ORIGINAL CONSENT DECREE FOR LODGING WITH THE CLERK'S OFFICE

DO NOT DESTROY

ORIGINAL CONSENT DECREE WILL BE RETURNED TO THE U.S. ATTORNEY'S OFFICE UPON THE FILING OF THE CONSENT DECREE BY THE U.S. DISTRICT COURT JUDGE

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

THE UNITED STATES OF AMERICA, and THE STATE OF NEBRASKA, Plaintiffs, v. M.G. WALDBAUM CO., Defendant.	)	Civil Action No. 8:07CV14

CONSENT DECREE

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WHEREAS, Plaintiff, the United States of America (United States), on behalf of the United States Environmental Protection Agency (EPA), and the State of Nebraska, have each filed a Complaint in this action concurrently with this Consent Decree alleging that Defendant, M.G. Waldbaum Co. (Waldbaum), has violated certain provisions of Sections 301, 307 and 402 of the Federal Water Pollution Control Act, commonly referred to as the Clean Water Act, 33 U.S.C. §§ 1311, 1317 and 1342, as well as Section 112(r) of the Clean Air Act, 42 U.S.C. § 7412(r).

WHEREAS, Defendant Waldbaum is a corporation organized and existing under the laws of the State of Nebraska. Waldbaum is engaged in egg production and processing with its principal place of business in Wakefield, Nebraska and main office located at 105 Main Street, Wakefield, Nebraska. Waldbaum owns and operates several large egg laying farms, pullet farms and egg processing facilities in or near the City of Wakefield, Nebraska.

WHEREAS, prior to April 1, 2006, Waldbaum discharged industrial wastewater to the City of Wakefield's publicly owned treatment works (POTW), under National Pollutant Discharge Elimination System (NPDES)/National Pretreatment Program Permit Number NE 0113735. Waldbaum was the sole industrial user, as defined by 40 C.F.R. § 403.3(j), of the City of Wakefield's nine industrial wastewater treatment lagoons. On or about April 1, 2006, the City of Wakefield transferred ownership of eight of its industrial wastewater lagoons to Waldbaum, at which time Waldbaum became the sole owner and operator of the eight industrial lagoons.

WHEREAS, the Complaints allege that at various times, Waldbaum caused the City of Wakefield to violate effluent limits and other conditions of the City's NPDES Permit Number NE 0049018 for its POTW, through pass through and/or interference at the POTW in violation of certain provisions of 33 U.S.C. §§ 1311, 1317, and 1342 and the Pretreatment Standards at 40 C.F.R. Part 403. The Complaints also allege that Waldbaum unlawfully discharged pollutants to waters of the United States from one of its egg laying farms (Husker Pride Farm), in violation of 33 U.S.C. § 1311(a); improperly land-applied clarifier rinsate in violation of its NPDES permit, under 33 U.S.C. § 1342; and violated the Clean Air Act, 42 U.S.C. § 7412(r), and its implementing regulations related to anhydrous ammonia in a process at one of its egg processing facilities.

WHEREAS, Waldbaum and the City of Wakefield entered into an agreement on September 30, 2005, providing for the financing, construction and operation of a new mechanical wastewater treatment facility that will be dedicated to the treatment of Waldbaum's industrial wastewater. Construction of the new mechanical wastewater treatment facility is underway, and the facility is expected to be operational in 2008.

WHEREAS, the Parties recognize, and the Court by entering this Consent Decree finds, that this Consent Decree has been negotiated by the Parties in good faith, will avoid litigation between the Parties, and is fair, reasonable, and in the public interest.

NOW, THEREFORE, with the consent of the Parties, and without any admission of fact, law, or legal liability, IT IS HEREBY ADJUDGED, ORDERED, AND DECREED as follows:

I. JURISDICTION AND VENUE

1. This Court has jurisdiction over the subject matter of this action, pursuant to 28 U.S.C. §§ 1331, 1345, and 1355, and Section 309(b) of the Clean Water Act, 33 U.S.C. §§ 1319(b) and Section 113(b) of the Clean Air Act, 42 U.S.C. § 7413(b), and over the Parties. Venue lies in the District of Nebraska pursuant to Section 309(b) of the Clean Water Act, 33 U.S.C. §§ 1319(b), and 28 U.S.C. §§ 1391(b) and 1395(a), because Defendant resides and is located in this judicial district and the violations alleged in the Complaints are alleged to have occurred in this judicial district. For purposes of this Consent Decree, or any action to enforce this Consent Decree, Defendant consents to the Court's jurisdiction over this Consent Decree or such action and over Defendant, and consents to venue in this judicial district.

2. For purposes of this Consent Decree, Defendant agrees that the Complaints state claims upon which relief may be granted pursuant to Sections 301, 307 and 402 of the Clean Water Act, 33 U.S.C. §§ 1311, 1317 and 1342, and Section 112(r) of the Clean Air Act, 42 U.S.C. § 7412(r).

3. Notice of the commencement of this action has been given to the State pursuant to Section 309(b) of the Clean Water Act, 33 U.S.C. § 1319(b).

II. APPLICABILITY

4. The obligations of this Consent Decree apply to and are binding upon the United States, the State, and upon Defendant and any successor or other entities or persons otherwise bound by law.

5. Any transfer of ownership or operation of Defendant's Facilities located in the State of Nebraska to any other person, prior to the Termination of this Consent Decree pursuant to Section XX, must be conditioned upon the transferee's agreement to undertake the obligations required by this Consent Decree, as provided in a written agreement between Defendant and the proposed transferee, enforceable by the United States and the State as third-party beneficiaries of such agreement. At least thirty (30) days prior to such transfer, Defendant shall provide a copy of this Consent Decree to the proposed transferee and shall simultaneously provide written notice of the prospective transfer, together with a copy of the written agreement, to EPA Region VII, the United States Department of Justice, and the State of Nebraska, in accordance with Section XVI of this Consent Decree (Notices). Any attempt to transfer ownership or operation of the above referenced Facilities without complying with this Paragraph constitutes a violation of this Consent Decree. No transfer of ownership or operation of the above referenced Facilities, whether in compliance with this Paragraph or otherwise, shall relieve Defendant of its obligation to ensure that the terms of this Consent Decree are implemented.

6. Defendant shall provide a copy of this Consent Decree to all officers, employees, and agents whose duties might reasonably include compliance with any provision of this Consent Decree, as well as to any contractor retained to perform work required under Paragraphs 13, 14, 18, 19, 20, 21-29 or 31 of this Consent Decree. Defendant shall condition any such contract upon performance of the work in conformity with the terms of this Consent Decree.

7. In any action to enforce this Consent Decree, Defendant shall not raise as a defense the failure by any of its officers, directors, employees, agents, successors, assigns, or by

any contractor retained to perform work required under the Paragraphs of this Consent Decree identified in Paragraph 6, to take any actions necessary to comply with the provisions of this Consent Decree.

III. DEFINITIONS

8. Terms used in this Consent Decree that are defined in the Clean Water Act or in the Clean Air Act, or in regulations promulgated thereunder, shall have the meanings assigned to them in the statutes or such regulations, unless otherwise provided in this Consent Decree. Whenever the terms set forth below are used in this Consent Decree, the following definitions shall apply:

a. "City" shall mean the City of Wakefield, Nebraska;

b. "Consent Decree" or "Decree" shall mean this Decree;

c. "Day" shall mean a calendar day unless expressly stated to be a business day. In computing any period of time under this Consent Decree, where the last day would fall on a Saturday, Sunday, or federal holiday, the period shall run until the close of business of the next business day;

d. "Defendant" or "Waldbaum" shall mean M.G. Waldbaum Co.;

e. "Egg Processing Facilities" shall mean the two egg processing plants owned by Waldbaum and located in the City of Wakefield, Nebraska;

f. "EPA" shall mean the United States Environmental Protection Agency and any successor departments or agencies of the United States;

g. "Facilities" shall mean Waldbaum's Egg Processing Facilities and Farm Facilities located in the State of Nebraska. A list of each Facility's address is included as Attachment A to this Consent Decree;

h. "Farm Facilities" shall mean the seven pullet farms and egg laying farms owned by Waldbaum, located in the State of Nebraska, and identified as Husker Pride Farm, Big Red Farm, Bloom "N" Egg Farm, Gardner Growers I, II, and III, and Plainview Pullets/Gardner Growers IV;

I. "Husker Pride Farm" shall mean the egg laying farm owned by Waldbaum, located at 58365 861 Road, Wakefield, Nebraska 68784.

j. "Industrial Wastewater Lagoon System" shall mean the eight industrial wastewater treatment lagoons owned and operated by Waldbaum in the City of Wakefield and lagoon I-7, owned by the City, that Waldbaum has the right to use pursuant to a contract with the City. The contract between Waldbaum and the City is included as Attachment B to this Consent Decree;

k. "NDEQ" shall mean the Nebraska Department of Environmental Quality, which is the agency authorized to administer the NPDES program in Nebraska under the provisions of Section 402(b) of the Clean Water Act, 33 U.S.C. § 1342(b);

l. "NPDES" shall mean the National Pollutant Discharge Elimination System authorized under Section 402 of the Clean Water Act, 33 U.S.C. § 1342;

m. "Paragraph" shall mean a portion of this Consent Decree identified by an Arabic numeral;

n. "Parties" shall mean the United States, the State of Nebraska, and Defendant;

o. "POTW" shall mean a publicly owned treatment works as defined at 40 C.F.R. § 403.3;

p. "Section" shall mean a portion of this Consent Decree identified by a Roman numeral;

q. "State" shall mean the State of Nebraska;

r. "United States" shall mean the United States of America, acting on behalf of EPA.

IV. CIVIL PENALTY

9. No later than twenty-eight (28) days after the Effective Date of this Consent Decree, Defendant shall pay the total sum of One Million Fifty Thousand Dollars ($1,050,000) as an aggregate civil penalty to the United States and the State of Nebraska.

a. Defendant shall pay Five Hundred Twenty Five Thousand Dollars ($525,000) as a civil penalty to the United States. Payment shall be made by FedWire Electronic Funds Transfer ("EFT") to the U.S. Department of Justice in accordance with instructions to be provided to Defendant by the Financial Litigation Unit of the U.S. Attorney's Office for the District of Nebraska following lodging of the Consent Decree. Any payment received by the United States after 4:00 p.m. Eastern Time shall be credited on the next business day. At the time of payment, Defendant shall simultaneously send written notice of payment and a copy of

any transmittal documentation, which should reference DOJ case number 90-5-1-1-08346, to the United States and EPA in accordance with Section XVI of this Consent Decree (Notices).

b. Defendant shall pay Five Hundred Twenty Five Thousand Dollars ($525,000) to the State of Nebraska. Payment of the civil penalty, made payable to "Dixon County, Nebraska," shall be delivered to:

Jodi Fenner
Assistant Attorney General
Chief, Agriculture, Environment, and
Natural Resources Division
2115 State Capitol Building
Lincoln, Nebraska 68509-8920

10. Defendant shall not deduct the civil penalties paid under this Section in calculating its federal income tax.

11. If Defendant fails to pay the civil penalties required to be paid under Section IV of this Consent Decree (Civil Penalty) when due, interest shall accrue on any amounts overdue to the United States under the terms of this Consent Decree at the rate established by the Secretary of the Treasury, pursuant to 28 U.S.C. § 1961. Interest shall accrue on any amounts overdue to the State under the terms of this Consent Decree pursuant to Nebraska Code § 45-103. Interest is to be paid from the date said payment is due until all amounts owed are paid. Late payment of the civil penalties including accrued interest shall be made in accordance with Section IV, Paragraph 9, above. Stipulated Penalties shall be paid in accordance with Section X, Paragraph 38, below. All transmittal correspondence shall state that any such payment is for late payment

of the civil penalties due under this Consent Decree, or for Stipulated Penalties for late payment, as applicable, and shall include the identifying information set forth in Paragraph 9 above.

V. COMPLIANCE REQUIREMENTS

12. Waldbaum shall comply with Sections 301(a) and 307(b) of the Clean Water Act, 33 U.S.C. §§ 1311(a) and 1317(b), and Section 112(r)(1) of the Clean Air Act and with regulations promulgated thereunder at 40 C.F.R. §§ 68.67(f), 68.69(c), 68.79, 68.87(b)(5), 68.87(c), 122.23 and 403.5, and with Sections 81-1506(1)(a) and 81-1506(2)(c) of the Nebraska Environmental Protection Act.

13. Waldbaum shall comply with the terms, conditions and requirements of NPDES Permit NE 0113735, and any amendments, or modifications to NPDES Permit NE 0113735.

14. Where any compliance obligation under this Section requires Waldbaum to obtain a federal, state, or local permit or approval, Waldbaum shall submit timely and complete applications and take all other actions necessary to obtain all such permits or approvals. Waldbaum may seek relief under the provisions of Section XI (Force Majeure) of this Consent Decree for any delay in the performance of any such obligation resulting from a failure to obtain, or a delay in obtaining, any permit or approval required to fulfill such obligation, if Waldbaum has submitted timely and complete applications and has taken all other actions necessary to obtain all such permits or approvals.

VI. PLAN FOR STORAGE AND TREATMENT OF PROCESS WASTEWATER

15. Commencing on the effective date of this Consent Decree, Waldbaum shall not store, treat or discharge any industrial wastewater at or from any wastewater treatment lagoon

owned by the City of Wakefield, with the exception of Waldbaum's use of City lagoon I-7, in accordance with its contractual agreement with the City included as Attachment B to this Consent Decree.

16. Commencing on the effective date of this Consent Decree, Waldbaum's discharge to the Industrial Wastewater Lagoon System shall not exceed an average of 420,000 gallons per day during the period December 1 though March 1.

17. Interim dates and milestones for the new mechanical wastewater treatment facility, set forth in NPDES Permit NE 0113735, shall be enforceable under this Consent Decree. NPDES Permit NE 0113735 is included as Attachment C to this Consent Decree.

18. Beginning thirty (30) days after the effective date of this Consent Decree and continuing until the new mechanical wastewater treatment facility is operating in compliance with NPDES Permit NE 0113735, Waldbaum shall submit quarterly progress reports to EPA, Region VII and the State that describe, in detail, the construction and related activities that occurred at the facility during the reporting period, construction and related activities anticipated during the upcoming reporting period, and a description of any problems encountered or anticipated and how and by when these problems were or will be addressed. Waldbaum shall submit the progress reports on a quarterly basis for the periods of January-March, April-June, July-September and October-December. Records must be submitted on or before the 10th day of the month following the end of the period (April 10, July 10, October 10, and January 10).

19. Beginning on the effective date of this Consent Decree until the new mechanical wastewater facility is fully operational, Waldbaum shall conduct the following monitoring of wastewater at the Industrial Wastewater Lagoon System:

a. Every day, Waldbaum shall measure daily influent wastewater flow to the Industrial Wastewater Lagoon System. Waldbaum shall maintain a separate log of the daily influent flow measurements.

b. At least once each week during which there is a discharge by Waldbaum to Logan Creek, Waldbaum shall sample the effluent wastewater, and analyze the sample for Biochemical Oxygen Demand (BOD), Total Suspended Solids (TSS), ammonia and dissolved oxygen in accordance with NPDES Permit NE 0113735. The sampling protocol and analysis shall be in accordance with NPDES Permit NE 0113735.

20. On a quarterly basis for the periods of January-March, April-June, July-September and October-December, Waldbaum shall provide the information described in the preceding Paragraph to the EPA, Region VII and the State contacts identified in Paragraph 78 of this Consent Decree, until such time as Waldbaum has a fully operational mechanical wastewater treatment facility. Records must be submitted on or before the 10th day of the month following the end of the period (April 10, July 10, October 10, and January 10).

VII. PLAN TO PREVENT DISCHARGE OF ANIMAL WASTE FROM FARM FACILITIES

21. Within thirty (30) days of the effective date of this Consent Decree, Waldbaum shall submit to the EPA, Region VII and NDEQ a report that describes, in detail, actions that Waldbaum has taken, will continue to take, and any action planned for the future, to prevent the

discharge of animal waste from Husker Pride Farm to waters of the United States. If the report describes future action, it shall include a schedule for implementation.

22. Within ninety (90) days of the effective date of this Consent Decree, Waldbaum shall initiate the application process with NDEQ for an NPDES Permit for Husker Pride Farm, pursuant to 40 C.F.R. § 122.23. If Waldbaum proposes to construct an animal waste control structure at Husker Pride Farm, it shall concurrently submit a complete application for a construction permit to NDEQ.

23. If Waldbaum proposes to construct an animal waste control structure at Husker Pride Farm, then beginning thirty (30) days after Waldbaum submits an application for a construction permit to NDEQ, Waldbaum shall submit written monthly progress reports to the EPA that describe, in detail, the construction and related activities at Husker Pride Farm that occurred during the reporting period, construction and related activities anticipated during the upcoming reporting period, and a description of any problems encountered or anticipated and how and by when these problems were/will be addressed. Waldbaum shall continue to submit the monthly progress reports until Waldbaum submits a Notice of Construction Completion to the EPA.

24. If Waldbaum proposes to construct an animal waste control structure at Husker Pride Farm, Waldbaum shall submit to the EPA a Notice of Construction Completion within thirty (30) days of when the construction of all animal waste control structures, authorized by the construction permit issued by NDEQ, is completed at Husker Pride Farm. This notification shall be in writing and shall include as-built drawings of the constructed improvements.

25. Commencing thirty (30) days from the effective date of this Consent Decree and until such time as Waldbaum is issued an NPDES Permit for Husker Pride Farm, as required by this Consent Decree, Waldbaum shall maintain the following operational records for Husker Pride Farm: 1) land application and/or give away records, and/or waste transfer documents including dates, locations where the waste was applied or the destination if waste is transferred to a third party, amounts applied or transferred, application rates, and name and address of recipients; 2) any manure testing results; and 3) precipitation records. Waldbaum shall submit copies of these records to the EPA, Region VII on a quarterly basis for the periods of January-March, April-June, July-September and October-December. Records must be submitted on or before the 10th day of the month following the end of the period (April 10, July 10, October 10, and January 10). Upon issuance of the NPDES Permit, Waldbaum shall maintain and submit records as required by the NPDES Permit.

26. Upon issuance of an NPDES Permit for Husker Pride Farm to Waldbaum by NDEQ, Waldbaum shall comply with the requirements established by the NPDES Permit.

27. Within ninety (90) days of the effective date of this Consent Decree, Waldbaum shall develop and implement a Manure Management Plan for each of its Farm Facilities, other than Husker Pride Farm. Also within ninety (90) days of the effective date of this Consent Decree, Waldbaum shall submit copies of each Manure Management Plan to EPA, Region VII and NDEQ. Each Manure Management Plan shall:

a. explain in detail how Waldbaum intends to store, utilize, and/or dispose of the manure generated at the Farm Facility;

b. specifically describe the steps Waldbaum will take to ensure that animal waste is not discharged from the Farm Facility into waters of the United States; and

c. if Waldbaum constructs livestock waste control facilities to manage the manure at any Farm Facility, then the applicable Manure Management Plan must contain a narrative description of the livestock waste control facility and how it will function and operate.

28. If any of the manure generated by Waldbaum at a Farm Facility is land applied, then Waldbaum must meet the requirements of 40 C.F.R. § 122.42(e)1(vi)-(ix) and Nebraska's state technical standards for nutrient management currently found in Title 130, Chapter 14 of the Nebraska Administrative Code.

29. Upon implementation of the Manure Management Plan at each Farm Facility, Waldbaum will keep a copy of the Manure Management Plan at the corresponding Farm Facility and will comply with the record keeping requirements for land application areas found at 40 C.F.R. § 412.37(c). Commencing on the effective date of this Consent Decree, Waldbaum shall submit reports every six (6) months to EPA and NDEQ that describe the actions Waldbaum has performed to develop and implement the Manure Management Plans described above and or any actions Waldbaum anticipates it will perform during the next reporting period.

