IOWA DEPARTMENT OF NATURAL RESOURCES
ADMINISTRATIVE CONSENT ORDER

IN THE MATTER OF: **Center Fresh Egg Farm L.L.P.** Sioux County, Iowa NPDES Permit #8400124	**ADMINISTRATIVE CONSENT ORDER NO. 2024-WW-19**

TO: Jim Dean, President and CEO
241 St. Andrews Way
Sioux Center, IA 51250

William Sidney Smith, RA
801 Grand Ave STE 3700
Des Moines, IA 50309

I. SUMMARY

This administrative consent order (Order) is entered into between the Center Fresh Egg Farm L.L.P. (Center Fresh), and the Iowa Department of Natural Resources (Department) for the purpose of resolving Center Fresh's violations of its National Pollutant Discharge Elimination System (NPDES) permit. The Order requires the Center Fresh to comply a construction schedule to upgrade its Wastewater Treatment Facility and to pay an administrative penalty of $5,000.00. In the interest of avoiding litigation, the parties have agreed to the provisions below.

Any questions regarding this Order should be directed to:

Relating to technical requirements:
Tom Roos
Iowa Department of Natural Resources
1900 Grand Ave. Suite E17
Spencer, IA
51301
712-262-4177

Relating to legal requirements:
Carrie Schoenebaum
Iowa Department of Natural Resources
Legal Services Bureau
6200 Park Ave. Ste 200
Des Moines, IA 50321
515-444-8165

Payment of penalty to:
Director of the Iowa DNR
6200 Park Ave. Ste 200
Des Moines, IA 50321

II. JURISDICTION

This Order is issued pursuant to Iowa Code section 455B.175(1), which authorizes the Director of the Department to issue any order necessary to secure compliance with or prevent a violation of Iowa Code chapter 455B, Division III, Part 1 and the rules adopted or permits issued pursuant thereto, and Iowa Code section 455B.109 and 567 Iowa Administrative Code (IAC) chapter 10, which authorize the Director to assess administrative penalties.

III. STATEMENT OF FACTS

1. Center Fresh owns and operates a wastewater treatment facility (WWTF) at the location of Section 14 Township 95N Range 46 West, which is locally known as 2791 410th St Sioux Center, Iowa. On April 2, 2021, Center Fresh was issued NPDES permit No. 8400124. Pursuant to this permit Center Fresh discharges wastewater to an unnamed creek which ultimately discharges to Six Mile Creek. This NPDES permit includes effluent limits for the following pollutants: ammonia-nitrogen (NH3-N), *E. coli,* dissolved oxygen (DO), five-day carbonaceous biochemical oxygen (CBOD5), potential hydrogen (PH) and Total Suspended Solids (TSS).

2. Between May 2021 and July 2024, the Center Fresh violated 177 effluent limits contained in its NPDES permit. All of these effluent limit violations are in the below table:

IOWA DEPARTMENT OF NATURAL RESOURCES
ADMINISTRATIVE CONSENT ORDER
Center Fresh Egg Farm L.L.P.

