of pollutants.

B. Injunctive Relief and Penalties

1. Pursuant to NRS 445A.695, the NDEP may apply to the district court to enjoin the continuance or occurrence of any act or practice which violates the provisions of NRS 445A.300 to 445A.730, inclusive, or of any regulation adopted or order issued pursuant thereto.
2. Pursuant to NRS 445A.700, a person who violates any provision of NRS 445A.300 to 445A.730 inclusive, shall pay a civil penalty of not more than \$25,000 for each day of the violation.

C. Factual Allegations:

The Smith Valley Dairy will hereby be referred to as "The Responsible Party."

1. On March 18, 2014, NDEP received a question via email from AGPROfessionals regarding construction start-up on the Smith Valley Dairy ponds. In this email question, NDEP was asked "Do we need to wait for it (the permit) to be publically noticed as well prior to initiating construction?" In response to the question , NDEP informed the Responsible Party via email dated March 19, 2014 that "construction may not be initiated until there is a permit in place."
2. On December 29, 2014, NDEP conducted an inspection at the site and noted that two lined ponds had been constructed for this facility. These ponds matched final design plans that were submitted to NDEP as a part of the Discharge Permit application.

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SMITH VALLEY DAIRY)

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3. On December 31, 2014, the Responsible Party was issued a Cease and Desist Action by NDEP to stop any and all construction on the dairy wastewater ponds and associated discharge structures at this location.
4. On January 16, 2015, a meeting was held at NDEP with the Responsible Party to discuss the Cease and Desist Action and to verify the details on the unauthorized construction of the ponds and the associated discharge structures.
5. On January 30, 2015, the Responsible Party issued a letter in response to the Cease and Desist Action. In this letter, they stated that the ponds and related structures were constructed in general accordance with the plans and specifications submitted to NDEP. Additionally, the Responsible Party stated they would cease construction of the ponds and the associated discharge structures.

II. Finding of Alleged Violations: Pursuant to NRS 445A.700 and Sections II.A of this FOAV, the Responsible Party is subject to a penalty of not more than \$25,000 per violation.

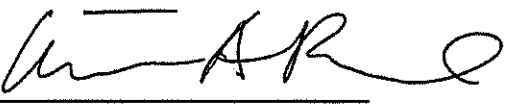
Based upon the foregoing statutory and regulatory authority and the factual allegations set forth herein, the NDEP finds and alleges as follows:

- A. The Responsible Party failed to obtain a permit prior to the construction of two lined ponds and associated appurtenances in violation of NRS 445A.585 and NAC 445A.283

III. Conclusion

On the basis of the facts listed above and the alleged violations, the Administrator of the Division of Environmental Protection finds Smith Valley Dairy in alleged violation of NRS 445A.585 and NAC445A.283.

02/18/15
Date



Katrina A. Pascual, E.I.
Technical, Compliance and Enforcement Branch
Bureau of Water Pollution Control

ORDER

This Order is issued under the authority vested in the Director of the Department of Conservation and Natural Resources by Nevada Revised Statutes (NRS) 445A.445 and 445A.450, which has been delegated to the Division of Environmental Protection (NDEP), and is issued in accordance with the provisions of NRS 445A.660, 445A.675 and 445A.690.

On the basis of the Finding of Alleged Violation attached hereto and made a part of this Order, the Administrator of NDEP, pursuant to authority delegated to her by the Director, Department of Conservation and Natural Resources, has determined that Smith Valley Dairy is in alleged violation of NRS 445A.585 and NAC 445A.283.


IT IS HEREBY ORDERED:

That Smith Valley Dairy (SVD) completes the following acts by the date specified below:

1. By no later than March 10, 2015, please provide the economic benefit realized, if any, by commencing construction before having the appropriate permit in place to begin construction.
2. By no later than March 10, 2015, coordinate a meeting at the Division of Environmental Protection's Carson City office to show cause why NDEP should not seek civil penalties for the violations cited. Please contact Katrina Pascual at (775) 687-9431 to arrange this meeting.

This Order serves to replace the Cease and Desist Letter issued on December 31, 2014. Closure of that matter will be addressed via closure of this Order.

2/19/15
Date


Joseph L. Maez, II, P.E., Supervisor
Bureau of Water Pollution Control