30. The requirement to submit Manure Management Plans pursuant to this Consent Decree does not relieve Waldbaum of any obligations under the Clean Water Act or implementing regulations, or under any other federal, state, or local law, regulation, permit, or other requirement.

VIII. PLAN FOR PROPER LAND-APPLICATION OF CLARIFIER RINSATE

31. The Plan entitled "Proposal to Land-Apply Clarifier Rinsate," approved by NDEQ on September 14, 2006, is hereby incorporated into this Consent Decree and enforceable hereunder, and shall be implemented by Waldbaum. The Plan shall be followed when land-application is the option selected by Waldbaum for management of clarifier rinsate. The Plan is included in this Consent Decree as Attachment D.

IX. REPORTING REQUIREMENTS

32. If Waldbaum violates, or has reason to believe that it may violate, any requirement of this Consent Decree, NPDES Permit NE 0113735 or the NPDES Permit for Husker Pride Farm, Waldbaum shall notify EPA, Region VII and the State of such violation or potential violation and its likely duration, in writing, within five (5) days of the day Waldbaum first becomes aware of the violation or the potential violation. The notice shall include an explanation of the violation's likely cause and of the remedial steps taken, and/or to be taken, to prevent or minimize such violation. If the cause of a violation cannot be fully explained at the time the report is due, Waldbaum shall include a statement to that effect in the report. Waldbaum shall diligently investigate to determine the cause of the violation and then shall submit an amendment to the report, including a full explanation of the cause of the violation, within thirty (30) days of the day Waldbaum becomes aware of the cause of the violation. Nothing in this Paragraph or the following Paragraph relieves Waldbaum of its obligation to provide the requisite notice for purposes of Section XI (Force Majeure).

33. Reports required under this Section shall be submitted to the persons designated in Section XVI of this Consent Decree (Notices).

34. Each report submitted by Waldbaum under this Section shall be signed by an authorized official, as defined at 40 C.F.R. § 122.22, and shall include the following certification:

> I certify under penalty of law that this document and all attachments were prepared under my direction or 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. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.

Upon proof acceptable to EPA and the State, this certification requirement does not apply to emergency or similar notifications where compliance would be impractical.

35. The reporting requirements of this Consent Decree do not relieve Waldbaum of any reporting obligations required by the Clean Water Act or implementing regulations, or by any other federal, state, or local law, regulation, permit, or other requirement.

36. Any information provided pursuant to this Consent Decree may be used by the United States or the State in any proceeding to enforce the provisions of this Consent Decree and as otherwise permitted by law.

X. STIPULATED PENALTIES

37. Waldbaum shall be liable for Stipulated Penalties, 50% to the United States and 50% to the State of Nebraska, for violations of this Consent Decree as specified below, unless excused under Section XI (Force Majeure). A violation includes failing to perform any

obligation required by the terms of this Consent Decree, including any work plan or schedule approved under this Consent Decree, according to all applicable requirements of this Consent Decree and within the specified time schedules established by or approved under this Consent Decree.

38. A stipulated penalty of $5,000 shall accrue per each day that any civil penalty payment required by Paragraph 9 of this Consent Decree is late, in addition to accrued interest on any amounts overdue in accordance with Paragraph 11 of this Consent Decree.

39. The following Stipulated Penalties shall accrue for violations of the effluent limits in NPDES Permit NE 0113735 for Outfalls 7L5 and 9L5:

Period of Noncompliance	Penalty Per Violation
Daily Maximum Effluent Limit	$500 (per violation per day)
7-Day Average Limit	$1,000 (per violation for entire 7-day period)
30-Day Average Limit	$4,500 (per violation for entire 30-day period)

40. A total stipulated penalty of $50,000 shall be owed if Waldbaum exceeds the average limit of raw wastewater discharge to the Industrial Wastewater Lagoon System allowed for the period described in Paragraph 16 of this Consent Decree.

41. The following Stipulated Penalties shall accrue per violation per day for each violation of a significant interim date or milestone for the new mechanical wastewater treatment facility, set forth in NPDES Permit NE 0113735, and incorporated into this Consent Decree pursuant to Paragraph 17.

Milestone Missed By:	Penalty Per Violation Per Day
1-45 days	$1,000

46-75 days	$2,000
76 or more days	$3,000

42. The following Stipulated Penalties shall accrue per violation per day for each violation of a significant interim date, milestone or requirement identified in the Plan to Prevent Discharge of Animal Waste from Husker Pride Farm, as identified in Paragraphs 21, 22, 24, 25 and 26 of this Consent Decree:

Milestone Missed By:	Penalty Per Violation Per Day
1-30 days	$1,250
31-60 days	$2,500
61 or more days	$3,650

43. The following Stipulated Penalties shall accrue per violation per day for the failure to submit a Manure Management Plan for each Farm Facility, other than Husker Pride Farm, in accordance with Paragraph 27 above.

Period of Noncompliance	Penalty Per Violation Per Day
1-30 days	$500
31-60 days	$1,000
61 or more days	$1,500

44. The following Stipulated Penalties shall accrue per day for land application of clarifier rinsate at a rate that exceeds the proper agronomic rate, as required by the Plan included in this Consent Decree as Attachment D.

Period of Noncompliance	Penalty Per Violation Per Day
1-10 days	$500

11-30 days	$1,000
31 or more days	$1,500

45. The following Stipulated Penalties shall accrue per violation per day for each violation of the monitoring and record keeping requirements contained in Paragraph 19, Subparagraphs a and b of this Consent Decree:

Period of Inadequate Monitoring or Record Keeping	Penalty Per Violation Per Day
1-30 days	$1,000
31-60 days	$2,000
61 or more days	$3,000

46. The following Stipulated Penalties shall accrue per violation per day for each violation of the reporting requirements of Section IX (Reporting Requirements) and Paragraphs 18 (Mechanical Wastewater Treatment Facility Progress Reports), 20 (Industrial Wastewater Lagoon System Reports), 23 (Husker Pride Farm Progress Reports) and 29 (Manure Management Record Keeping and Reporting) of this Consent Decree:

Duration of Late Report	Penalty Per Violation Per Day
1-30 days	$1,000
31-60 days	$2,000
61 or more days	$3,000

47. Stipulated Penalties under this Section shall begin to accrue on the day after performance is due or on the day a violation occurs, whichever is applicable, and shall continue to accrue until performance is satisfactorily completed or until the violation ceases. Stipulated Penalties shall accrue simultaneously for each individual violation of this Consent Decree. Any

Stipulated Penalties shall become due and payable within thirty (30) days after Defendant receives the United States' written demand.

48. Stipulated Penalties shall continue to accrue as provided in Paragraph 47, above, during any Dispute Resolution, with interest on accrued penalties payable and calculated at the rate established by the Secretary of the Treasury, pursuant to 28 U.S.C. § 1961, but need not be paid until the following:

a. If the dispute is resolved by agreement or by a decision of EPA that is not appealed to the Court, Defendant shall pay accrued penalties determined to be owing, together with interest, to the United States and the State within twenty-eight (28) days of the effective date of the agreement or the receipt of EPA's decision or order;

b. If the dispute is appealed to the Court and the United States prevails in whole or in part, Defendant shall pay all accrued penalties determined by the Court to be owing, together with interest, within sixty-three (63) days of receiving the Court's decision or order, except as provided in Subparagraph c, below;

c. If any Party appeals the District Court's decision, Defendant shall pay all accrued penalties determined to be owing, together with interest, within fourteen (14) days of receiving the final appellate court decision.

49. Defendant shall, as directed by the United States, pay Stipulated Penalties owing to the United States by EFT in accordance with Section IV, Paragraph 9, above or by certified or cashier's check in the amount due payable to the "U.S. Department of Justice," referencing DOJ number 90-5-1-1-08346, and delivered to the Financial Litigation Unit of the United States Attorney's Office for the District of Nebraska, at 1620 Dodge Street, Suite 1400, Omaha,

Nebraska, 68102-1506. Defendant shall pay Stipulated Penalties owing to the State in accordance with Section IV, Paragraph 9, above.

50. Defendant shall not deduct Stipulated Penalties paid under this Section in calculating its federal income tax.

51. Interest computed in accordance with Paragraph 11 of this Consent Decree shall accrue and be paid by Defendant for any late payment of Stipulated Penalties.

52. Subject to the provisions of Section XIV of this Consent Decree (Effect of Settlement/Reservation of Rights), the Stipulated Penalties provided for in this Consent Decree shall be in addition to any other rights, remedies, or sanctions available to the United States or the State for Defendant's violation of this Consent Decree or applicable law. Where a violation of this Consent Decree is also a violation of Section 301, 307 or 402 of the Clean Water Act, 33 U.S.C. §§ 1311, 1317 or 1342, or Section 112(r) of the Clean Air Act, 42 U.S.C. § 7412(r), or regulations promulgated thereunder, Defendant shall be allowed a credit, for any Stipulated Penalties paid, against any statutory penalties imposed for such violation.

XI. FORCE MAJEURE

53. A "force majeure event" is any event beyond the control of Defendant, its contractors and consultants, or any entity controlled by Defendant that delays the performance of any obligation under this Consent Decree despite Defendant's best efforts to fulfill the obligation. "Best efforts" includes anticipating any potential force majeure event and addressing the effects of any such event (a) as it is occurring and (b) after it has occurred, to prevent or minimize any resulting delay to the greatest extent possible. Unanticipated or increased costs or expenses associated with implementation of this Consent Decree and changed financial

circumstances shall not, in any event, be considered "force majeure" events. In addition, failure to apply for a required permit or approval or to provide in a timely manner all information required to obtain a permit or approval that is necessary to meet the requirements of this Consent Decree or failure of Defendant to approve contracts, shall not, in any event, be considered "force majeure" events. However, if a permitting authority fails to issue, renew or modify--or delays in issuing, renewing or modifying--a lawful permit, order or other action required for any part of the work under this Consent Decree, and Defendant has taken all actions necessary to obtain all such permits or approvals in accordance with Paragraph 14 of this Consent Decree, Defendant is entitled to seek relief under the "force majeure" provisions of this Consent Decree.

54. Defendant shall provide notice orally or by electronic or facsimile transmission as soon as possible, but not later than seventy-two (72) hours after the time Defendant first knew of, or by the exercise of due diligence, should have known of, a claimed force majeure event. Defendant shall also provide written notice, as provided in Section XVI of this Consent Decree (Notices), within seven (7) days of the time Defendant first knew of, or by the exercise of due diligence, should have known of, the event. The notice shall state the anticipated duration of any delay; its cause(s); Defendant's past and proposed actions to prevent or minimize any delay; a schedule for carrying out those actions; and Defendant's rationale for attributing any delay to a force majeure event. Failure to provide oral and written notice as required by this Paragraph shall preclude Defendant from asserting any claim of force majeure.

55. If the United States agrees that a force majeure event has occurred, the time for performance of the obligations under this Consent Decree that are affected by the force majeure event will be extended by the United States for the period of delay directly or indirectly

attributable to the force majeure event. An extension of time to perform the obligations affected by a force majeure event shall not, by itself, extend the time to perform any other obligation. Where the United States agrees to an extension of time, the appropriate modification shall be made pursuant to Section XIX of this Consent Decree (Modification).

56. If the United States does not agree that a force majeure event has occurred, or does not agree to the extension of time sought by Defendant, the United States' position shall be binding, unless Defendant invokes Dispute Resolution under Section XII of this Consent Decree. In any such dispute, the provisions of Section XII (Dispute Resolution) shall apply and Defendant bears the burden of proving that each claimed force majeure event is a force majeure event; that Defendant gave the notice required by Paragraph 54; that the force majeure event caused any delay Defendant claims was attributable to that event; and that Defendant exercised best efforts to prevent or minimize any delay caused by the event.

XII. DISPUTE RESOLUTION

57. Unless otherwise expressly provided for in this Consent Decree, the dispute resolution procedures of this Section shall be the exclusive mechanism to resolve disputes arising under or with respect to this Consent Decree. However, such procedures shall not apply to actions by the United States to enforce obligations of the Defendant that have not been disputed in accordance with this Section.

58. Any dispute subject to dispute resolution under this Consent Decree shall first be the subject of informal negotiations. The dispute shall be considered to have arisen when Defendant sends the United States a written Notice of Dispute. Such Notice of Dispute shall state clearly the matter in dispute. The period of informal negotiations shall not exceed twenty-

one (21) days from the date the dispute arises, unless that period is modified by written agreement. If the Parties cannot resolve a dispute by informal negotiations, then the position advanced by the United States shall be considered binding unless, within fourteen (14) days after the conclusion of the informal negotiation period, Defendant invokes formal dispute resolution procedures as set forth below.

59. Defendant shall invoke formal dispute resolution procedures by, within the time period provided in the preceding Paragraph, serving on the United States a written Statement of Position regarding the matter in dispute. The Statement of Position shall include, but may not necessarily be limited to, any factual data, analysis, or opinion supporting Defendant's position and any supporting documentation relied upon by Defendant.

60. The United States shall serve its Statement of Position within forty-five (45) days of receipt of Defendant's Statement of Position. The United States' Statement of Position shall include, but may not necessarily be limited to, any factual data, analysis, or opinion supporting that position and all supporting documents relied upon by the United States. The State of Nebraska may also serve a Statement of Position. The United States' Statement of Position shall be binding on Defendant unless Defendant timely files a motion for judicial review of the dispute in accordance with the following Paragraph.

61. Defendant may obtain judicial review of the dispute by filing with the Court and serving on the United States, in accordance with Section XVI of this Consent Decree (Notices), a motion requesting judicial resolution of the dispute. The motion must be filed within twenty-one (21) days of receipt of the United States' Statement of Position pursuant to the preceding Paragraph. The motion shall contain a written statement of Defendant's position on the matter in

dispute, including any supporting factual data, analysis, opinion, or documentation, and shall set forth the relief requested and any schedule within which the dispute must be resolved for orderly implementation of the Consent Decree.

62. The United States shall respond to Defendant's motion within the time period allowed by the Local Rules of this Court. The State of Nebraska may file its own response to Defendant's motion. Defendant may file a reply memorandum, to the extent permitted by the Local Rules.

63. In the event of judicial review under this Section, Defendant shall bear the burden of demonstrating by a preponderance of the evidence that actions or positions taken by Defendant are in compliance with the terms, conditions and requirements of this Consent Decree. The United States reserves the right to argue that its position is reviewable only on the administrative record and must be upheld unless arbitrary and capricious or otherwise not in accordance with law. Waldbaum reserves the right to argue that its position is based on a reasonable interpretation of a statute, regulation, or permit, or a reasonable interpretation of this Consent Decree and that the United States' litigation position is not entitled to any deference.

64. The invocation of dispute resolution procedures under this Section shall not, by itself, extend, postpone, or affect in any way any obligation of Defendant under this Consent Decree, unless and until a final resolution of the dispute so provides. A final resolution shall mean an agreement reached through informal negotiations; the United States' binding Statement of Position in accordance with Paragraph 58; the United States' binding Statement of Position in accordance with Paragraph 60; or a final judicial decision in accordance with Paragraphs 61 - 63. Stipulated Penalties with respect to the disputed matter shall continue to accrue from the first day

of noncompliance, but payment shall be stayed pending resolution of the dispute as provided in Paragraph 48, above. If Defendant does not prevail on the disputed issue, Stipulated Penalties shall be assessed and paid as provided in Section X (Stipulated Penalties).

XIII. INFORMATION COLLECTION AND RETENTION

65. The United States, the State, and their representatives, including attorneys, contractors, and consultants, shall have the right of entry to any facility covered by this Consent Decree, during business hours, upon presentation of credentials, to:

a. monitor the progress of activities required under this Consent Decree;

b. verify any data or information submitted to the United States or the State in accordance with the terms of this Consent Decree;

c. obtain samples and, upon request, splits of any samples taken by Defendant or its representative, contractors, or consultants;

d. obtain documentary evidence, including photographs and similar data, related to this Consent Decree; and

e. assess Defendant's compliance with this Consent Decree.

66. Upon request, Defendant shall provide EPA and the State or their authorized representatives splits of any samples taken by Defendant. Upon request, EPA and the State shall provide Defendant splits of any samples taken by EPA or the State.

67. Until five (5) years after the termination of this Consent Decree, Defendant shall retain, and shall instruct its contractors retained to perform work required under the Paragraphs of this Consent Decree identified in Paragraph 6, and agents to retain, all non-identical copies of all records and documents (including records or documents in electronic form) in its or its

contractors' or agents' possession or control, or that come into its or its contractors' or agents' possession or control, and that relate in any manner to Defendant's performance of its obligations under this Consent Decree. This record retention requirement shall apply regardless of any corporate or institutional document-retention policy to the contrary. At any time during this record-retention period, the United States or the State may request copies of any documents or records required to be maintained under this Paragraph.

68. At the conclusion of the document-retention period provided in the preceding Paragraph, Defendant shall notify the United States and the State at least ninety (90) days prior to the destruction of any records or documents subject to the requirements of the preceding Paragraph, and, upon request by the United States or the State, Defendant shall deliver any such records or documents to EPA or the State. Defendant may assert that certain documents, records, or other information is privileged under the attorney-client privilege or any other privilege recognized by federal law. If Defendant asserts such a privilege, it shall provide the following: (1) the title of the document, record, or information; (2) the date of the document, record, or information; (3) the name and title of the author of the document, record, or information; (4) the name and title of each addressee and recipient; (5) a description of the subject of the document, record, or information; and (6) the privilege asserted by Defendant. However, no documents, reports, or other information created or generated pursuant to the requirements of this Consent Decree shall be withheld on the grounds that they are privileged.

69. Neither this Section nor anything else in this Consent Decree in any way limits or affects any right of entry and inspection, or any right to obtain information, held by the United States or the State pursuant to applicable federal or state laws, regulations, or permits, or limit or

affect any duty or obligation of Defendant to maintain records or information imposed by applicable federal or state laws, regulations, or permits.

XIV. EFFECT OF SETTLEMENT/RESERVATION OF RIGHTS

70. This Consent Decree resolves the claims for civil penalties for the violations alleged in the Complaints filed by the United States and the State in this action through the date of entry of this Consent Decree.

71. The United States and the State each covenant not to bring a civil action or take civil administrative action against Defendant, its officers, employees or successors, for the claims alleged, through the effective date of this Consent Decree, in the Complaints filed by the United States and the State in this action, or in connection with the following: July 12, 2001, August 29, 2001, and May 23, 2003 Notices of Violation issued to the City of Wakefield by the NDEQ; July 2, 2003 Notice of Potential Violation issued to Waldbaum (including Husker Pride Farm and Big Red Farm) by the EPA; August 2003 Notice of Potential Violation issued to the City of Wakefield by the EPA; May 11, 2004 Findings of Violation and Order for Compliance issued to Waldbaum by the EPA; June 23, 2004 Notice of Violation issued to Waldbaum by the NDEQ; June 23, 2004 Notice of Violation issued to the City of Wakefield by the NDEQ; June 24, 2004 Complaint, Compliance Order and Notice of Opportunity for Hearing issued to Waldbaum by the NDEQ; June 24, 2004 Complaint, Compliance Order and Notice of Opportunity for Hearing issued to the City of Wakefield by the NDEQ; and October 3, 2005 Notice of Violation issued jointly to the City of Wakefield and Waldbaum by the NDEQ.

72. This Consent Decree shall not be construed to prevent or limit the rights of the United States, or the State to obtain penalties or injunctive relief under the Clean Water Act or

the Clean Air Act, or implementing regulations, or under other federal or state laws, regulations, or permit conditions, except as expressly specified in Paragraphs 70 and 71 above.