Effluent Limit Violations 5/1/2021 - 7/30/2024

CENTER FRESH EGG FARM - DOMESTIC WASTEWATER -
Sioux Center
EPA #:IA0053315

		AVERAGE - #/100 ML		7DAY - LBS/DAY		AVERAGE - LBS/DAY		DAILY MAXIMUM - LBS/DAY		7DAY - MG/L		AVERAGE - MG/L		DAILY MAXIMUM - MG/L		DAILY MINIMUM - MG/L		Parameter Monthly Total
		Limit	DMR	Limit	DMR	Limit	DMR	Limit	DMR	Limit	DMR	Limit	DMR	Limit	DMR	Limit	DMR	
Outfall: 001																		
5/2021	NH3-N					0.04	0.293735					1.7	15					2
6/2021	NH3-N					0.03	0.13355					1.3	9.4925	14.4	15			3
	E COLI	126	1127.07662															1
7/2021	NH3-N					0.03	0.031513					1	3.78					2
8/2021	NH3-N											1	1.103					1
9/2021	NH3-N					0.03	0.114331					1.1	16					2
	CBOD5											25	26.7					1
	DO															5	1.4	1
10/2021	NH3-N											1.6	4.27					1
	DO															5	4.7	1
11/2021	NH3-N											2.3	3.03					1
12/2021	NH3-N											2.5	10.29					1
1/2022	NH3-N					0.09	0.14939					3.4	17.5	15.2	17.5			3
2/2022	NH3-N					0.1	0.497862	0.36	0.7876922			4	21.65	14.2	28.9			4
	CBOD5			1	1.899728	0.6	0.908884			40	69.7	25	34.633333					4
	TSS			1.1	1.403623					45	51.5							2
3/2022	NH3-N					0.05	0.253276					2.1	12.38	14.7	17.6			3
4/2022	NH3-N					0.04	0.272585					1.5	18.766667	15.7	20.2			3
5/2022	NH3-N					0.04	1.162342	0.38	4.8396886			1.7	14.16	15.2	19.5			4
	CBOD5					0.6	1.684295											1
	E COLI	126	679.821461															1
	TSS					0.8	0.887147											1
6/2022	NH3-N					0.03	0.213139	0.36	0.4604626			1.3	9.3625					3
7/2022	NH3-N					0.03	0.067858					1	9.34					2
	DO															5	2.8	1
8/2022	NH3-N					0.02	0.05663					1	6.742					2
	DO															5	2.8	1
	E COLI	126	292.269088															1
9/2022	NH3-N					0.03	0.231929	0.41	0.4883583			1.1	18.04	16.5	41.6			4
	E COLI	126	1407.3796															1
	TSS									45	48							1
10/2022	NH3-N					0.04	0.07818					1.6	9.956					2
	DO															5	2.1	1
	E COLI	126	5872.32065															1
11/2022	NH3-N					0.06	0.310821	0.37	0.526006			2.3	13.125	14.7	14.8			4
	CBOD5					0.6	0.610673					25	26.25					2
	DO															5	4.1	1
12/2022	NH3-N					0.06	0.257649	0.4	0.4970251			2.5	16	16	18.5			4
	CBOD5											25	28.475					1
1/2023	NH3-N					0.09	0.365701	0.38	0.5159612			3.4	25.24	15.2	32.4			4
	CBOD5			1	1.046255	0.6	0.78946			40	65.7	25	53.18					4
	DO															5	0.8	1
	TSS									45	63	30	33.04					2
2/2023	NH3-N					0.1	0.251978					4	23.85	14.2	28			3
	CBOD5					0.6	0.717394			40	65.1	25	64.4					3
3/2023	NH3-N					0.05	0.369582	0.37	0.4861023			2.1	39.88	14.7	63			4
	CBOD5			1	1.172193	0.6	0.747766			40	87.35	25	77.08					4
	DO															5	1.2	1
	TSS									45	56	30	42.6					2
4/2023	NH3-N					0.04	0.578139	0.39	0.7325375			1.5	24.15	15.7	27.9			4
	CBOD5			1	1.089292	0.6	0.689342			40	41.2	25	28.7					4
	DO															5	2.5	1
	TSS									45	47.5							1
5/2023	NH3-N					0.04	0.345716	0.38	0.8472772			1.7	19.04	15.2	33.2			4
	CBOD5											25	26.746					1
	DO															5	0.4	1
	E COLI	126	3370.62266															1
	TSS									45	52							1
6/2023	NH3-N					0.03	0.195502					1.3	11.95	14.4	16.3			3
	DO															5	3.2	1
7/2023	NH3-N					0.03	0.174556					1	9.84					2
	DO															5	3.2	1
8/2023	NH3-N					0.02	0.114978					1	6.312					2
	DO															5	2.4	1
	E COLI	126	1552.13243															1
9/2023	NH3-N											1.1	2.8075					1
10/2023	NH3-N					0.04	0.058364					1.6	3.866					2
11/2023	NH3-N					0.06	0.209574	0.37	0.4877867			2.3	12.525	14.7	18.1			4
12/2023	NH3-N					0.06	0.231245					2.5	18.033333	16	19.4			3
	CBOD5									40	47.8	25	40.6					2
1/2024	NH3-N					0.09	0.332703	0.38	0.4648796			3.4	15.713333	15.2	26.2			4
	CBOD5			1	1.667503	0.6	1.100603			40	82.8	25	51.2					4
	DO															5	4.3	1
	TSS									45	55	30	33					2
2/2024	NH3-N					0.1	0.285285	0.36	0.704414			4	7.0033333					3
	CBOD5					0.6	0.631439											1
3/2024	NH3-N					0.05	0.094129					2.1	7.6866666					2
4/2024	NH3-N					0.04	0.218081					1.5	16.743333	15.7	27.9			3
	E COLI	126	315.526974															1
5/2024	NH3-N					0.04	0.393208	0.38	0.4928091			1.7	15.666667	15.2	17.9			4
6/2024	NH3-N					0.03	0.998444	0.36	1.5896861			1.3	44.85	14.4	53.4			4
	CBOD5			1	1.519617	0.6	1.014881			40	66.9	25	50.8					4

Total Violations: 177

3. On August 16, 2021; November 10, 2021; February 2, 2022; May 16, 202;, June 3, 2022; September 2, 2022; November 28, 2022; February 8, 2023; May 22, 2023; August 16, 2023; March 25, 2024; and April 8, 2024, the Department sent the Center Fresh a Notice of Violation (NOV) for the above discussed violations. Included with these NOVs was a summary of the relevant law, the violations, and recommended corrective actions

4. On February 15, 2023 Center Fresh's engineering firm submitted a Facility Plan to the Department for review. This Facility Plan was approved by the Department on February 24, 2023.