73. Defendant is responsible for achieving and maintaining complete compliance with all applicable federal, State, and local laws, regulations, and permits; and Defendant's compliance with this Consent Decree shall be no defense to any action commenced pursuant to said laws, regulations, or permits. This Consent Decree is not a permit, or a modification of any permit, under any federal, State, or local laws or regulations. The United States does not, by its consent to the entry of this Consent Decree, warrant or aver in any manner that Defendant's compliance with any aspect of this Consent Decree will result in compliance with provisions of the Clean Water Act, 33 U.S.C. § 1251, *et seq*., or the Clean Air Act, 42 U.S.C. § 7401, *et seq*.

74. This Consent Decree does not limit or affect the rights of Defendant or of the United States or the State against any third parties not party to this Consent Decree nor does it limit the rights of third parties not party to this Consent Decree against Defendant, except as otherwise provided by law.

75. This Consent Decree shall not be construed to create rights in, or grant any cause of action to, any third party not party to this Consent Decree.

76. The United States and the State reserve all legal and equitable remedies available to enforce the provisions of this Consent Decree, except as expressly stated herein. The United States and the State further reserve all legal and equitable remedies to address any imminent and substantial endangerment to the public health or welfare or the environment arising at or posed by Defendant's Facilities, whether related to the violations addressed in this Consent Decree or otherwise.

XV. COSTS

77. The Parties shall bear their own costs of this action, including attorneys' fees, except that the United States and the State shall be entitled to collect the costs incurred in any action necessary to collect any portion of the civil penalty or any stipulated penalties due but not paid by Defendant.

XVI. NOTICES

78. Unless otherwise specified herein, whenever notifications, submissions, or communications are required by this Consent Decree, they shall be made in writing and addressed as follows:

To the United States:

Chief, Environmental Enforcement Section
Environment and Natural Resources Division
U.S. Department of Justice
PO Box 7611, Ben Franklin Station
Washington, D.C. 20044-7611
RE: DOJ Number 90-5-1-1-08346

To EPA:

Paul T. Marshall, P.E.
Water, Wetlands and Pesticides Division
U.S. Environmental Protection Agency, Region VII
901 North 5th Street
Kansas City, Kansas 66101

and

Elizabeth Huston
Office of Regional Counsel
U.S. Environmental Protection Agency, Region VII
901 North 5th Street
Kansas City, Kansas 66101

To the State:

Steven J. Moeller
Attorney, NDEQ Legal Services
Nebraska Department of Environmental Quality
1200 N Street, Suite 400
PO Box 98922
Lincoln, NE 68509-8922

and

Jodi M. Fenner
Assistant Attorney General
Chief, Agriculture, Environment, and Natural Resources Division
2115 State Capitol Building
Lincoln, Nebraska 68509-8920

To Defendant:

Mark D. Witmer
Corporate Secretary
M.G. Waldbaum Company
Suite 400
301 Carlson Parkway
Minneapolis, Minnesota 55305

and

Carolyn V. Wolski
Leonard, Street and Deinard
Suite 2300
150 South Fifth Street
Minneapolis, Minnesota 55402

79. Any Party may, by written notice to the other Parties, change its designated notice recipient or notice address provided above.

80. Notices submitted pursuant to this Section shall be deemed submitted upon mailing, unless otherwise provided in this Consent Decree or by mutual agreement of the Parties in writing.

XVII. EFFECTIVE DATE

81. The Effective Date of this Consent Decree shall be the date upon which this Consent Decree is entered by the Court.

XVIII. RETENTION OF JURISDICTION

82. The Court shall retain jurisdiction over this case until termination of this Consent Decree for the purpose of resolving disputes arising under this Consent Decree or entering orders modifying this Consent Decree pursuant to Sections XII and XIX, and for the purpose of effectuating or enforcing compliance with the terms of this Consent Decree.

XIX. MODIFICATION

83. The terms of this Consent Decree may be modified only by a subsequent written agreement signed by all the Parties. Where the modification constitutes a material change to any term of this Consent Decree, it shall be effective only upon approval by the Court.

XX. TERMINATION

84. Five (5) months after Waldbaum's engineer has certified that the new mechanical wastewater treatment facility is operational, such that it is capable of treating raw wastewater and operating all process equipment, and provided that Defendant has satisfactorily completed performance of its obligations required by this Consent Decree, and that Defendant has paid the civil penalties, and any accrued Stipulated Penalties as required by this Consent Decree, Defendant may serve upon the United States and the State a Request for Termination, stating that Defendant has satisfied those requirements, together with all necessary supporting documentation.

85. Following receipt by the United States and the State of Defendant's Request for Termination, the Parties shall confer informally concerning the Request and any disagreement that the Parties may have as to whether Defendant has satisfactorily complied with the requirements for termination of this Consent Decree. If the United States, after consultation with the State, agrees that the Consent Decree may be terminated, the Parties shall submit, for the Court's approval, a joint stipulation terminating the Consent Decree.

86. If the United States, after consultation with the State, does not agree that the Consent Decree may be terminated, its shall provide Defendant with written notice of its decision, along with the reasons for its decision. After Defendant receives the written notice, Defendant may move the Court for an Order terminating the Consent Decree. The United States and the State shall have the right to oppose Defendant's motion. If the United States or the State opposes Defendant's motion to terminate the Consent Decree, Defendant shall have the burden of proof by a preponderance of the evidence that Defendant has satisfactorily complied with the requirements of the Consent Decree.

XXI. PUBLIC PARTICIPATION

87. This Consent Decree shall be lodged with the Court for a period of not less than thirty (30) days for public notice and comment in accordance with 28 C.F.R. § 50.7. The United States reserves the right to withdraw or withhold its consent if the comments regarding the Consent Decree disclose facts or considerations indicating that the Consent Decree is inappropriate, improper, or inadequate. Defendant consents to entry of this Consent Decree without further notice.

XXII. SIGNATORIES/SERVICE

88. The person signing this Consent Decree on behalf of the Defendant certifies that he is fully authorized to enter into the terms and conditions of this Consent Decree and to execute and legally bind the Defendant to this document. The Assistant Attorney General or her delegate on behalf of the United States and the Attorney General of Nebraska or his delegate on behalf of the State of Nebraska certify that they are fully authorized to enter into the terms and conditions of this Consent Decree and to execute and legally bind the Party he or she represents to this document.

89. This Consent Decree may be signed in counterparts, and its validity shall not be challenged on that basis.

90. Defendant agrees not to oppose entry of this Consent Decree by the Court or to challenge any provision of this Consent Decree, unless the United States has notified Defendant in writing that it no longer supports entry of the Consent Decree.

91. Defendant agrees to accept service of process by mail with respect to all matters arising under or relating to this Consent Decree and to waive the formal service requirements set forth in Rule 4 of the Federal Rules of Civil Procedure and any applicable Local Rules of this Court including, but not limited to, service of a summons.

XXIII. INTEGRATION

92. This Consent Decree constitutes the final, complete, and exclusive agreement and understanding among the Parties with respect to the settlement embodied in the Consent Decree and supersedes all prior agreements and understandings, whether oral or written, concerning the

settlement embodied herein. No other document, nor any agreement, representation, agreement, inducement, understanding, or promise constitutes any part of this consent Decree or the settlement it represents, nor shall it be used in construing the terms of this Consent Decree.

XXIV. FINAL JUDGMENT

93. Upon approval and entry of this Consent Decree by the Court, this Consent Decree shall constitute a final judgment of the Court as to the claims alleged in the complaints for violations through the date of entry.

Upon execution of this document, the original Consent Decree shall be returned to the United States Attorney's Office and a copy of the Consent Decree shall be maintained in the Clerk's Office.

SO ORDERED THIS _____ DAY OF _____, 2007.

_____
UNITED STATES DISTRICT JUDGE

FOR PLAINTIFF UNITED STATES OF AMERICA:

Date: _____

ELLEN M. MAHAN
Deputy Section Chief
Environmental Enforcement Section
Environment and Natural Resources Division
United States Department of Justice
PO Box 7611, Ben Franklin Station
Washington, D.C. 20044

Date: 1/5/2007

ERIKA M. ZIMMERMAN
Trial Attorney, Oregon Bar No. 05500
Environmental Enforcement Section
Environmental and Natural Resources Division
United States Department of Justice
PO Box 7611, Ben Franklin Station
Washington, D.C. 20044
Telephone: (202) 514-5270
Fax: (202) 514-4180

FOR THE UNITED STATES ATTORNEY'S OFFICE, DISTRICT OF NEBRASKA:

JOE W. STECHER
United States Attorney
District of Nebraska

Date: 1/5/07

LAURIE A. KELLY
Assistant United States Attorney, Mass. Bar No. 557575
District of Nebraska
1620 Dodge Street
Suite 1400
Omaha, Nebraska 68102-1506
Telephone: (402) 661-3700
Fax: (402) 661-3081
laurie.kelley@usdoj.gov

FOR PLAINTIFF U.S. ENVIRONMENTAL PROTECTION AGENCY, REGION VII:

Date: 12/29/06

JOHN B. ASKEW
Regional Administrator
U.S. Environmental Protection Agency, Region VII
901 N. 5th Street
Kansas City, Kansas 66101

Date: 12/26/06

ELIZABETH HUSTON
Assistant Regional Counsel
U.S. Environmental Protection Agency, Region VII
901 N. 5th Street
Kansas City, Kansas 66101

FOR THE U.S. ENVIRONMENTAL PROTECTION AGENCY:

Date: January 5, 2007

GRANTA Y. NAKAYAMA
Assistant Administrator
Office of Enforcement and Compliance Assurance
U.S. Environmental Protection Agency
Ariel Rios Building, 2201A
1200 Pennsylvania Ave., N.W.
Washington, D.C. 20460

FOR PLAINTIFF STATE OF NEBRASKA:

JON BRUNING
Attorney General of Nebraska

Date: Dec. 27, 2006

JODI M. FENNER
NE Bar No. 22038
Assistant Attorney General
Chief, Agriculture, Environment, and
Natural Resources Division
2115 State Capitol Building
Lincoln, Nebraska 68509-8920
Telephone: (402) 471-2682
Fax: (402) 471-2957

NATALEE J. HART
NE Bar No. 22716
Assistant Attorney General
Agriculture, Environment, and
Natural Resources Division
2115 State Capitol
Lincoln, NE 68509

FOR DEFENDANT M.G. WALDBAUM CO.:

Date: 12/22/06

JOHN D. REEDY
Vice President, Finance
M.G. Waldbaum Co.
c/o Michael Foods, Inc.
Suite 400
301 Carlson Parkway
Minnetonka, Minnesota 55305

Agent Authorized to Accept Service on Behalf of the M.G. Waldbaum Co., Relating to this Consent Decree:

Name: Carolyn V. Wolski
Phone Number: (612) 335-1641
Email: carolyn.wolski@leonard.com

Attachment A

Attachment A - Addresses for each of M.G. Waldbaum Co.'s Egg Processing Facilities and Farm Facilities located in the State of Nebraska

M.G. Waldbaum Co.'s Egg Processing Facilities:

M.G. Waldbaum Co.
105 North Main Street
Wakefield, Nebraska 68784

M.G. Waldbaum Co.
(Logan View Facility)
101 N. Oak Street
Wakefield, Nebraska 68784

M.G. Waldbaum Co.'s Farm Facilities:

Husker Pride Farms
58365 861 Road
Wakefield, Nebraska 68784

Big Red Farms
East Highway 35
Wakefield, Nebraska 68784

Bloom "N" Egg Farm
Highway 84 West
Bloomfield, Nebraska 68718

Gardner Growers I
85850 586 Ave.
Wakefield, Nebraska 68784

Gardner Growers II
58265 862 Ave.
Wakefield, Nebraska 68784

Gardner Growers III
57961 864 Road
Wakefield, Nebraska 68784

Plainview Pullet Farm/ Gardner Growers IV
86362 540 Ave.
Plainview, Nebraska 68769

Attachment B

Attachment B

AGREEMENT FOR OPERATION AND USE OF THE INDUSTRIAL WASTEWATER LAGOON SYSTEM WAKEFIELD, NEBRASKA

This Agreement, dated as of _____, 2005, is made between the CITY OF WAKEFIELD, NEBRASKA ("the City") and M. G. WALDBAUM COMPANY, a Nebraska corporation ("the Company").

WHEREAS, the Company's industrial-process wastewater is currently treated at a City-owned, Company-funded facility that is comprised of nine separate lagoon cells, along with associated force mains and industrial lift station ("Industrial Lagoon System");

WHEREAS, all other wastewater generated in the city (everything but the Company's industrial-process wastewater) is treated at a City-owned system comprised of five separate lagoon cells ("Municipal Lagoon System");

WHEREAS, the City plans to issue bonds, payable solely from payments made by the Company to the City, to construct a new mechanical wastewater treatment facility that will be operated by the Company and used to treat the Company's industrial-process wastewater ("New Industrial Facility");

WHEREAS, the Company has applied to the Nebraska Department of Environmental Quality ("NDEQ") for, and expects to receive, a National Pollutant Discharge Elimination System permit to discharge treated wastewater from the New Industrial Facility under final discharge permit limits, and, prior to completion of the New Industrial Facility, to discharge treated wastewater from the Industrial Lagoon System under interim discharge limits ("Company's New NPDES Permit");

WHEREAS, after the New Industrial Facility is constructed and operating, the Company desires to continue to use the Industrial Lagoon System to carry out its obligations to treat wastewater by providing temporary storage of the Company's partially treated wastewater, and the City desires to use cell I-7 of the Industrial Lagoon System and incorporate it into the Municipal Lagoon System, thereby allowing for expansion of the City's system.

THEREFORE, in consideration of the Company's financing of the New Industrial Facility and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree to the following terms:

A. Transfer of a Portion of Industrial Lagoon System to Company

1. Purchase by Company. On or before the effective date of the Company's New NPDES Permit, the Company shall purchase and the City shall sell and transfer all right, title and interest in the Property. The purchase price for the Property shall be One Dollar ($1.00), due and payable at Closing.

a. "Property" defined. For purposes of this Agreement, "Property" shall mean the Industrial Lagoon System without the Excluded Property.

b. "Excluded Property" Defined. For purposes of this Agreement, "Excluded Property" shall mean cell I-7 in the Industrial Lagoon System, such right-of-way within the Industrial Lagoon System deemed necessary by the City to incorporate cell I-7 into the Municipal Lagoon System, the existing discharge sampling building and the discharge flow meter housed in the discharge sampling building.

2. Company Use of I-7 and Discharge Sampling Building. The parties agree that until such time as the New Industrial Facility is operating, the Company will be allowed to use, at no charge, cell I-7 and the discharge sampling building (along with the discharge flow meter housed therein) in its interim operation of the Industrial Lagoon System pursuant to the terms of the Company's New NPDES Permit.

3. Survey. Prior to Closing, the City and the Company shall cause the Industrial Lagoon System, the Property and the Excluded Property to be surveyed by a licensed surveyor at the Company's expense. Such survey shall, at a minimum, accurately delineate the respective boundaries of the Property and Excluded Property as agreed upon by the City and Company, and provide a legal description and acreage measurement for each. The survey shall be incorporated into this Agreement as if set forth herein.

4. Closing. The closing shall be on or before the effective date of the Company's New NPDES Permit (the "Closing"), at a place and time to be mutually determined and agreed-upon.

5. Title; Delivery of Deed. At Closing, the City shall convey its right, title and interest in the Property by a quit claim deed to the Company.

6. Real Estate Taxes and Assessments. The Company shall be fully responsible for and pay all real estate taxes and other taxes and assessments levied and assessed against the Property after Closing. However, commencing on the effective date of the Company's New NPDES Permit, the City will cease invoicing the Company for monthly charges for industrial sewer usage or industrial wastewater treatment (the total of such charges currently being $4,400 per month).

7. Expenses. The Company shall be responsible for all documentary transfer taxes, survey costs, closing costs, attorneys fees and other costs and fees incurred by either party arising out of the transfer of the Property to the Company.

8. Representations and Warranties. The City will make no representations or warranties with respect to the Property, and the Property will be sold "as is."

9. Indemnification by the Company. The Company agrees to release, indemnify, defend and hold the City, its elected and appointed officials, and employees harmless from and against any liability, damage, claim, penalty, fine, judgment or settlement of any nature or kind, including, but not limited to, the payment of all reasonable costs and attorneys' fees, whether made, instituted, or asserted by any other person or governmental agency, relating to or arising

out of the acts or omissions of the City, its elected and appointed official, and employees in connection with the Property on or after the Closing. In any matter where the Company is required to defend the City pursuant to this paragraph, the City agrees to cooperate with the Company in such defense.

B. Company's Operation of Industrial Lagoon System After Transfer

The Company shall be responsible for obtaining all permits and approvals necessary to operate the Property, either as a wastewater treatment facility or as a wastewater storage facility. It is expressly agreed that after Closing, the Company will be solely responsible for any violations of such permits, approvals or other legal requirements of operating the Industrial Lagoon System.

C. Potential Odor Issues

The parties acknowledge that the Industrial Lagoon System has been a source of odor over the years. However, it is the expectation of the parties that the Industrial Lagoon System will cease to be a significant source of odor after the New Industrial Facility is constructed, after the Industrial Lagoon System is no longer used for treatment of industrial wastewater, and after sludge from the treatment of industrial wastewater breaks down, likely in the spring following completion of the New Industrial Facility. The parties wish to work together and cooperate with each other to address any odor conditions attributable to the Industrial Lagoon System or the Property, understanding that the Industrial Lagoon System needs some time to adjust after years of use as a wastewater treatment system, and also understanding that complete odor elimination may not be possible.

1. From the effective date of this Agreement and continuing for one year after the New Industrial Facility begins operating, if the City receives any complaints about odor from the Industrial Lagoon System or the Property, the City will forward such complaints, in writing, to the Company's plant manager in Wakefield. The Company shall investigate the cause of the odor, submit a response to the City, and exercise reasonable efforts to resolve the complaint in a timely manner.

2. After the New Industrial Facility has been operating for one year, if the City receives any complaints about odor from the Property, the City may, at its option, commence the following process:

a. The City, at its own expense, shall confirm that the Company's use of the Property is the source of the odor.

b. If the City confirms that the Company's use of the Property is the source of the odor, then two professional engineers experienced and knowledgeable as to lagoon systems, one selected by the City and one selected by the Company, will confer and determine whether there is a reasonable, cost-effective measure that can be taken to appreciably reduce the odor. The Company will pay for half of the cost of the City's professional engineer.

c. The Company will, at its sole expense, implement the measure identified by the parties' engineers.

D. City Reacquisition of All or Portions of the Property

Nothing herein shall limit or otherwise hinder the City's right of eminent domain under Nebraska law with respect to the Property.

E. Other Provisions

1. Notwithstanding any other provision of this Agreement, the Company will continue to make payments to retire the debt incurred by the City to finance the Industrial Lagoon System expansion pursuant to that certain Memorandum of Understanding, dated April 26, 2001, by and between the City and Michael Foods, as the parent of the Company.

2. Notwithstanding any other provision of this Agreement, the agreement between the City and the Company effective June 23, 2004, relating to the Industrial Lagoon System shall remain in full force and effect.

3. All Company-purchased equipment now used in connection with the Industrial Lagoon System, including but not limited to meters, analytical devices, aerators and anaerobic covers, is, and will continue to be, property of the Company, and the Company may use or remove such equipment in its sole discretion.

4. It is expressly agreed that any costs or approvals associated with connecting or integrating cell I-7 with the Municipal Lagoon System, including costs associated with design and construction of piping modifications, shall be the sole responsibility of the City, and that any costs or approvals associated with closing or otherwise disconnecting cell I-9 from cell I-7 as of the Closing shall be the sole responsibility of the Company.

5. This Agreement shall benefit and bind the legal representatives, assignees, and successors of the respective parties. This Agreement may be assigned by the Company to any successor in ownership of the Company's stock or assets upon prior written consent of the City, which consent shall not be unreasonably withheld.

6. In the event that any provision contained in this Agreement is breached by either party and thereafter waived by the other party, such waiver shall be limited to the particular breach so waived and shall not be deemed to waive any other breach hereunder.

7. In the event that any provision of this Agreement shall be held invalid or unenforceable by any court of competent jurisdiction, such holding shall not invalidate or render invalid or unenforceable any other provisions hereof.

8. This instrument embodies the whole agreement of the parties with respect to the subject matter hereof. No promises, terms, statements, conditions, inducements or obligations made by either party or agent of either party with respect to the subject matter of this Agreement that are not contained in this Agreement shall be valid or binding.

9. Should any portion of this Agreement be renegotiated resulting in additions, deletions, and/or modifications, the remainder of this Agreement shall be binding and effective to the extent that it is not specifically inconsistent with renegotiated terms of this Agreement.

CITY OF WAKEFIELD, NEBRASKA

By: _____
Its: MAYOR

STATE OF NEBRASKA)
) ss.
COUNTY OF DIXON)

The foregoing instrument was acknowledged before me this 11TH day of August, 2005, by Mayor Jim Clark, on behalf of the City of Wakefield.

(SEAL) GENERAL NOTARY - State of Nebraska KATHY SKINNER My Comm. Exp. 12-31-2007

_____
Notary Public

M.G. WALDBAUM COMPANY

By: _____
Its: CFO

STATE OF ~~NEBRASKA~~ Minnesota CAR
COUNTY OF ~~DIXON~~ Hennepin) ss. CAR

The foregoing instrument was acknowledged before me this 29th day of ~~August~~ September, 2005, CAR by John Reedy, on behalf of the M.G. Waldbaum Company.

(SEAL) CAROLE A LEONARD NOTARY PUBLIC - MINNESOTA My Commission Expires Jan. 31, 2010

_____
Notary Public

Attachment C

Attachment C

STATE OF NEBRASKA

Dave Heineman
Governor

DEPARTMENT OF ENVIRONMENTAL QUALITY
Michael J. Linder
Director
Suite 400, The Atrium
1200 'N' Street
P.O. Box 98922
Lincoln, Nebraska 68509-8922
Phone (402) 471-2186
FAX (402) 471-2909
website: www.deq.state.ne.us

Authorization to Discharge Under the National Pollutant Discharge Elimination System

This NPDES permit is issued in compliance with the provisions of the Federal Water Pollution Control Act (33 U.S.C. Secs. 1251 *et. seq.* as amended to date), the Nebraska Environmental Protection Act (Neb. Rev. Stat. Secs. 81-1501 *et. seq.* as amended to date), and the Rules and Regulations promulgated pursuant to these Acts. The facility and outfall(s) identified in this permit are authorized to discharge wastewater and are subject to the limitations, requirements, prohibitions and conditions set forth herein. This permit regulates and controls the release of pollutants in the discharge(s) authorized herein. This permit does not relieve permittees of other duties and responsibilities under the Nebraska Environmental Protection Act, as amended, or established by regulations promulgated pursuant thereto.

NPDES Permit No.:	**NE0113735**
IIS File Number	**PCS 9057-P**
Facility Name:	**M.G. Waldbaum Co.**
Facility Location:	**105 North Main St., Wakefield NE**
Facility Mailing Address	**P.O. Box 573, 105 N. Main St., Wakefield NE 68784-0573**
Legal Description	**SE¼ of NW¼ and NE ¼ of SW¼, Section 33, Township 27 N, Range 5 East, Dixon County**
Receiving Water	**Logan Creek; Segment EL2-20000 of Elkhorn River Basin**
Effective Date:	**April 1, 2006**
Expiration Date:	**October 31, 2008**

Pursuant to a Delegation Memorandum dated January 12, 1999 and signed by the Director, the undersigned hereby executes this document on behalf of the Director.

Signed this 29th day of MARCH, 2006

Jay D. Ringenberg
Deputy Director

MTS

Table of Contents

Part I. Description of the Discharges Authorized by this Permit

This permit specifically authorizes and regulates the discharges from the outfall(s) identified and described within this document. Discharge characteristics from these outfall(s) need to be consistent with those described in the permit application and the supplemental information submitted with it. Department approval is required for any alterations. Departmental approval for changes shall be predicated upon the requirements in this permit being able to properly address any new or changed pollution potential that may occur.

A. Outfall 001: Iron Filter and Softener Backwash

The discharge of iron filter and softener backwash water is from M.G. Waldbaum Co. potable water treatment plant. The iron filter and softener are backwashed with unchlorinated well water and water-conditioning chemicals are backwashed from the filter. The filter backwash discharge flows are anticipated to average 17,000 gallons per day.

B. Outfall 002: Pretreatment outfall from anaerobic lagoons to City of Wakefield Facultative Lagoons

The discharge from the industrial anaerobic lagoons to the City's lagoon waste treatment system has been removed.

C. Outfall 003: Treated Industrial Wastewater Discharge from Mechanical Facility

The treated industrial wastewater discharges are from an extended aeration, activated sludge facility with a diffuser. The treated wastewater is discharged through outfall 003 into Logan Creek. These discharges are subject to regulation under the NDEQ Title 117 – *Nebraska Surface Water Standards* and Title 119 – *Rules and Regulations Pertaining to the Issuance of Permits Under National Pollutant Discharge Elimination System.*

D. Outfall 004: Site-Specific Land Application of Treated Wastewater from Industrial Lagoons

Treated wastewater from Industrial Lagoon I-8 may be land applied and must meet the requirements as listed in Part IV of this permit. Site-specific approval is required prior to land application of effluent.

E. Outfall 7L5: Interim Treated Industrial Wastewater Discharge from Lagoon Cell I-7

The treated industrial wastewater discharges are from a controlled discharge, lagoon treatment system. The treated wastewater from lagoon cell I-7 is discharged to Logan Creek. These discharges are subject to regulation under the NDEQ Title 117 – *Nebraska Surface Water Standards* and Title 119 – *Rules and Regulations Pertaining to the Issuance of Permits Under National Pollutant Discharge Elimination System.* Compliance and interim limit for this discharge is found in Part VII. Blending of industrial effluent with municipal effluent is prohibited. Upon completion of the mechanical facility, ownership of lagoon cell I-7 will be transferred to City of Wakefield.

F. Outfall 9L5: Interim Treated Industrial Wastewater Discharge from Lagoon Cell I-9

The treated industrial wastewater discharges are from a controlled discharge, lagoon treatment system. The treated wastewater from lagoon cell I-9 is discharged to Logan Creek. These discharges are subject to regulation under the NDEQ Title 117 – *Nebraska Surface Water Standards* and Title 119 – *Rules and Regulations Pertaining to the Issuance of Permits Under National Pollutant Discharge Elimination System.* Compliance and interim limit for this discharge is found in Part VII. Blending of industrial effluent with municipal effluent is prohibited.

Part II. Outfall 001 Limits and Monitoring Requirements: Iron Filter and Softener Backwash

The authorized discharge through Outfall 001 is filter and water softener backwash discharge from M.G. Waldbaum Co. water treatment plant. Department approval is required prior to adding any additional discharge sources or modification of the existing system that may increase the pollutant loadings or significantly increase flows. This discharge from Outfall 001 to Logan Creek is authorized and shall be monitored and limited as specified in the following table. To comply with these monitoring requirements, samples shall be taken following all treatment processes, prior to discharge into Logan Creek.

Table 1: Discharge Limits and Monitoring Requirements for Flow, Conductivity, Total Recoverable Iron, Total Recoverable Chloride, TSS and pH.

Parameter	Storet #	Units	Discharge Limits		Monitoring Frequency	Sample Type
			Monthly Average	Daily Maximum		
Flow	50050	MGD	Report	Report	Quarterly	Measured or Calculated
Chloride	00940	mg/l	Report	Report	Quarterly	Composite [a]
Conductivity	00094	µmho/cm	Report	Report	Quarterly	Composite [a]
Total Recoverable Iron	00980	mg/L	Report	Report	Quarterly	Composite [a]
Total Suspended Solids	00530	mg/L	Report	Report	Quarterly	Composite [a]

Parameter	Storet #	Units	Reporting Requirements		Monitoring Frequency	Sample Type
			Daily Minimum	Daily Maximum		
pH [b]	00400	Standard Units	6.5	9.0	Quarterly	Grab

Footnotes:

a). Composite sampling as per Appendix A. C1.a and C1.b.

b). pH must be measured within fifteen minutes of taking the sample.

Abbreviations: MGD – million gallon per day; mg/L – milligrams per Liter; µmho/cm – micromhs;

Part III. Outfall 003: Discharge Limits and Monitoring Requirements for the Mechanical Facility

The authorized discharge through Outfall 003 is the final effluent discharge from M.G. Waldbaum Co. extended aeration, activated sludge facility to Logan Creek. Department approval is required prior to adding any additional discharge sources or modification of the existing system that may increase the pollutant loadings or significantly increase flows. This discharge from Outfall 003 is authorized and shall be monitored and limited as specified in the following tables. To comply with these monitoring requirements, samples shall be taken following all treatment processes and prior to discharge into Logan Creek unless an alternative or more specific monitoring point is specified by the NDEQ.

A. Flow, pH, BOD_5, and TSS Requirements for Outfall 003

Table 2: Discharge Limits and Monitoring Requirements for Flow, pH, BOD and TSS

Parameters	Storet #	Units	Discharge Limits				Monitoring Frequency	Sample Type
			Daily Minimum	Monthly Average	7 Day Average	Daily Maximum		
Flow	50050	MGD	---	Report	---	Report	Daily	Measured or Calculated
pH	00400	Standard Units	6.5	---	---	9.0	Weekly	Grab
Biochemical Oxygen Demand (5-Day) [(a)]	00400	mg/L	---	30.0	45.0	---	Weekly	24 Hour Composite
		kg/day	---	68.1	102.2	---		
Total Suspended Solids	00530	mg/L	---	30.0	---	45.0	Weekly	24 Hour Composite
		kg/day	---	68.1	---	102.2		
Oil and Grease	00552	mg/L	---	---	---	10	Quarterly	Grab

Footnotes:

a) For samples taken after disinfection, the BOD sample must be reseeded.

Abbreviations:

mg/L – milligrams per liter MGD – million gallons per day MGAL – million gallons kg/day – kilograms per day

B. Ammonia Requirements for Outfall 003

Table 3: Seasonal Discharge Limits and Monitoring Requirements for Ammonia

Parameters	Discharge Period	Storet #	Units	Discharge Limits		Monitoring Frequency	Sample Type
				Monthly Average	Daily Maximum		
Ammonia as Nitrogen	*Spring* (March 1 – May 31)	00610	mg/l	23.29	46.73	Weekly	24 Hour Composite
			kg/day	52.89	106.12		
Ammonia as Nitrogen	*Summer* (June 1 – October 31)	00610	mg/l	9.98	20.03	Weekly	24 Hour Composite
			kg/day	22.67	45.48		
Ammonia as Nitrogen	*Winter* (Nov. 1 – Feb. 28 [29])	00610	mg/l	17.58	35.28	Weekly	24 Hour Composite
			kg/day	39.93	80.11		

Abbreviations:
mg/L – milligrams per liter MGD – million gallons per day MGAL – million gallons kg/day – kilograms per day

C. Total Residual Chlorine Requirements for Outfall 003

Table 4: Seasonal Discharge Limits and Monitoring Requirements for TRC

Parameters	Discharge Period	Storet #	Units	Discharge Limits		Monitoring Frequency	Sample Type
				Monthly Average	Daily Maximum		
Total Residual Chlorine [(a)]	*Spring* (March 1 – May 31)	50060	mg/L	0.04	0.07	Weekly	Grab
			kg/day	0.08	0.17		
Total Residual Chlorine [(a)]	*Summer* (June 1 – October 31)	50060	mg/L	0.02	0.03	Weekly	Grab
			kg/day	0.04	0.07		
Total Residual Chlorine [(a)]	*Winter* (Nov. 1 – Feb. 28 [29])	50060	mg/L	0.02	0.04	Weekly	Grab
			kg/day	0.04	0.09		

Footnote:
a) TRC must be measured within 15 minutes after sampling.

Abbreviations:
mg/L – milligrams per liter; kg/day – kilograms per day

D. Whole Effluent Toxicity Requirements for Outfall 003

Table 5: Seasonal Discharge Limits and Monitoring Requirements for WET

Parameters	Discharge Period	Storet #	Units	Discharge Limits		Monitoring Frequency	Sample Type
				Monthly Average	Daily Maximum		
Chronic Toxicity *Pimephales promelas/ Ceriodaphnia sp.*	***Spring*** (March 1 – May 31)	61427/61425	TU_C [a]	---	49.90	1/season	24 Hour Composite
Chronic Toxicity *Pimephales promelas/ Ceriodaphnia sp.*	***Summer*** (June 1 – October 31)	61427/61425	TU_C [a]	---	21.91		24 Hour Composite
Chronic Toxicity *Pimephales promelas/ Ceriodaphnia sp.*	***Winter*** (Nov. 1 – Feb. 28 [29])	61427/61425	TU_C [a]	---	27.70		24 Hour Composite

Footnotes:
a) Toxicity shall be measured using the Whole Effluent Toxicity (WET) procedures set forth in 40 CFR, Part 136.

Abbreviations:
mg/L – milligrams per liter; kg/day – kilograms per day; TU_C: Chronic Toxic Units

E. Fecal Coliform Requirements for Outfall 003

Table 6: Discharge Limits and Monitoring Requirements for Fecal Coliform that Apply from May 1 through September 30

	Storet #	Units	Discharge Limits		Monitoring Frequency	Sample Type
			Monthly Geometric Mean	Daily Maximum		
Fecal Coliform [a]	74055	#/100 ml	200	400 [b]	Weekly [c]	Grab

Footnotes:
a) Invalid test results for fecal coliform colonies such as "too numerous to count" (TNTC), will not be accepted. The NDEQ shall be notified within 24 hours of a TNTC or other invalid result. Additional testing or operation controls may be required by the NDEQ.
b) Within a month, no more than 10% of the samples shall exceed 400 CFU/mL.
c) Fecal coliform testing requirements do not apply to discharges that occur from October 1 through April 30.

F. Hydrogen Sulfide Requirements for Outfall 003

Table 7: Seasonal Discharge Limits and Monitoring Requirements for Hydrogen Sulfide

Parameters	Discharge Period	Storet #	Units	Discharge Limits		Monitoring Frequency	Sample Type
				Monthly Average	Daily Maximum		
Hydrogen Sulfide	***Spring*** (March 1 – May 31)	071875	mg/L	0.004	0.008	Monthly	Grab
			kg/day	0.009	0.018		
Hydrogen Sulfide	***Summer*** (June 1 – October 31)	071875	mg/L	0.002	0.003	Monthly	Grab
			kg/day	0.004	0.008		
Hydrogen Sulfide	***Winter*** (Nov. 1 – Feb. 28 [29])	071875	mg/L	0.002	0.004	Monthly	Grab
			kg/day	0.005	0.009		

Abbreviations:
mg/L – milligrams per liter; kg/day – kilograms per day

G. Dissolved Oxygen Requirements for Outfall 003

Table 8: Seasonal Discharge Limits and Monitoring Requirements for Dissolved Oxygen

	Discharge Period	Storet #	Units	Limit	Monitoring Frequency	Sample Type
				Minimum		
Dissolved Oxygen	April 1 – September 30	00300	mg/L	4.55	Weekly	Grab
Dissolved Oxygen	October 1 – March 31	00300	mg/L	2.40	Weekly	Grab

H. Selenium Requirements for Outfall 003

Table 9: Monitoring Requirements for Selenium

	Storet #	Units	Limit	Monitoring Frequency	Sample Type
			Minimum		
Total Recoverable Selenium	00981	mg/L	Report	Monthly	Grab

Part IV. Outfall 004: Industrial Lagoon Effluent Land Application Requirements

A. General Land Application Requirements

1. Infiltration from the land application of process wastewater from M.G. Waldbaum Co. shall not cause impairment to the beneficial uses of waters of the state.
2. Application of the industrial process wastewater shall not cause degradation of the plant-soil characteristics nor degrade the long-term beneficial uses of the applications site.
3. The beneficial reuse of treated effluent (e.g., land application at agronomic rates) is required.
4. A Best Management Practices (BMP) Plan shall be developed according to the *Other Requirements and Conditions* in Part IV, C of this permit and in reference to the guidance provided in *Guidelines for Design and Operation of Irrigation With Treated Wastewater"* 1993 ed.
5. A certified agronomist or certified crop specialist shall prepare the annual report. The cognizant official shall certify and submitted it annually to the Department.

B. Requirement for Prior Site Approval

1. Any proposed effluent land application site must be approved by NDEQ Lincoln Office **prior** to the initial effluent land application.
2. The permittee shall submit a ***Land Application Site Approval Form*** **(Attachment 1)** to NDEQ for **each** application site.
3. Land application approvals shall be based upon the requirements set forth in NDEQ *Guidelines for Design and Operation of Irrigation With Treated Wastewater"* 1993 cd., NDEQ Title 117, NDEQ Title 118, NDEQ Title 119 and HHS Title 179, Chapter 2, Attachment 1, *Regulations Governing Public Water Supply Systems.*

C. Best Management Practices Plan

1. The permittee shall prepare a best management practices (BMP) plan for the land application of process wastewater from the holding cell.
2. This plan shall be submitted and approved by NDEQ prior to the start of land application.
3. The BMP must incorporate the following information for each application site and must be prepared in consultation with a certified agronomist or certified crop specialist.
   a. Provide specific application site information to include:
      i) The name(s) of the land owner(s)
      ii) A copy of any lease or contract;
      iii) The total number of acres for land application;
      iv) A description of the irrigation method to be used on this property; and
      v) The crop or vegetation to be grown on site and the type of agricultural practices generally employed.

   b. Prepare a soil management evaluation to include:
      i) An analysis of soil texture and structure;
      ii) Internal soil drainage;
      iii) analysis of total alkalinity;
      iv) Total nitrogen content in the soil.
      v) Total phosphorous content in the soil;
      vi) Salt and sodium tolerance of the crop; and
      vii) Irrigation method and management.

c. The evaluation must specifically address the following items:

i) An evaluation of site-specific plant-soil assimilation characteristics;

ii) An assessment of wastewater characteristics to include a determination of the pollutant from the wastewater that requires the greatest land application area;

iii) A determination of the wastewater application rates and the land area needed to protect the plant-soil characteristics with the purpose of ensuring that there is no loss of crops or soil microbial populations; and

iv) An evaluation of soil management practices to ensure that there is a long-term correction for potential salt imbalances due to the application of wastes.

d. Submit subsurface data to include approximate depth to the groundwater, general direction of the ground-water flow, and a map depicting various soil characteristics.

e. Submit surface data that includes a topographic map or aerial photograph showing the project boundaries, and drinking water wells, residences, highways, and surface waters within a one-mile radius of the irrigation sites.

f. Provide a narrative explanation of the type of controls to be maintained by the permittee to prevent short-term and long-term surface and ground water contamination.

4. The Best Management Practices plan shall incorporate the following requirements for the application of the process wastewater:

a. During treated effluent land application:

i) No treated wastewater shall be allowed to run-off the application site;

ii) Proper irrigation system operation shall insure that no treated wastewater is sprayed unto or across any public right-of-way;

iii) A 30-foot vegetative buffer strip shall be maintained between the application site and any public right-of-way;

iv) A 300-foot separation from an inhabited dwelling. Exception: If the liquid wastewater is incorporated with the soil and the resident owner/occupant give their written consent this distance may be reduced to 200 feet;

v) A 300-foot separation from potable water supply well and 1,000-foot separation from a well serving a community public water supply; and

vi) A 200-foot separation to any waters of the state such as a stream or wetland. Exception: If a 30-foot vegetative buffer strip is maintained between the site and the surface water, the separation may be reduced to 100 feet.