5. On January 3, 2024, Department staff met with Center Fresh's engineering firm to observe the WWTF and discuss plans to obtain compliance.

6. On April 9, 2024, Center Fresh's engineering firm has submitted additional information to the Department detailing future plans for the WWTF.

IV. CONCLUSIONS OF LAW

The following Conclusions of Law are applicable to this matter:

1. Iowa Code section 455B.173 provides that the Environmental Protection Commission (Commission) shall adopt rules related to water quality standards, pretreatment standards, and effluent standards. The Commission has adopted such rules at 567 IAC chapters 61 through 64.

2. Iowa Code section 455B.186 prohibits the discharge of pollutants into waters of the state, except for adequately treated pollutants discharged in accordance with rules adopted by the Commission. Additionally, 567 IAC 62.1(1) prohibits the discharge of wastewater into a navigable water unless authorized by an NPDES permit. The above stated facts show noncompliance with these provisions of law.

3. 567 IAC 64.3(1) prohibits the operation of any wastewater disposal system in violation of a permit issued to that system. The above stated facts show noncompliance with this provision.

V. ORDER

Therefore, the Department orders and the Center Fresh agrees to the following:

1. Center Fresh shall complete all WWTF upgrades no later than September 1, 2026;

2. Center Fresh shall submit progress reports to the Department detailing the steps it is taking to achieve compliance on the following dates:

a. March 1, 2025;
b. September 1, 2025; and
c. March 1, 2026.

3. Within 30 days of the date the Director signs this Order, Center Fresh shall pay an administrative penalty of $5,000.00

VI. PENALTY

1. Iowa Code section 455B.191 authorizes the assessment of civil penalties of up to $5,000 per day of violation for the violations involved in this matter. Iowa Code section 455B.109 authorizes the Commission to establish by rule a schedule of civil penalties up to $10,000.00 that may be assessed administratively. The Commission has adopted this schedule with procedures and criteria for assessment of penalties at 567 IAC chapter 10. The Department is assessing a penalty of $5,000.00 for the violations described above. The administrative penalty is determined as follows:

Economic Benefit – 567 IAC chapter 10 requires that the Department consider the costs saved or likely to be saved by noncompliance. 567 IAC 10.30(1) states that "where the violator received an economic benefit through the violation or by not taking timely compliance or corrective measures, the department shall take enforcement action which includes penalties which at least offset the economic benefit." 567 IAC 10.30(1) further states, "reasonable estimates of economic benefit should be made where clear data are not available." An economic benefit was obtained delaying necessary upgrades to the WWTF. Therefore, $1,000.00 is assessed for this factor.

Gravity – One of the factors to be considered in determining the gravity of a violation is the amount of penalty authorized by the Iowa Code for the type of violation. As indicated above, substantial civil penalties are authorized by statute. Failure to comply with an NPDES permit degrades water quality. Degradation of Iowa's waterways is a serious problem. Degraded water quality harms aquatic life, prevents the attainment of state water quality goals, and causes a decline in the quality of life generally. Further, noncompliance with an NPDES permit thwarts the integrity of the NPDES permit and water quality program. Therefore, the amount of $2,000.00 is assessed for this factor.

Culpability -Center Fresh operates a WWTF. This is a highly regulated activity and therefore it has an obligation to be aware of the applicable regulations and comply with those regulations. Center Fresh was issued an NPDES permit and on multiple occasions the Department communicated the need to comply with that permit. Nevertheless, the permit was not complied with and illegal discharges have occurred. Therefore, the amount of $2,000.00 is assessed for this factor.

VII. WAIVER OF APPEAL RIGHTS

This administrative consent order is entered into knowingly and with the consent of Center Fresh. For that reason, Center Fresh waives its right to appeal this Order or any part thereof.

VIII. NONCOMPLIANCE

Compliance with Section V of this Order constitutes full satisfaction of all requirements pertaining to the violations described in this Order, and constitutes a permanent remedy of the conditions which caused the violations. Failure to comply with this Order may result in the imposition of administrative penalties pursuant to an administrative order or referral to the Attorney General to obtain injunctive relief and civil penalties pursuant to Iowa Code section 455B.191.

Kayla Lyon

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Date: 2024.10.11 07:31:00 -05'00'

KAYLA LYON, DIRECTOR
IOWA DEPARTMENT OF NATURAL RESOURCES

James T. N

On behalf of Center Fresh Egg Farm L.L.P.

Dated this 9th day of October, 2024

Field Office #3; EPA; I.B.2.b.; I.C.1; Courtney Cswercko