D. Annual Reporting Requirements

M.G. Waldbaum Co. shall submit an annual report each year to the NDEQ by March 1 of the following year to include the following specified provisions and requirements:

1. The certified agronomist or certified crop specialist shall prepare the annual report. The cognizant official shall be certified by means of **Attachment 2,** ***Certification of Annual Land Application Report***.

2. The annual report shall include:

a. A daily record of the volume of the wastewater applied;

b. To which site the wastewater was applied;

c. The number of acres to which wastewater was applied; and

d. The application rate in gallons per acre.

3. The annual report shall contain a review by a the agronomist of the following items:
   a. Crop conditions;
   b. Soil conditions;
   c. Review of soil testing data;
   d. Review of process wastewater data;
   e. Agricultural practices;
   f. Crop tolerances; and
   g. A discussion of any concerns or problems encountered during the preceding year.
4. The annual report shall contain certification that:
   a. There are no long-term detrimental effects to application site soil characteristics; and
   b. Certification is completed by a certified agronomist/crop specialist.
5. The annual report shall contain the results of annual soil testing on each application site to include at a minimum alkalinity, conductivity, chloride, SAR, and pH. The certified agronomist or certified crop specialist preparing the annual report may require additional testing.
6. The annual report shall contain a certified agronomist or certified crop specialist an evaluation of the BMP plan to include any proposed revisions of site locations, operations, or procedures. Changes to the BMP must be approved by the NDEQ prior to implementation.
7. The location of all land application sites (i.e., either a map or legal description).

E. Withdrawal of Site Approval(s)

1. The Department may withdraw site approval(s) for any of the following:
   a. Failure to comply with the regulations contained in this NPDES permit;
   b. Potential risks to surface or ground water quality;
   c. Potential risks to the environment;
   d. Potential risks to public health and / or welfare; and
   e. Other site specific or facility specific considerations.

F. Requirements of Land Applied Industrial Effluent – Outfall 004

The following table contains pollutants of concern that may be found in process wastewater. The permittee shall perform monitoring on the effluent prior to being land applied as specified in the following table. The Department reserves the right to specify an alternative or more specific monitoring point.

Table 10: Discharge Limits and Monitoring Requirements for Land Applied Industrial Effluent

Parameters	Storet #	Units	Discharge Limits		Monitoring Frequency	Sample Type
			Maximum			
Application – Weekly Spray Irrigation	01287	Inches	Report		Monthly	Calculated or Metered
Ammonia as Nitrogen	00610	mg/L	Report		Monthly	Grab
Nitrate as Nitrogen	00620	mg/L	Report		Monthly	Grab
Sodium Adsorption Ratio	00931	Ratio	Report		Monthly	Grab
Total Alkalinity (as $CaC0_3$)	00410	mg/L	Report		Monthly	Grab
Total Dissolved Solids	70295	mg/L	Report		Monthly	Grab
Total Chloride	00940	mg/L	Report		Monthly	Grab
Total Kjeldahl Nitrogen (TKN)	00625	mg/L	Report		Monthly	Grab
Total Phosphorus as P	00665	mg/L	Report		Monthly	Grab
Parameters	**Storet #**	**Units**	**Minimum**	**Maximum**	**Monitoring Frequency**	**Sample Type**
pH	00400	Standard Units	6.5	8.5	Monthly	Grab

Part V. Biosolids Reuse and Disposal Requirements

A. General Approval Requirements

Biosolids generated from wastewater treatment shall be disposed, land-applied and/or used in a manner approved by the NDEQ. The Department may also approve biosolids disposal/reuse practices on a case-specific basis. Case- specific approvals are subject to review and change, as well as the formal permit modification procedures set forth in *Other Requirements and Conditions*. The following biosolids handling practices are approved, unless otherwise specified:

1. Application to agricultural land in accordance with the following provisions.
2. Disposal at a licensed landfill in accordance with the regulations that apply to the landfill.
3. The permittee is required to retain records related to the permittee's sludge management practices including sludge hauling receipts and/or invoices related to sludge disposal for a minimum of 5 years.

B. Application to Agricultural Land

1. Automatic Approval
   a. Approval for the application of biosolids to agricultural land is automatically granted when all of the conditions set forth are met, unless the Department acts to provide a conditional or circumstantial approval.
   b. Biosolids application is in compliance with the Federal 257 regulations, including all requirements related to vector and pathogen control.
   c. Biosolids are not applied within 200 feet of any actively used groundwater well, except for those used exclusively for irrigation.
   d. Biosolids are not being applied within 1000 feet of any public drinking water supply well.
2. Application sites are not subject to public access.
   a. Conditional and Circumstantial Approvals

   The Department may also grant Conditional and Circumstantial Approvals. A permit modification may be initiated to resolve issues related to Conditional and Circumstantial Approvals.
3. Monitoring Well Requirements

   Where the potential for ground water contamination is a concern, the NDEQ may require monitoring wells to be installed and ground water monitoring to be conducted.

C. Annual Biosolids Application Summary Requirements

Complete the *Annual Biosolids Application Summary* (Attachment 3) and keep a copy with the permittee's 4th quarter DMRs copies for that reporting year. Results from the required biosolids metals testing specified in the *Annual Biosolids Application Summary* form shall be reported on the appropriate 4th quarter DMR. (Also included with this permit for your files is *The Worksheet for Calculating the Agronomic Rate for the Land Application of Wastewater Biosolids (Attachment 4)* as a supplemental aid). The permittee shall complete and retain an *Annual Biosolids Application Summary* form that contains the following information, unless alternative reporting requirements are approved or required by the Department:

Total tonnage of biosolids that was land-applied and/or disposed during the year;

a. If land applied:
   i) The total acreage on which biosolids were land-applied during the year, and
   ii) A listing of land application sites used during the year and their legal descriptions;
b. If land-filled, the name of the landfill(s) used;

   Any ground water monitoring information that may be required or available.

D. Non-compliance Reporting Requirements

The permittee shall report any noncompliance associated with biosolids application in accordance with the *24-Hour Reporting* and *Written Noncompliance Notification* requirements set forth in Appendix A. Noncompliance shall be defined as any failures with respect to the requirements set forth above in this subpart, including failure to comply with:

1. Any approval conditions or requirements;
2. Any monitoring well requirements; and/or
3. The Federal 257 regulations.

E. Withdrawal of Site Approval(s)

The Department may withdraw land application approval(s) for any of the following:

1. Failure to comply with the regulations contained in 40 CFR Part 257;
2. Potential risks to surface or ground water quality;
3. Potential risks to the environment;
4. Potential risks to public health or welfare; and/or
5. Other site specific or facility specific considerations.

Part VI. Other Requirements and Conditions

A. Narrative Limits, Discharges authorized under this permit:

1. Shall not be toxic to aquatic life in surface waters of the State outside the mixing zones allowed in NDEQ Title 117 - *Nebraska Surface Water Quality Standard*;
2. Shall not contain pollutants at concentrations or levels that produce objectionable films, colors, turbidity, deposits, or noxious odors in the receiving stream or waterway; and
3. Shall not contain pollutants at concentrations or levels that cause the occurrence of undesirable or nuisance aquatic life in the receiving stream.

B. Additional Monitoring

The Department may require increases in the monitoring frequencies set forth in this permit to address new information concerning a discharge, evidence of potential non-compliance, suspect water quality in a discharge, evidence of water quality impacts in the receiving stream or waterway, or other similar concerns.

C. Whole Effluent Toxicity Requirements

1. Report a noncompliance violation orally to NDEQ within 24 hours and take all reasonable measures necessary to reduce toxicity immediately.
2. Conduct follow-up test within four weeks after the receipt of the initial noncompliant test results. If the treatment system is a lagoon system, the follow-up test must be taken from the same cell that received the noncompliance violation. The results of the follow-up test shall be submitted to NDEQ within seven days after receipt of the results.
3. If the follow-up test results indicate compliance with toxicity limits, then the permittee may resume the whole effluent toxicity testing schedule in this permit.
4. If the follow-up test results indicate noncompliance with toxicity limit and the source of toxicity is known, then the permittee shall submit a plan and schedule to attain continued compliance with the whole effluent toxicity permit limits within 30 days of receipt of the noncompliant follow-up test results.
5. If the follow-up test results indicate noncompliance with toxicity limits and the source of toxicity is unknown, the permittee must immediately begin developing a Toxicity Reduction Evaluation (TRE) plan at the direction of NDEQ within 90 days of receipt of the noncompliant follow-up test results.

D. Method Detection Limit Reporting Requirements

The minimum detection limit (MDL) is defined as the level at which the analytical system gives acceptable calibration points. If the analytical results are below the MDL then the reported value on the DMR shall be a numerical value less than the MDL (e.g. <0.005).

E. Certified Operator Requirements

This facility is to be operated and maintained by operators certified in accordance with NDEQ Title 197 - *Rules and Regulations for the Certification of Wastewater Treatment Facility Operators in Nebraska.*

F. Permit Modification and Reopening

This permit may be reopened and modified after public notice and opportunity for a public hearing for reasons specified in NDEQ Title 119 - *Rules and Regulations Pertaining to the Issuance of Permits Under the National Pollutant Discharge Elimination System*, Chapter 14.

G. Permit Attachments

The attachments to this permit (e.g., forms and guidance) may be modified without a formal modification of the permit.

Part VII. Schedule of Compliance for Construction of the Mechanical Wastewater Treatment Facility

Upon issuance of this permit, the permittee shall maintain compliance with the interim industrial process effluent limitations listed in this Part (VII). The interim requirements will remain in effect until the compliance date in this schedule is reached. At that time, the permittee must meet all effluent limitations outlined in Part III: *Outfall 003, Discharge Limits and Monitoring Requirements for the Mechanical Facility*. Reports on progress during the compliance period must be submitted to DEQ every six months. The conditions of the compliance schedule are as follows:

A. Schedule for construction and operation of M.G. Waldbaum Co. mechanical WWTF discharging to Logan Creek

1. Three (3) Months
No later than three months after the effective date of this permit, the M.G. Waldbaum shall complete and submit to the NDEQ, engineering design and specifications for the construction of an extended aeration, activated sludge wastewater treatment facility, discharging to Logan Creek through Outfall 003. A study plan for the Outfall 003 diffuser must also be submitted to NDEQ for review and approval.

2. Six (6) Months
No later than six months after the effective date of this permit, the M.G. Waldbaum shall initiate the construction for the extended aeration, activated sludge wastewater treatment facility.

3. 2 years
No later than two years after the effective date of this permit, the M.G. Waldbaum shall complete the construction of the mechanical plant.

4. 2.25 years
No later than 2.25 years after the effective date of this permit, upon startup of the mechanical facility, a Mixing Zone Verification Study must be performed and results submitted to NDEQ for review. The Department will base final approval for the Outfall 003 diffuser on the Mixing Zone Verification Study.

5. 2.6 years (940 days)
No later than 2.6 years after the effective date of this permit, the M.G. Waldbaum shall be in compliance with the limits of this permit for discharge of the industrial wastewater from the mechanical treatment facility (segment EL2-20000) through Outfall 003 to Logan Creek. The discharge shall be monitored in accordance with the requirements in the following Tables 11, 12, 13, 14, 15, 16, 17 and 18. Concurrently, the discharge of process wastewater through the interim lagoon outfalls 7L5 and 9L5, shall cease.

B. Interim Limits from Pretreatment Anaerobic Cell I-2 to Facultative Cells

The monitoring of wastewater from the anaerobic cells is to provide data on facultative lagoon loadings. This permit does not authorize the discharge of effluent from the anaerobic cells to Logan Creek. To comply with these monitoring requirements, samples shall be taken at the last accessible sampling point prior to discharge to the facultative cells, unless an alternative monitoring location is approved and/or mandated by the Department. Samples may not be taken directly out of the anaerobic cells.

Table 11: Interim Discharge from Pretreatment Anaerobic Cells to Facultative Cells.

Parameters	Storet #	Units	Discharge Limits				Monitoring Frequency	Sample Type
			Minimum	Monthly Average	7-Day Average	Maximum		
Flow	50050	MGD	Report	---	---	Report	Quarterly (a)	Measured or Calculated
Biochemical Oxygen Demand (5-Day)	00310	mg/L	---	Report	Report	---	Quarterly	Grab
Total Kjeldahl Nitrogen	00625	mg/L	---	Report	---	Report	Quarterly	Grab
Total Suspended Solids	00530	mg/L	---	Report	Report	---	Quarterly	Grab
pH	00400	Standard Units	Report	---	---	Report	Quarterly	Grab

Footnotes:
(a) Flow must be monitored on the same day as discharge sample collection for BOD, TSS, and pH.

Abbreviations:
mg/L – milligrams per liter MGD – million gallons per day

C. Outfalls 7L5 and 9L5. - Interim Limits and Monitoring Requirements for Flow, pH, BOD_5, and TSS

The discharge of industrial process wastewater from Outfalls 7L5 and 9L5, final effluent, to Logan Creek is authorized and shall be monitored and limited as specified in the following sections. Monitoring shall be conducted by sampling after all treatment processes and prior to discharge to the receiving stream, unless an alternative or more specific monitoring point is specified by the NDEQ. Sampling directly out of the lagoon is prohibited unless the sample is used for the purpose of pre-discharge process control. Blending of industrial effluent with municipal influent is prohibited.

Pre-Discharge Process Control Sampling Procedures – Within two weeks prior to a scheduled draw down discharge via either Outfalls 7L5 or 9L5, the permittee shall isolate the lagoon to be discharged. To sample for pre-discharge process control, collect four grab samples, one from each corner of the isolated cell to be drawn down, and composite the samples into one sample. This composite sample shall be analyzed to ensure the cell's compliance with the toxicity limits in Table 15. If the results comply with these effluent limits, the permittee may begin the discharge of the isolated cell until its drawdown is complete. If the pre-draw down sample results do not comply with the effluent limits, steps must be taken before the discharge begins to assure that the effluent quality meets the required toxicity limit. Keep records of all process control sampling.

Table 12: Outfalls 7L5 and 9L5 - Interim Discharge Limits and Monitoring Requirements for Flow, pH, BOD_5 and TSS

Parameters	Storet #	Units	Discharge Limits				Monitoring Frequency	Sample Type
			Daily Minimum	Monthly Average	7 Day Average	Daily Maximum		
Flow	50050	MGD	---	Report [a]	---	Report	Daily [b]	Measured or Calculated
Total Flow	82220	MGAL	---	---	---	---	Report [c]	Measured or Calculated
Duration of Discharge	81381	Days	---	---	---	---	Report (d)	Measured or Calculated
pH	00400	Standard Units	6.5	---	---	9.0	Daily During Draw Down Discharge / Lagoon Cell	Grab
Biochemical Oxygen Demand (5-Day)	00310	mg/L	---	30.0	45.0	---		Grab
		kg/day	---	170.33	255.49	---		
Total Suspended Solids	00530	mg/L		80	---	120		Grab
		kg/day	---	454.20	---	681.30		
Oil and Grease	00552	mg/L	---	---	---	10	1/Draw Down Discharge	Grab

Footnotes:
a) Monthly Average Flow = (total flow discharged in millions of gallons ÷ total hours discharged) x 24.
b) Effluent flow must be measured daily during the drawdown event.
c) Total flow must be reported as the total volume discharged during a drawdown event.
d) Duration of discharge is the total number of days the lagoon system was discharging during a drawdown event.

Abbreviations:
mg/L – milligrams per liter MGD – million gallons per day MGAL – million gallons kg/day – kilograms per day

D. Interim Total Recoverable Selenium Requirements for Outfalls 7L5 and 9L5

Table 13: Monitoring Requirements for Selenium

	Storet #	Units	Limit	Monitoring Frequency	Sample Type
			Minimum		
Total Recoverable Selenium	00981	mg/L	Report	(a)	Grab

Footnote:
a) One sample must be taken on the first day of the drawdown and every seven days there after until the drawdown is complete for the given lagoon. The final sample must be taken during the last three days of the drawdown.

E. Interim Ammonia Limits and Requirements for Outfalls 7L5 and 9L5

Table 14: Seasonal Interim Discharge Limits and Reporting Requirements for Ammonia

Parameters	Discharge Period	Storet #	Units	Discharge Limits		Monitoring Frequency	Sample Type
				Monthly Average	Daily Maximum		
Ammonia as Nitrogen	***Spring*** (March 1 – May 31)	00610	mg/L	Report	Report	Daily During Draw Down Discharge	Grab
			kg/day	Report	Report		
Ammonia as Nitrogen	***Summer*** (June 1 – October 31)	00610	mg/L	Report	Report		Grab
			kg/day	Report	Report		
Ammonia as Nitrogen	***Winter*** (Nov. 1 – Feb. 28 [29])	00610	mg/L	Report	Report		Grab
			kg/day	Report	Report		

Abbreviations:
mg/L – milligrams per liter; kg/day – kilograms per day

F. Interim Whole Effluent Toxicity Limits and Monitoring Requirements for Outfalls 7L5 and 9L5

Table 15: Seasonal Interim Discharge Limits and Monitoring Requirements for WET

Parameters	Discharge Period	Storet #	Units	Discharge Limits		Monitoring Frequency	Sample Type
				Monthly Average	Daily Maximum		
Acute Toxicity *Pimephales promelas/ Ceriodaphnia sp.*	***Spring*** (March 1 – May 31)	61427 / 61425	TU_A [(a)]	---	1.00	1/Cell Draw Down Discharge [(b)]	Grab
Chronic Toxicity *Pimephales promelas/ Ceriodaphnia sp.*	***Summer*** (June 1 – October 31)	61427 / 61425	TU_C [(a)]	---	4.85		Grab
Chronic Toxicity *Pimephales promelas/ Ceriodaphnia sp.*	*Winter* (Nov. 1 – Feb. 28 [29])	61427 / 61425	TU_C [(a)]	---	5.86		Grab

Footnotes:
a) Toxicity shall be measured using the Whole Effluent Toxicity (WET) procedures set forth in 40 CFR, Part 136.
b) If the discharge period crosses into a different season, the more stringent toxicity applies. Each time a different cell is drawn down, toxicity limits must be met.

Abbreviations:
mg/L – milligrams per liter; kg/day – kilograms per day; TU_A - Acute Toxic Units; TU_C - Chronic Toxic Units

G. Interim Fecal Coliform Limits and Monitoring Requirements for Outfalls 7L5 and 9L5

Table 16: Interim Discharge Limits and Monitoring Requirements for Fecal Coliform that Apply from May 1 through September 30

	Storet #	Units	Discharge Limits		Monitoring Frequency	Sample Type
			Monthly Geometric Mean	Daily Maximum		
Fecal Coliform	74055	#/100 ml	Report	Report	Weekly During Discharge Period	Grab

H. Interim Hydrogen Sulfide Limits and Monitoring Requirements for Outfalls 7L5 and 9L5

Table 17: Seasonal Discharge Limits and Monitoring Requirements for Hydrogen Sulfide

Parameters	Discharge Period	Storet #	Units	Discharge Limits		Monitoring Frequency	Sample Type
				Monthly Average	Daily Maximum		
Hydrogen Sulfide	***Spring*** (March 1 – May 31)	071875	mg/L	Report	Report	1/discharge period	Grab
			kg/day	Report	Report		
Hydrogen Sulfide	***Summer*** (June 1 – October 31)	071875	mg/L	Report	Report		Grab
			kg/day	Report	Report		
Hydrogen Sulfide	***Winter*** (Nov. 1 – Feb. 28 [29])	071875	mg/L	Report	Report		Grab
			kg/day	Report	Report		

Abbreviations:
mg/L – milligrams per liter; kg/day – kilograms per day

I. Interim Dissolved Oxygen Limits and Monitoring Requirements for Outfalls 7L5 and 9L5

Table 18: Seasonal Interim Discharge Limits and Monitoring Requirements for Dissolved Oxygen

	Discharge Period	Storet #	Units	Limit	Monitoring Frequency	Sample Type
				Minimum		
Dissolved Oxygen	April 1 – September 30	00300	mg/L	4.55	Weekly	Grab
Dissolved Oxygen	October 1 – March 31	00300	mg/L	2.40	Weekly	Grab

Appendix A – Standard Conditions that Apply to NPDES and NPP Permits

These general conditions are applicable to all NPDES and NPP permits. These conditions shall not preempt any more stringent requirements found elsewhere in this permit.

A. General Conditions

1. Information Available

All permit applications, fact sheets, permits, discharge data, monitoring reports, and any public comments concerning such shall be available to the public for inspection and copying, unless such information about methods or processes is entitled to protection as trade secrets of the owner or operator under Neb. Rev. Stat. §81-1527, (Cum. Supp. 1992) and NDEQ Title 115, Chapter 4.

2. Duty to Comply

All authorized discharges shall be consistent with the terms and conditions of this permit. The discharge of any pollutant identified in this permit more frequently than or at a level in excess of that authorized shall constitute a violation of the permit.

The permittee shall comply with all conditions of this permit. Failure to comply with these conditions may be grounds for administrative action or enforcement proceedings including injunctive relief and civil or criminal penalties.

The filing of a request by the permittee for a permit modification, revocation and re-issuance, termination or a notification of planned changes or anticipated noncompliance, does not stay any permit condition.

3. Duty to Mitigate

The permittee shall take all reasonable steps to minimize, prevent or correct any adverse impact to the environment resulting from noncompliance with this permit, including such accelerated or additional monitoring as required by the NDEQ to determine the nature and impact of the noncompliant discharge.

4. Permit Actions

This permit may be modified, suspended, revoked or reissued, in part or in whole, in accordance with the regulations set forth in NDEQ Titles 119, Chapter 24. In addition, this permit may be modified, revoked and reissued to incorporate standards or limitations issued pursuant to Sections 301(b)(b)(c), 301(b)(b)(d), 304(b)(b), 307(a)(b), or 405(d) of the Clean Water Act and Public Law 100-4 (i.e., industrial categorical standards and municipal sludge regulations).

5. Land Application of Wastewater Effluent

The permittee shall be permitted to discharge treated domestic wastewater effluent by means of land application in accordance with the regulations and standards set forth in NDEQ Title 119, Chapter 12, 002. The Wastewater Section of the Department must be notified in writing if the permittee chooses to land apply effluent.

6. Toxic Pollutants

The permittee shall not discharge pollutants to waters of the state that cause a violation of the standards established in NDEQ Titles 117, 118 or 119. All discharges to surface waters of the state shall be free of toxic (acute or chronic) substances which alone or in combination with other substances, create conditions unsuitable for aquatic life outside the appropriate mixing zone.

7. Oil and Hazardous Substances/Spill Notification

Nothing in this permit shall preclude the initiation of any legal action or relieve the permittee from any responsibilities, liabilities or penalties under Section 311 of the Clean Water Act. The permittee shall conform to the provisions set forth in NDEQ Title 126 - *Rules and Regulations Pertaining to the Management of Wastes*. If the permittee knows, or has reason to believe, that oil or hazardous substances were released at the facility and could enter waters of the state or any of the outfall discharges authorized in this permit, the permittee shall immediately notify the Department of a release of oil or hazardous substances. During Department office hours (i.e., 8:00 a.m. to 5:00 p.m., Monday through Friday, except

holidays), notification shall be made to the Nebraska Department of Environmental Quality at telephone numbers (402) 471-2186 or (877) 253-2603 (toll free). When NDEQ cannot be contacted, the permittee shall report to the Nebraska State Patrol for referral to the NDEQ Emergency Response Team at telephone number (402) 471-4545. It shall be the permittee's responsibility to maintain current telephone numbers necessary to carry out the notification requirements set forth in this paragraph.

8. Property Rights

The issuance of this permit does not convey neither any property rights of any sort nor any exclusive privileges nor does it authorize any damage to private property or any invasion of personal rights nor any infringement of federal, state or local laws or regulations.

9. Severability

If any provision of this permit is held invalid, the remainder of this permit shall not be affected.

10. Other Rules and Regulations Liability

The issuance of this permit in no way relieves the obligation of the permittee to comply with other rules and regulations of the Department.

11. Inspection and Entry

The permittee shall allow the Director or his authorized representative, upon the presentation of his identification and at a reasonable time:

a. To enter upon the permittee's premises where a regulated facility or activity is located or conducted, or records are required to be kept under the terms and conditions of the permit,

b. To have access to and copy any records required to be kept under the terms and conditions of the permit,

c. To inspect any facilities, equipment (including monitoring and control), practices or operations regulated or required in the permit, and

d. To sample or monitor any substances or parameters at any location.

12. Penalties

Violations of the terms and conditions of this permit may result in the initiation of criminal and/or civil actions. Civil penalties can result in fines of up to $10,000.00 per day (Neb. Rev. Stat. §81-1508, as amended to date). Criminal penalties for willful or negligent violations of this permit may result in penalties of $10,000.00 per day or by imprisonment. Violations may also result in federal prosecution.

B. Management Requirements

1. Duty to Provide Information

The permittee shall furnish to the Department within a reasonable time, any information which the Department may request to determine whether cause exists for modifying, revoking and reissuing, or terminating this permit; or to determine compliance with this permit. The permittee shall also furnish to the Department upon request, copies of records retained as a requirement of this permit.

2. Duty to Reapply

The permittee shall apply for a re-issuance of this permit, if an activity regulated by this permit is to be continued after the expiration date of this permit. The application shall be submitted at least 180 days before the expiration of this permit on an application form supplied by the Department, as set forth in NDEQ Titles 119, Chapter 5 002.

3. Signatory Requirements

All reports and applications required by this permit or submitted to maintain compliance with this permit, shall be signed and certified as set forth in this section.

a. Permit applications shall be signed by a cognizant official who meets the following criteria:

i) For a corporation: by a principal executive officer of at least the level of vice-president,

ii) For a partnership or sole proprietorship: by a general partner or the proprietor, respectively, or

iii) For a municipality, state, federal or other public facility: by either a principal executive officer or highest ranking elected official.

b. Discharge monitoring reports and other information shall be signed by the **cognizant official** or by an **authorized representative**.

c. The cognizant official designates an authorized representative. The authorized representative is responsible for the overall operation of the facility (i.e., the WWTF Operator, the City Manager, the Public Utilities Superintendent or similar person).

d. Any change in the signatories shall be submitted to the Department, in writing, within 30 days after the change.

e. Certification. All applications, reports and information submitted as a requirement of this permit, shall contain the following certification statement:

"I certify, under penalty of law, that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gathered and evaluated 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. I am aware that there are significant penalties for submitting false information including the possibility of fine and imprisonment for knowing violations."

C. Monitoring and Records

1. Representative Sampling

Samples and measurements taken as required within this permit shall be representative of the discharge. All samples shall be taken at the monitoring points specified in this permit and, unless otherwise specified, before the effluent joins or is diluted by any other waste stream, body of water or substance. Monitoring points shall not be changed without notification to the Department and with the written approval of the Director.

a. Composite sampling shall be conducted in one of the following manners:

i) Continuous discharge - a minimum of one discrete aliquot collected every three hours,

ii) Less than 24 hours - a minimum of hourly discrete aliquots or a continuously drawn sample shall be collected during the discharge, or

iii) Batch discharge - a minimum of three discrete aliquots shall be collected during each discharge.

b. Composite samples shall be collected in one of the following manners:

i) The volume of each aliquot must be proportional to either the waste stream flow at the time of sampling or the total waste stream flow since collection of the previous aliquot,

ii) A number of equal volume aliquots taken at varying time intervals in proportion to flow,

iii) A sample continuously collected in proportion to flow, and

iv) Where flow proportional sampling is infeasible or nonrepresentative of the pollutant loadings, the Department may approve the use of time composite samples.

c. Grab samples shall consist of a single aliquot collected over a time period not exceeding 15 minutes.

d. All sample preservation techniques shall conform to the methods adopted in NDEQ Title 119, Chapter 21, 006 unless:

i) In the case of sludge samples, alternative techniques are specified in the 40 CFR, Part 503, or

ii) Other procedures are specified in this permit.

2. Flow Measurements

Appropriate flow measurement devices and methods consistent with accepted scientific practices shall be used to insure the accuracy and reliability of measurements. The devices shall be installed, calibrated and maintained to insure that the accuracy of the measurements. The accepted capability shall be consistent with the type of that device. Devices selected shall be capable of measuring flows with a maximum deviation of +/- 10%. The amount of deviation shall be from the true discharge rates throughout the range of expected discharge volumes. Guidance can be obtained from the following references for the selection, installation, calibration and operation of acceptable flow measurement devices:

a. "Water Management Manual," U. S. Department of Interior, Bureau of Reclamation, Second Edition, Revised Reprint, 2001, 327 pp. Available from the National Technical Information Services (NTIS)

b. "NPDES Compliance Inspection Manual," U. S. Environmental Protection Agency, Office of Enforcement and Compliance Assurance, Publication EPA 300-B-94-014 September 1994. This document is available from the National Technical Information Services (NTIS).

3. Test Procedures

Test procedures used for monitoring required by this permit shall conform to the methods adopted in NDEQ Title 119, Chapter 21, 006 unless:

a. In the case of sludge samples, alternative techniques are specified in the 40 CFR, Part 503, or

b. Other procedures are specified in this permit.

4. Averaging of Measurements

Averages shall be calculated as an arithmetic mean except:

a. Bacterial counts which shall be calculated as a geometric mean, or

b. Where otherwise specified by the Department.

5. Retention of Records

The permittee shall retain records of all monitoring activities for a period of at least three years (except five years for biosolids data) as set forth in NDEQ Titles 119, Chapter 14 001.02. The types of records that must be retained include, but are not limited to:

a. Calibration and maintenance records,

b. Original strip chart recordings,

c. Copies of all reports required by this permit,

d. Monitoring records and information, and

e. Electronically readable data.

The permittee shall retain records of monitoring required by this permit that are related to biosolids use and disposal for a period of five years or longer, as required in NDEQ Titles 119, Chapter 14.

6. Record Contents

As set forth in NDEQ Title 119, Chapter 14, records of sampling or monitoring information shall include:

a. The date(s), exact place, time and methods of sampling or measurements,

b. The name(s) of the individual(s) who performed the sampling or measurements,

c. The date(s) the analyses were performed,

d. The individual(s) who performed the analyses,

e. The analytical techniques or methods used,

f. The results of such analyses, and

g. Laboratory data, bench sheets and other required information.

D. Reporting Requirements

1. Immediate Notification

a. NPP permittees shall report immediately to the publicly owned treatment works (POTW), any discharge to the POTW that may result in a violation of NDEQ Title 119, Chapter 26.

b. All permittees shall report immediately to the NDEQ:

i) Discharges of oil or hazardous substances which threaten waters of the state or public health and welfare, and

ii) Discharges causing in-stream toxicity (i.e., a fish kill) or an immediate threat to human health.

Initial notification may be verbal. A written noncompliance notification shall be submitted as set forth in Section D. 3 of this Appendix.

2. Test Procedures

Test procedures used for monitoring required by this permit, shall conform to the methods adopted in NDEQ Title 119, Chapter 27 unless:

a. In the case of biosolids samples, alternative techniques are specified in the NDEQ Title 119, Chapter 14; or

b. Other procedures are specified in this permit.

3. 24-Hour Reporting

As set forth in NDEQ Title 119, Chapter 14 the permittee shall report to the NDEQ, within 24 hours of becoming aware of:

a. Any noncompliance which may endanger the environment or human health or welfare,

b. Any unanticipated bypass,

c. All upsets,

d. Any discharge to a POTW that causes a violation of the prohibited discharge standards, or

e. Any noncompliance of an effluent limitation in this permit.

Initial notification may be verbal. A written noncompliance notification shall be submitted as set forth in Section D. 3 of this permit.

As set forth in NDEQ Title 119, Chapter 26, if sampling performed by an industrial user (NPP permittee) indicates a permit effluent violation, the permittee shall notify the Department and the city within 24 hours of becoming aware of the violation. The permittee shall resample and have it analyzed. The results of the resampling analysis shall be submitted to the Department and the city within 30 days after becoming aware of the violation.

4. Written Noncompliance Notification

a. The permittee shall submit a written noncompliance report to the NDEQ:

i) Within five days of becoming aware of any noncompliance with the:

(a) NPP effluent limitations or requirements set forth in this permit, or

(b) NPDES toxic pollutant effluent limitations or requirements set forth in this permit.

ii) Within seven days of becoming aware of any other noncompliance with the NPDES requirements and/or effluent limitations set forth in this permit.

b. The written notification shall be submitted on a noncompliance form supplied by the Department and shall include:

i) A description of the discharge and cause of noncompliance,

ii) The period of noncompliance, including exact dates and times, or if not corrected, the anticipated time the noncompliance is expected to continue, and

iii) The steps taken to reduce, eliminate and prevent the reoccurrence of the noncompliance.

The submittal of a written noncompliance report does not relieve the permittee of any liability from enforcement proceedings that may result from the violation of permit or regulatory requirements.

5. Quarterly Discharge Monitoring Reports (DMRs)

The permittee shall report the monitoring results required by this permit on a DMR form supplied or approved by the Department. Monitoring results shall be submitted on a quarterly basis using the reporting schedule set forth below, unless otherwise specified in this permit or by the Department.

Monitoring Quarters	DMR Reporting Deadlines
January - March	April 28
April - June	July 28
July - September	October 28
October - December	January 28

If the permittee monitors any pollutant more frequently than required by this permit, using procedures specified in this permit, the results of this monitoring shall be included in the calculation and reporting of the data submitted on the DMR. The frequency of the analysis shall also be reported on the DMR.

6. Changes in Discharge

Any facility expansion, production increases or process modifications which will result in new or substantially increased discharges of pollutants or a change in the nature of the discharge of pollutants must be reported by the permittee 180 days prior to the expansion, increases or modifications, either by amending his original application or by submitting a new application. This permit may be modified or revoked and reissued as a result of this notification to maintain compliance with applicable state or federal regulations.

7. Changes in Toxic Discharges from Manufacturing, Commercial, Mining and Silvicultural Facilities

Permittees discharging from manufacturing, commercial, mining and silvicultural facilities shall report to the Department:

a. If any toxic pollutant not limited in this permit is discharged from any NPDES outfall as a result of any activity that will or has occurred and results in its routine or frequent discharge. The Department shall be informed if that discharge exceeds the following notification levels:
   i) 100 micrograms per liter (0.1 mg/L) for any toxic pollutant,
   ii) 200 micrograms per liter for acrolein and acrylonitrile (0.2 mg/L),
   iii) 500 micrograms per liter for 2,4-dinitrophenol and for 2-methyl-4, 6-dinitrophenol (0.5 mg/L),
   iv) 1000 micrograms per liter for antimony (1 mg/L),
   v) Five times the maximum concentration value reported for that pollutant in the permit application or
   vi) An alternative level established by the Director, and

b. If any toxic pollutant not limited in this permit is discharged from an NPDES outfall as a result of any activity that will or has occurred and results in its nonroutine discharge. The Department shall be informed if that discharge exceeds the following notification levels:
   i) 500 micrograms per liter (0.5 mg/L) for any toxic pollutant,
   ii) 1000 micrograms for antimony (1 mg/L),
   iii) Ten times the maximum concentration value reported for that pollutant in the permit application, or
   iv) An alternative level established by the Director.

8. Changes in Sludge Quality

The permittee shall provide written notice to the Department of any alteration or addition that results in a significant change in the permittee's sludge use or disposal practices. This permit may be modified or revoked and reissued as a result of this notification to maintain compliance with applicable state or federal regulations.

9. Changes of Loadings to Publicly Owned Treatment Work (POTW)

POTW's shall notify the Department of the following:

a. Any new introduction of pollutants from dischargers subject to the categorical pretreatment discharge limitations set forth in NDEQ Title 119, Chapter 27, and

b. Any substantial change in the volume or character of pollutants being introduced into the POTW.

Notification shall be made 180 days in advance whenever possible. Information on the quantity and quality of new discharges and their anticipated impact on the POTW shall be included.

10. Transfers

The permittee shall notify the Department at least 30 days prior to the proposed transfer of ownership of this permit or the permitted facility to another party. The Department may modify or revoke and reissue this permit as set forth in NDEQ Title 119, Chapter 24.

11. Compliance Schedules

The permittee shall submit a written report of compliance or noncompliance with any compliance schedule established in this permit. The written report shall be submitted within 14 days following all deadlines established in the compliance schedule. If compliance has not been achieved, the report shall include an alternative completion date, an explanation of the cause of the noncompliance and an explanation of the steps being taken to ensure future compliance. The submission of this report does not ensure the Department's acceptance of alternative compliance dates nor does it preclude the Department from initiating enforcement proceedings based upon the reported noncompliance.

E. Operation and Maintenance

1. Proper Operation and Maintenance

The permittee shall, at all times, maintain in good working order and operate as efficiently as possible, any facilities or systems of control installed by the permittee in order to achieve compliance with the terms and conditions of this permit. This would include, but not be limited to, effective performance based on designed facility removals, effective management, adequate operator staffing and training, adequate laboratory and process controls, and adequate funding that reflects proper user fee schedules.

2. Treatment System Failure and Upset

An upset is an affirmative defense to an enforcement action brought for noncompliance with technology-based permit effluent limitations if the permittee can demonstrate, through properly signed, operating logs or other relevant evidence, that:

a. An upset occurred and the specific cause was identified,

b. That the facility was properly operated and maintained at such time,

c. The Department was notified within 24 hours of the permittee becoming aware of the upset, and

d. The permittee took action to reduce, eliminate and prevent a reoccurrence of upset, including minimizing adverse impact to waters of the state.

3. Bypassing

Any diversion from or bypass of the treatment facilities is prohibited, unless:

a. It is unavoidable to prevent loss of life, personal injury or severe property damage;
   i) No feasible alternative exists, i.e., auxiliary treatment facilities, retention of untreated wastes or maintenance during normal periods of equipment downtime;
   ii) The permittee submits notice to the Department within 24 hours of becoming aware of the bypass or if the bypass is anticipated or should have been anticipated, the Department is notified at least ten days prior to the bypass; and
   iii) The bypass is conducted under conditions determined to be necessary by the Director to minimize any adverse effects.

b. If the bypass is needed for regular preventative maintenance for which back-up equipment should be provided, the bypass will not be allowed. When a bypass occurs, the burden is on the permittee to demonstrate compliance with items "a" through "d" above.

c. Additionally, NPP permittees shall report any bypasses to the POTW. Unanticipated bypasses shall be reported immediately and anticipated bypasses shall be reported at least ten days in advance.

d. All NPDES permittees shall notify the general public that a bypass of the treatment system is occurring. The public notification shall include:
   i) Location of the bypass;
   ii) The date the bypass started;
   iii) Anticipated length of time the bypass will occur; and
   iv) An estimate of the total volume of wastewater bypassed.

4. Removed Substances

Solids, sludge, filter backwash or other pollutants removed in the course of treatment or control of wastewater shall be disposed of at a site and in a manner approved by the Nebraska Department of Environmental Quality. The disposal of nonhazardous industrial sludges shall conform to the standards established in or to the regulations established pursuant to 40 CFR, Part 257. The disposal of sludge shall conform to the standards established in or to the regulations established pursuant to 40 CFR, Part 503. If solids are disposed of in a licensed sanitary landfill, the disposal of solids shall conform to the standards established in NDEQ Title 132. Publicly owned treatment works shall dispose of sewage sludge in a manner that protects public health and the environment from any adverse effects which may occur from toxic pollutants as defined in Section 307 of the Clean Water Act. This permit may be modified or revoked and reissued to incorporate regulatory limitations established pursuant to 40 CFR, Part 503.

F. Definitions

Administrator: The Administrator of the USEPA.

Aliquot: An individual sample having a minimum volume of 100 milliliters that is collected either manually or in an automatic sampling device.

Biweekly: Once every other week.

Bimonthly: Once every other month.

Bypass: The intentional diversion of wastes from any portion of a treatment facility.

Daily Average: An effluent limitation that cannot be exceeded and is calculated by averaging the monitoring results for any given pollutant parameter obtained during a 24-hour day.

Department: Nebraska Department of Environmental Quality.

Director: The Director of the Nebraska Department of Environmental Quality.

Industrial Discharge: Wastewater that originates from an industrial process and / or is noncontact cooling water and / or is boiler blowdown.

Industrial User: A source of indirect discharge (a pretreatment facility).

Monthly Average: Is an effluent limitation that cannot be exceeded. It is calculated by averaging any given pollutant parameter monitoring results obtained during a calendar month.

Passive Discharge: A discharge from a POTW that occurs in the absence of an affirmative action and is not authorized by the NPDES permit (e.g. discharges due to a leaking valve, discharges from an overflow structure) and / or is a discharge from an overflow structure not designed as part of the POTW (e.g. discharges resulting from lagoon berm / dike breaches).

Publicly Owned Treatment Works (POTW): A treatment works as defined by Section 212 of the Clean Water Act (Public Law 100-4) which is owned by the state or municipality, excluding any sewers or other conveyances not leading to a facility providing treatment.

Semiannually: Twice every year

Significant Industrial Use (SIU): All industrial users subject to Categorical Pretreatment Standards or any industrial user that, unless exempted under Chapter 1, Section 115 of NDEQ Title 119, discharges an average of 25,000 gallons per day or more of process water; or contributes a process waste stream which makes up 5 percent or more of the average dry weather hydraulic or organic capacity of the POTW; or is designated as such by the Director on the basis that the industrial user has a reasonable potential for adversely affecting the POTW's operation or for violating any National Pretreatment Standard or requirement.

30-Day Average: Is an effluent limitation that cannot be exceeded. It is calculated by averaging any given pollutant parameter monitoring results obtained during a calendar month.

Total Toxic Organics (TTO): The summation of all quantifiable values greater than 0.01 milligrams per liter (mg/l) for toxic organic compounds that may be identified elsewhere in this permit. (If this term has application in this permit, the list of toxic organic compounds will be identified, typically in the Limitations and Monitoring Section(s) and/or in an additional Appendix to this permit.)

Toxic Pollutant: Those pollutants or combination of pollutants, including disease causing agents, after discharge and upon exposure, ingestion, inhalation or assimilation into an organism, either directly from the environment or indirectly by ingestion through food chains will, on the basis of information available to the administrator, cause death, disease, behavioral abnormalities, cancer, genetic mutations, physiological malfunction (including malfunctions in reproduction) or physical deformations, in such organisms or their offspring.

Upset: An exceptional incident in which there is unintentional and temporary noncompliance with technology based permit effluent limitations because of factors beyond the reasonable control of the permittee, excluding such factors as operational error, improperly designed or inadequate treatment facilities or improper operation and maintenance or lack thereof.

Volatile Organic Compounds (VOC): The summation of all quantifiable values greater than 0.01 milligrams per liter (mg/l) for volatile, toxic organic compounds that may be identified elsewhere in this permit. (See the definition for Total Toxic Organics above. In many instances, VOCs are defined as the volatile fraction of the TTO parameter. If the term "VOC" has application in this permit, the list of toxic organic compounds will be identified, typically in the Limitations and Monitoring Section(s) and/or in an additional Appendix to this permit.)

Weekly Average: Is an effluent limitation that cannot be exceeded. It is calculated by averaging any given pollutant parameter monitoring results obtained during a fixed calendar week. The permittee may start their week on any weekday but the weekday must remain fixed. The Department approval is required for any change of the starting day.

"X" Day Average: An effluent limitation defined as the maximum allowable "X" day average of consecutive monitoring results during any monitoring period where "X" is a number in the range of one to seven days.

G. Abbreviations

CFR: Code of Federal Regulations
kg/Day: Kilograms per Day
MGD: Million Gallons per Day
mg/L: Milligrams per Liter
NOI: Notice of Intent
NDEQ: Nebraska Department of Environmental Quality
NDEQ Title 115 - *Rules of Practice and Procedure*
NDEQ Title 117 - *Nebraska Surface Water Quality Standards*
NDEQ Title 118 - *Ground Water Quality Standards and Use Classification*
NDEQ Title 119 - *Rules and Regulations Pertaining to the Issuance of Permits under the National Pollutant Discharge Elimination System*
NDEQ Title 126 - *Rules and Regulations Pertaining to the Management of Wastes*
NDEQ Title 132 - *Integrated Solid Waste Management Regulations*
NPDES: National Pollutant Discharge Elimination System
NPP: Nebraska Pretreatment Program
POTW: Publicly Owned Treatment Works
µg/L: Micrograms per Liter

ATTACHMENT 1

Nebraska Department of Environmental Quality

For Official Use Only
NPDES NE _____
IIS _____

Wastewater Section
1200 'N' Street, Suite 400, The Atrium
PO Box 98922
Telephone: 402/471-4220 / Fax: 402/471-2909

Land Application Site Approval Form

Submission of this Land Application Site-Approval Form constitutes notice that this Industrial Facility intends to land apply effluent and requests site approval by NDEQ prior to that land application.

Any proposed land application site must be submitted and approved by NDEQ **prior** to the initial effluent application made after the effective issuance date of this NPDES permit. The permittee shall submit a *Land Applied Effluent Site Approval Form* to NDEQ for **each** application site unless the Department approves alternative arrangements. The applicant is then eligible to receive automatic approval provided the applicant indicates the required set backs are observed and indicates compliance with and understanding of the regulations and conditions contained in this NPDES permit. Sites that are currently used for land application of effluent also need initial approval under this reissued permit. The WWTF generating and applying the effluent needs to reference the NDEQ publication, *"Guidelines for Design and Operation of Irrigation With Treated Wastewater"* 1993 ed. when developing land application procedures.

1) Wastewater Provider Information
The following information shall be given to NDEQ **prior** to the land application of treated wastewater:

A) Wastewater Provider:

Name: _____

Mailing Address: _____

City: _____ State: _____ Zip Code: _____

Telephone Number ( ) _____ E-mail: _____

B) Wastewater Provider Contact Information:

Name _____

Title: _____ (The Facility Contact must be either the Cognizant Official or the Authorized Representative listed on the Signatory Authorization Form. If there has been a change in personnel please contact NDEQ in order to update the Signatory Authorization Form.)

Mailing Address: _____

City: _____ State: _____ Zip Code: _____

Telephone Number ( ) _____ E-mail: _____

ATTACHMENT 1

2) Land Application Site Information

A. Application Site Location: Provide Street Address or brief narrative of the facility location (NOT the mailing address)

_____

_____

Size of the application site (acres): _____

B. Legal Description of Application Site:

_____ Quarter of the _____ Quarter, Section _____, Township _____N, Range _____(E or W)_____County

C. Land Application Site Owner Information?

Name: _____

Title: _____ Telephone Number ( )_____

Mailing Address: _____

City: _____ State: _____ Zip Code: _____

D. Renter/Leaser Information:

Name: _____

Mailing Address: _____

City: _____ State: _____ Zip Code: _____

Telephone Number ( )_____

E. Land Application (irrigation) system Operator Information

Name: _____

Title:_____ Telephone Number ( )_____

Mailing Address:_____

City:_____ State:_____ Zip Code:_____

F. Additional Nitrogen Sources

Are other sources of nitrogen applied to the site in addition to the treated effluent? Yes* No

*If Yes, please attach an agronomic analysis of the site.

G. Public Access

1. Type of Application Site?_____ Restricted Public Access or _____ Unrestricted Public Access*

(A restricted public use site is defined, as a site where public access is controlled and / or public exposure to treated effluent is highly unlikely. An unrestricted use site is defined, as a site where public access is not controlled and / or public exposure to treated effluent is likely.)

2. Will effluent be disinfected * & if so by what means?_____

_____

_____

* Note: Disinfection is required at sites with unrestricted public access.

ATTACHMENT 1

2) Land Application Site Information

H. Land Application Practices

1) What type of land application, (irrigation), will be used? (Check all that apply)

Center pivot _____ Gated pipe _____ Other (specifiy) _____

2) How will the wastewater be disposed of if conditions, (e.g. soil moisture, precipitation, frozen ground), preclude land application of treated effluent?

_____

_____

_____

H. Groundwater Information

1. How long has the site been used for the land application of effluent? _____ years _____ Months

2. What is the depth to ground water under this site? _____ feet

3. Are ground water monitoring wells present on the site? Yes No

3) Land Applied Effluent Checklist

Please circle the correct response and provide additional information as requested

A "No" answer to any of the 5 questions in this box disqualifies the site from automatic approval. If all questions are answered with a "Yes" and the certification statement is signed by either the Cognizant Official or the Authorized Representative, approval to land apply effluent originating from the municipal WWTF will be automatic 30 days after the receipt of this form. The municipal WWTF will NOT receive any communication from NDEQ regarding land application of effluent unless approval is denied or additional information is needed to make a final determination.

1) Will the effluent land application site be at least 500' from public drinking water supply wells and at least 100' from private drinking water wells? Yes No

2) Will the effluent land application site be at least 100' from areas accessible to the public including any inhabited dwellings? Yes No

3) Will 2 inches or less of treated effluent be applied per acre of land application site per week? Yes No

4) Will surface runoff from the land application site be prevented? Yes No

5) Does the wastewater receive treatment? Yes No

ATTACHMENT 1

4) Certification

I certify, under penalty of law, that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gathered and evaluated 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. I am aware that there are significant penalties for submitting false information including the possibility of fine and imprisonment for knowing violations.

I also certify that to the best of my knowledge and belief the _____ is in compliance with the regulations, conditions and provisions concerning the land application of effluent contained in NPDES permit number NE_____.

_____ _____

Signature* Date Signed

_____ _____

Printed Name Title

*Either the Cognizant Official *or* the Authorized Representative may sign the **Land Application Site Approval Form.**

ATTACHMENT 2

Nebraska Department of Environmental Quality

Wastewater Section
1200 'N' Street, Suite 400, The Atrium
PO Box 98922
Telephone: 402/471-4220 / Fax: 402/471-2909

CERTIFICATION OF ANNUAL LAND APPLICATION REPORT

A. Identification of Facility

Facility Name: _____ NPDES Permit NE**0113735**_____

Mailing Address: _____

City: _____ State: _____ Zip Code: _____

B. Agronomist that Prepared the Annual Report

Name of Agronomist: _____ Phone Number _____

Mailing Address: _____

City: _____ State: _____ Zip Code: _____

B. Certification of Annual Report

I certify that the _____ facility, located at

_____, Nebraska is in compliance with the requirements of the NPDES permit I also certify, under penalty of law, that the annual report and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gathered and evaluated the information submitted. Based on my inquiry, the information submitted is, to the best of my knowledge and belief; true, accurate and complete. I am aware that there are significant penalties for submitting false information including the possibility of fine and imprisonment for knowing violations.

_____ _____
Signature of Cognizant Official Date

_____ _____
Printed Name Title

ATTACHMENT 3

Nebraska Department of Environmental Quality

For internal use only
NPDES NE 0113735_____
IIS 9057_____

Wastewater Section
1200 'N' Street, Suite 400, The Atrium
PO Box 98922
Telephone: 402/471-4220 / Fax: 402/471-2909

Annual Biosolids Application Summary

If the land applied biosolids are from the same source and processed using the same method (s), only one representative biosolids sample may be used even if the biosolids are applied to more than one site. Monitoring results for biosolids metals shall be reported on the appropriate Discharge Monitoring Report, (DMR), and this form.

Please complete and retain a copy of this form with the permittee's copies of the 4th quarter DMRs unless otherwise specified. Please attach a copy of the laboratory report for the biosolids analysis. The land-applied biosolids must be monitored for pH, ammonia as N, nitrite as N, total nitrogen as N, and total solids. Since only 1 representative biosolids sample per site is required, only the maximum values need be reported.

1. Facility Name: _____

Mailing Address: _____

City: _____ **State:** _____ **Zip Code:** _____

Telephone Number: _____

METHODS OF BIOSOLIDS USE OR DISPOSAL

a) Biosolids are land applied **YES** **NO**
(If YES, complete the form)

b) Are the biosolids hauled to a waste treatment facility? **YES** **NO**
If "Yes" who is the hauler and to which WWTF are the biosolids taken?

_____

_____

_____

c) Are the biosolids placed in a landfill? **YES** **NO**
If YES, give the location of the landfill and the name of the hauler:

_____

_____

_____

d) If the biosolids are NEITHER hauled to another WWTF or placed in a landfill, skip to number 6 (Certification)

ATTACHMENT 3

ANNUAL BIOSOLIDS APPLICATION SUMMARY FORM

3. Annual Biosolids Summary Data:

			Legal Description of Application Site				
Field Number	**Acres Available**	**Biosolids Applied (Tons)**	**County**	**Quarter**	**Section**	**Township**	**Range**

Biosolids Monitoring

Facility Name: _____

Sample Date: _____

The permittee shall monitor biosolids as specified. A representative sample shall be collected for analysis prior to land application. A representative sample is defined as a sample that is a composite of several biosolids samples within the same batch.

Table 1: Biosolids Monitoring Requirements

Parameters	Storet #	Units	Biosolids Reporting	Measurement Frequency	Sample Type
pH	00400	S.U.	Report [a]	Annually	Grab
Ammonia (N)	82294	mg/kg	Report [a]	Annually	Grab
Nitrate (N)	61539	mg/kg	Report [a]	Annually	Grab
Total Nitrogen	78470	mg/kg	Report [a]	Annually	Grab
Total Solids	78477	mg/kg	Report [a]	Annually	Grab

Footnote:

a) The limit for these parameters is defined as the agronomic rate. Attach a copy of the "*"Calculation Worksheet for Calculating the Agronomic Rate for the Land Application of Biosolids"*

Abbreviations: mg/L – milligrams per liter; S.U. – Standard Units

ATTACHMENT 3

5. Ground Water / Monitoring Wells

Please attach any ground water monitoring data that may be required or available.

6. Certification

I certify that the _____ facility, located in _____, NE is in compliance with the Federal regulations contained in 40 CFR 257 as they pertain to the disposal, use and handling of biosolids from am industrial WWTF.

I certify, under penalty of law, that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gathered and evaluated 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. I am aware that there are significant penalties for submitting false information including the possibility of fine and imprisonment for knowing violations.

_____ _____

Signature of Cognizant Official *or* the Authorized Representative Date Signed

_____ _____

Printed Name Title

Qualifications and Responsibilities of the "Cognizant Official" and the "Authorized Representative"
The qualifications and responsibilities of the "cognizant official" are set forth in NDEQ Title 119 Chapter 13.002:

002.01 - For a corporation by a responsible corporate officer;

002.02 - For a partnership or sole proprietorship by a general partner or proprietor; and

002.03 - For a municipal, State, Federal or other public facility by either a principal executive officer or ranking elected official."

The qualifications and responsibilities for the "authorized representative" are set forth in NDEQ Title 119 Chapter 13.003:

"All other correspondence, reports and DMR's shall be signed by a person designated in 002.01 through 002.03 or a duly authorized representative if such representative is responsible for the overall operation of the facility from which the discharge originates; the authorization is made in writing by the person designated under 002.01 through 002.03 above; and the written authorization is submitted to the Director."

The authorized representative may also sign REM-NOIs, if the Cognizant Official has specifically authorized them to perform this task in a previous REM-NOI or in other written documentation as set forth in permit Part II. B. 4.

ATTACHMENT 4

NPDES Number	NE0113735
This area for Department Use	
IIS Number	9057
Date Received	

Nebraska Department of Environmental Quality

Wastewater Section·1200 'N' Street, Suite 400 The Atrium·PO Box 98922·Lincoln, NE 68509-8922·Tel. 402/471-4220

Worksheet for Calculating the Agronomic Rate
For the Land Application of Wastewater Biosolids

Site: _____

Facility: _____

Procedure: A procedure used to calculate the agronomic rate for application of process wastewater biosolids at which the nitrogen supplied by the biosolids and available to the plants does not exceed the requirement for nitrogen of the crop or vegetation. To calculate the agronomic rate, the available ammonium nitrogen (NH_4-N_{avail}), nitrate nitrogen (NO_3-N_{avail}), organic nitrogen (Org-N_{avail}), must all be determined in order to calculate the total available nitrogen (TN_{avail}) in the biosolids. The nitrogen needed (N_{needed}) by the crop is calculated based on the crop selected, expected yield, soil type, previous crop residual, and nitrate nitrogen retained in the soil. The amount of nitrogen needed by the crop:

(N_{needed}) is divided by the total nitrogen available (TN_{avail}) to find the annual loading rate

Step 1: From the analysis of the process wastewater biosolids to be land applied, determine the amount of each nitrogen compound, based on dry weight, in pounds per ton, (lbs / ton).

Nitrogen Compound	Concentration of Nitrogen Compounds (mg / Kg)	Conversion	Current Amount of N in Biosolids (pounds per dry ton of biosolids)
Total Kjeldahl Nitrogen (TKN-N)		**x 0.002 =**	
Ammonium Nitrogen (NH_4-N)		**x 0.002 =**	
Nitrate Nitrogen (NO_3-N)		**x 0.002 =**	
Organic Nitrogen (Org-N)	TKN – NH_4 – NO_3	=	

Step 2: Calculate the amount of ammonium-nitrogen available in the process wastewater biosolids to be applied. Assume that the available fraction (K_v) is dependent upon operations at the site (see Table A1). Use the following equation:

$$NH_4\text{-}N_{available} = NH_4\text{-}N \times K_V$$

Where:

NH_4-N = is the amount of ammonium nitrogen in the process wastewater biosolids to be land applied, Lb/ton.

K_V = is a volatilization factor for determining the availability of ammonium nitrogen based on how the wastewater biosolids are applied.

ATTACHMENT 4

Worksheet for Calculating the Agronomic Rate
For the Land Application of Wastewater Biosolids

Table A1. Factors for K_V	
If Process Wastewater Biosolids are	Factor K_V is:
Liquid and Surface Applied	0.50
Liquid and Incorporated into the Soil	1.0
Dewatered and Applied in Any Manner	1.0

$NH_4\text{-}N_{available}$ = _____ (From Step 1) lbs/ton x _____ (K_V) = _____ lbs/ton

Step 3: Calculate the amount of organic nitrogen available in the process wastewater biosolids to be applied. The Factor F, used for determining the amount of Org-N present due to mineralization, is provided below in Table A2. The value of F is dependent upon how the biosolids are treated (i.e., aerobic digestion, composted, etc.).

Step 4: Current Available Organic Nitrogen, Current $Org\text{-}N_{available}$. Current available organic nitrogen from this year's biosolids is determined by the following equation:

Current $Org\text{-}N_{available}$ = Org-N (from Step 1) x F

Where, Current $Org\text{-}N_{available}$ = the nitrogen which will be available this year from this year's biosolids.

Org-N = the organic nitrogen in the process wastewater biosolids to be land applied, lbs/ton

F = is the mineralization rate from Table A2

Current $Org\text{-}N_{available}$ = _____ (From Step 1) lbs/ton X _____ (F) = _____ lbs/ton

Table A2. F Values				
Time After Biosolids Application (Year)	Stabilized Primary and Activated Wastewater Biosolids Fraction of Org-N	Aerobically Digested Wastewater Biosolids Fraction of Org-N	Anaerobically Digested Wastewater Biosolids Fraction of Org-N	Composted Wastewater Biosolids, Fraction of Org-N
0-1	0.40	0.30	0.20	0.10

Step 5: Total available nitrogen in the biosolids is then determined by adding together the resulting totals from Steps 2 and 3 to the amount of NO_3-N in Step 1 (Assuming 100% of NO_3-N is available). The result is the following equation:

Total Nitrogen Available (TN_{avail}) = $NO_3\text{-}N + NH_4N_{avail}$ + Current $Org\text{-}N_{avail}$

TN_{avail} = _____ (Step 1) lbs/ton + _____ (Step 2) lbs/ton + _____ (Step 3) lbs/ton

TN_{avail} = _____ lbs/ton of dry biosolids

EXAMPLE **ATTACHMENT 4**

Worksheet for Calculating the Agronomic Rate
For the Land Application of Wastewater Biosolids

Site: EXAMPLE (Please refer to lab report)

Facility: _____

Procedure: A procedure used to calculate the agronomic rate for application of process wastewater biosolids at which the nitrogen supplied by the biosolids and available to the plants does not exceed the requirement for nitrogen of the crop or vegetation. To calculate the agronomic rate, the available ammonium nitrogen (NH_4-N_{avail}), nitrate nitrogen (NO_3-N_{avail}), organic nitrogen (Org-N_{avail}), must all be determined in order to calculate the total available nitrogen (TN_{avail}) in the biosolids. The nitrogen needed (N_{needed}) by the crop is calculated based on the crop selected, expected yield, soil type, previous crop residual, and nitrate nitrogen retained in the soil. The amount of nitrogen needed by the crop:

(N_{needed}) is divided by the total nitrogen available (TN_{avail}) to find the annual loading rate

Step 1: From the analysis of the process wastewater biosolids to be land applied, determine the amount of each nitrogen compound, based on dry weight, in pounds per ton, (lbs / ton).

Nitrogen Compound	Concentration of Nitrogen Compounds (mg / Kg)	Conversion	Current Amount of N in Biosolids, (pounds per dry ton of biosolids)
Total Kjeldahl Nitrogen (TKN-N)	22,500	**x 0.002 =**	45.0
Ammonium Nitrogen (NH_4-N)	4,400	**x 0.002 =**	8.8
Nitrate Nitrogen (NO_3-N)	3.76	**x 0.002 =**	0.008
Organic Nitrogen (Org-N)	TKN – NH_4 – NO_3	=	36.192 lbs/ton

Step 2: Calculate the amount of ammonium-nitrogen available in the process wastewater biosolids to be applied. Assume that the available fraction (K_v) is dependent upon operations at the site (see Table A1). Use the following equation:

$$NH_4\text{-}N_{available} = NH_4\text{-}N \times K_V$$

Where:

NH_4-N = is the amount of ammonium nitrogen in the process wastewater biosolids to be land applied, Lb/ton.

K_V = is a volatilization factor for determining the availability of ammonium nitrogen based on how the wastewater biosolids are applied.

EXAMPLE **ATTACHMENT 4**

Table A1. Factors for K_V	
If Process Wastewater Biosolids are	Factor K_V is:
Liquid and Surface Applied	0.50
Liquid and Incorporated into the Soil	1.0
Dewatered and Applied in Any Manner	1.0

$NH_4\text{-}N_{available}$ = 8.8 (From Step 1) lbs/ton x 0.50 (K_V) = 4.4 lbs/ton

Step 3: Calculate the amount of organic nitrogen available in the process wastewater biosolids to be applied. The Factor F, used for determining the amount of Org-N present due to mineralization, is provided below in Table A2. The value of F is dependent upon how the biosolids are treated (i.e., aerobic digestion, composted, etc.).

Step 4: Current Available Organic Nitrogen, Current $Org\text{-}N_{available}$. Current available organic nitrogen from this year's biosolids is determined by the following equation:

Current $Org\text{-}N_{available}$ = Org-N (from Step 1) x F

Where, Current $Org\text{-}N_{available}$ = the nitrogen which will be available this year from this year's biosolids.

Org-N = the organic nitrogen in the process wastewater biosolids to be land applied, lbs/ton

F = is the mineralization rate from Table A2

Current $Org\text{-}N_{available}$ = 36.192 (From Step 1) lbs/ton x 0.30 (F) = 10.858 lbs/ton

Table A2. F Values				
Time After Biosolids Application (Year)	Stabilized Primary and Activated Wastewater Biosolids Fraction of Org-N	Aerobically Digested Wastewater Biosolids Fraction of Org-N	Anaerobically Digested Wastewater Biosolids Fraction of Org-N	Composted Wastewater Biosolids, Fraction of Org-N
0-1	0.40	0.30	0.20	0.10

Step 5: Total available nitrogen in the biosolids is then determined by adding together the resulting totals from Steps 2 and 3 to the amount of NO_3-N in Step 1 (Assuming 100% of NO_3-N is available). The result is the following equation:

Total Nitrogen Available (TN_{avail}) = $NO_3\text{-}N + NH_4N_{avail}$ + Current $Org\text{-}N_{avail}$

TN_{avail} = 0.008 (Step 1) lbs/ton + 4.4 (Step 2) lbs/ton + 10.858 (Step 3) lbs/ton

TN_{avail} = 15.266 lbs/ton of dry biosolids

Step 6: How much nitrogen is in a wet ton of biosolids?

From the lab analysis the amount of solids in the biosolids is 33.6%. Convert this to a decimal - 33.6% = 0.336. The total amount of nitrogen available is 15.266 lbs / dry ton. This number comes from Step 5. To calculate the amount of nitrogen in a wet ton, multiply the amount of nitrogen available with the % solids in the biosolids. In this example: 15.266 x 0.336 = **5.129 lbs of N / wet ton**.

EXAMPLE **ATTACHMENT 4**

Worksheet for Calculating the Agronomic Rate
For the Land Application of Wastewater Biosolids

Laboratory Report

Biosolids Analysis

% Solids = 33.6

Analysis Performed	Level Found As Received	Recovery Dry Weight Basis	RSD	SP Sample	SP Blank
Total Kjeldahl Nitrogen	7,550.00 ppm	22,500.00 ppm	3.0%	102%	103%
Ammonia Nitrogen	1,470.00 ppm	4,400.00 ppm	4.0%	93%	93%
Nitrate Nitrogen	1.26 ppm	3.76 ppm	0.0%	103%	101%

Note: ppm (parts per million) is equal to mg/kg

Agronomic Rate

How much wet biosolids can I apply per acre?

The following method may be used to determine the amount of wet biosolids that can be applied per acre of a given crop.

First there are several pieces of information you will need. in order to determine the amount of wet biosolids you may apply. From the analysis of the wastewater biosolids to be land applied, determine the amount of each nitrogen compound, based on dry weight, in pounds per ton, (lbs / ton).

a. What is the crop and how many bushels per acre are you expecting?
b. How much nitrogen per acre does the crop need? (You can get this information through you County Ag Extension Agent)
c. How much nitrogen is in the soil? (Also called residual nitrogen)
d. How much nitrogen is in a ton of the wet biosolids?

In this example the crop will be corn and we expect a yield of 180 bushels per acre.
The Extension Agent tells us that the crop will use 250 lbs of N per acre. A soil test reveals that there is already 50 lbs of N in the soil. The corn crop will need 200 lbs per acre of additional N (Amount N needed minus Amount N in soil, in this example 250 - 50 = 200).
From Step 6 in the Worksheet for Calculating Agronomic Rate for the Land Application of Wastewater Biosolids we know that in this batch of biosolids there is 5.129 lbs of N per wet ton. To determine how much biosolids can be applied, divide the amount of nitrogen needed after subtracting the amount of N in the soil, (here 200 lbs / acre), by the amount of nitrogen per pound of wet biosolids:

200 Lbs N/acre ÷ 5.129 lbs N/ton = 39 wet tons of biosolids

The amount of wet biosolids that can be applied per acre for this crop is 39 wet tons. If other sources of nitrogen are used these must be accounted for and subtracted from the total nitrogen needed.

Attachment D

Attachment D

M.G. Waldbaum Co.
Wakefield, NE

Proposal to Land Apply Clarifier Rinsate

Submitted for the Facility on August 30, 2006 by:

ESI
ENVIRONMENTAL SCIENCES, INC.
Environmental Sciences, Inc.
PO Box 6746 - Lincoln, NE 68506-0746
402-423-9696

TABLE OF CONTENTS

M.G. Waldbaum Company
Proposal to Land-Apply Clarifier Rinsate

M.G. Waldbaum Company operates an egg-processing facility in Wakefield, Nebraska. In the production of hard-boiled eggs, water that has been used to remove shells from the eggs is clarified before going to wastewater treatment lagoons. This generates a "clarifier rinsate," which is water with 10-15% solids content (egg shells and egg meat).

M.G. Waldbaum produces clarifier rinsate at a rate of 6,600 pounds per production day. When the rinsate is produced, it is somewhat cloudy and contains small suspended particles. The material is initially odorless, but it becomes somewhat odiferous as the nutrients begin to break down. A recent nutrient analysis of the clarifier rinsate is included with this proposal.

M.G. Waldbaum anticipates land-applying clarifier rinsate on crop ground that is appropriate to grow corn, soybeans, alfalfa and cool season grasses. Clarifier rinsate will be delivered to land-application sites via sealed tank, and applied using a liquid manure applicator (pull type or self propelled). Measures will be taken to prevent run-off of the material, and application will be according to the following setbacks:

Distance to public water supply:	1,000 feet
Distance to potable water supply:	300 feet
Distance to inhabited dwelling:	300 feet
Distance to waters of the state, including wetlands:	200 feet
Distance to public right-of-way	30 feet

Before applying the clarifier rinsate to crops, soil tests will be conducted at the particular application site to determine whether the material can be land-applied and the appropriate application rate. Records will be maintained as to the locations where clarifier rinsate was applied, amounts applied, application rates, crop and soil conditions, and any concerns or problems encountered.

This proposal involves nine sites for land-application of clarifier rinsate. If other sites are identified for receiving this material, M.G. Waldbaum will submit site information (in the same format used for the initial nine sites) to the NDEQ at least 45 days prior to land-application.

For more information on the proposed land-application of the clarifier rinsate, please see the Clarifier Application Information for the initial nine sites.

The contact persons for M.G. Waldbaum are:

Charles Bailey, Vice President of Operations
Suite 400
301 Carlson Parkway
Minnetonka, MN 55305
Telephone: 952-258-4000

Paul Saunders, Plant Manager
M.G. Waldbaum Company
105 North Main Street
Wakefield, NE 68784
Telephone: 402-287-5030

WARD Laboratories, Inc.

Ag Testing - Consulting

Account No. : 11297

Slurry Analysis Report

SAUNDERS, PAUL
MILTON G WALDBAUM CO (PLANT)
PO BOX 573
WAKEFIELD NE 68784-0573

Invoice No. : 1003090
Date Received : 08/10/2006
Date Reported : 08/11/2006

Lab No. : 1051

Results For : MILTON G WALDBAUM CO (PLANT)
Sample ID : 8-9-06
CLARIFIER SLUDGE

	Analysis As Received	Lbs per Acre Inch	Lbs per 1000 gal	Available First Year Lbs per Acre Inch	Available First Year Lbs per 1000 gal
Organic N, ppm N	6996.2	1585.8	58.7	555.0	20.6
Ammonium, ppm N	19.9	4.5	0.2	4.3	0.2
Nitrate, ppm N	0.9	0.2	0.0	0.2	0.0
Total N (TKN), ppm N	7017.0	1590.5	58.9	559.5	20.7
Phosphorus, ppm P_2O_5	2809.6	636.9	23.6	445.8	16.5
Potassium, ppm K_2O	72.9	16.5	0.6	14.9	0.6
Sulfur, ppm S	619.5	140.4	5.2	56.2	2.1
Calcium, ppm Ca	2096.7	475.3	17.6	332.7	12.3
Magnesium, ppm Mg	47.5	10.8	0.4	7.5	0.3
Sodium, ppm Na	338.7	76.8	2.8	76.8	2.8
Sodium Adsorption Ratio (SAR)	2.82				
Zinc, ppm Zn	8.7	2.0	0.1	1.4	0.1
Iron, ppm Fe	12.1	2.7	0.1	1.9	0.1
Manganese, ppm Mn	1.4	0.3	0.0	0.2	0.0
Copper, ppm Cu	0.6	0.1	0.0	0.1	0.0
Chloride, ppm Cl	193.9	44	1.6	44	1.6
Soluble Salts, mmho / cm	1.45	197.2	7.3	197.2	7.3
pH	7.0				
Dry Matter %	14.65				
BOD (5-Day) mg / L	9284				
Total Suspended Solids mg / L	110094				

Specific Gravity is 8.41 pounds per gallon.

Reviewed By : Raymond Ward 8/17/2006 Copy : 1 Page 1 of 1

Bus: 308 234 2418
Fax: 308 234 1940
web site
www.wardlab.com
4007 Cherry Ave. P.O. Box 788
Kearney, Nebraska 68848-0788

M.G. Waldbaum Company
Clarifier Rinsate Application Information

Anticipated Nitrogen Loading Rates:

	Clarifier Rinsate	Clarifier Rinsate	Clarifier Rinsate	Clarifier Rinsate
Maximum Application rate (gals/ac/year)*	8,000	10,250	10,600	2,500
Type of Crop or Cover, Yield Goal	Soybeans, 45 Bu	Corn, 160 Bu	Alfalfa 4 ton	Cool season grasses 1.5 ton
Anticipated Nitrogen Uptake of the Crop (lbs N/acre/year)	167	213**	220	53
Nitrogen Loading from clarifier rinsate application (lbs N/acre/year)	52	52	52	52
Nitrogen Loading from commercial fertilizer applications (lbs N/acre/year)	115	162	168	0
Total Nitrogen loading to site (lbs N/acre/year)	167	213	220	52
Are the anticipated crop uptakes rates for Nitrogen being exceeded?	No	No	No	No

* = Maximum application volume (inches/acre) is based on Nitrogen content (lbs TN/1000gals) of clarifier rinsate.
**= Is calculated using a fertilizer recommendation rate of 1.33 lbs nitrogen / Bu of corn.

M.G. Waldbaum Company
Clarifier Rinsate Application Information for Site 1

Land Owner(s)

Tim Beebe
1008 Winter Street
Wakefield, NE 68784
(402) 287-2719

Legal Description

NE ¼ Sec.28 T27N R5E Dixon County

Distance to Surface Water	Soil Texture*	Slope*	Application Acres	Approximate Depth to ground-water
1000 ft.	Silt Loam Silty Clay Loam	0-3 %	154	21-44 feet

Application Rate	Total nitrogen applied (available first year)
Approximately 2,500 gallons per acre	52.0 lbs/acre

Current Crop or vegetation being grown and agricultural practices utilized.

This application site is planted to soybeans in 2006 and will be planted to corn in 2007. The yield used for application rate determination will be an average of Dixon County yield information for the most recent 3 years. Agricultural practices used on the site are generally a minimum tillage system using an alfalfa, corn and soybean rotation.

Fertilizer applied for the crop year.

The application site is currently planted to soybeans and has received the appropriate fertilizer to maximize yield. The corn crop planned for 2007 will receive a nitrogen credit of 1 lbs nitrogen/Bu of grain harvested per acre, which will be included in determing the appropriate application rate of clarifier rinsate. Additional commercial fertilizer may be applied following the application of clarifier rinsate to ensure the application site yield potential is maximized.

M.G. Waldbaum Company
Soil Management Evaluation for Site 1

Soil Texture*	Soil Structure*	Soil Drainage*	Excess Lime Rating*	Proposed Crop	Salt Tolerance**
Silt Loam	Granular	Well Drained	None	Corn	5

* = The dominant soil characteristic of the application area.

* * = Information obtained from Ward laboratories Inc., of Kearney NE.

Sodium (Alkali) Hazard Rating

The Sodium (Alkali) Hazard Rating for Site 1 is low.

Irrigation Method and Management

This application site will utilize a pull type liquid manure applicator.

Clarifier Rinsate Assessment

The evaluation of plant assimilation characteristics of Site 1 reveals the Sodium Adsorption Ratio (SAR) for the site is 2.9 (from a previous soil test), suggesting that there are currently no sodium or salinity problems.

The application rate to be use at the site is based on the nitrogen availability of the clarifier rinsate being applied and the fertilizer recommendation for the proposed crop. The clarifier rinsate contains 20.7 lbs. nitrogen (TKN) /1000gals and the nitrogen removal for corn to be raised is 213 lbs N for a yield goal of 160 Bu/ac. Therefore the facility would be able to apply up to 10,250 gals /acre of clarifier rinsate to meet the nitrogen requirement of the crop. If we evaluate the application rate per year on other nutrients such as phosphorus or sodium, the facility could apply a maximum of 3,400 gals / acre per year (phosphorus) or 178,000 gals / acre per year (sodium) of clarifier rinsate before potentially causing a potential crop problem. Additional commercial fertilizer may be necessary to meet the facility's yield goal for the application site depending on the final application rate.

The table lists the maximum amount of clarifier rinsate per acre which can be applied without incurring a cropping injury or exceeding crop removal rates. In addition to the sodium or soluble salt accumulation as a potential problem, the soluble salt content could potentially reduce germination of the production crop if not applied correctly.

	Maximum Application Volume Per Acre for a yield goal of 160 Bu/ac of Corn		
Source	Nitrogen (N)	Phosphorus (P_2O_5)	Sodium (Na)
Clarifier	10,250	3,400	178,000

To prevent surface or groundwater contamination, the facility will continue to soil test the site. Application records will be maintained at the M.G. Waldbaum facility.

Oversight of Clarifier Rinsate Application

The application of clarifier rinsate will be done in cooperation with the owner or tenant of the property to ensure proper application of the clarifier rinsate. Kendall Bonenberger of Environmental Sciences, Inc. will meet with the owner or the tenant to determine the timing and amount of the clarifier rinsate application. M.G. Waldbaum Co. will operate the pull type liquid manure applicator.

Clarifier Rinsate Application Setbacks

Clarifier rinsate shall not be allowed to run-off the application site when applied. The application equipment used shall insure that no clarifier rinsate is sprayed onto or across any public right of way. A 30 foot vegetative buffer strip shall be maintained between the application site and any public right of way. A 300 foot separation from an inhabited dwelling shall be maintained. If the clarifier rinsate is incorporated with the soil and the owner/occupant of the dwelling gives written consent to such, the separation may be reduced to 200 feet. A 300 foot separation from any potable water supply and a 1000 foot separation from a public water supply shall be maintained. A 200 foot separation to any waters of the State such as a stream or wetland with an exception that if a 30 foot vegetative buffer strip is maintained between the site and the surface water, the separation may be reduced to 100 feet. Beginning January 1, 2007 the facility will conduct phosphorus assessments on each application site prior to application. Depending on the final phosphorus assessment rating, clarifier rinsate may or may not be applied to an application site.

Soil Sampling and Testing Procedures

Soil tests are done prior to application on application sites, which will receive clarifier rinsate to a minimum soil depth of 8 inches and maximum depth of 48 inches depending on the cropping rotation. A qualified individual or company currently does soil sampling and a qualified laboratory does the soil chemical analysis. The soil chemical analysis includes nitrate-N, phosphorus, and potassium at a minimum. The facility will maintain soil test results for the application sites for a minimum of 5 years. Soil fertility recommendations are made using information obtained from the University of Nebraska or Dr. Ray Ward of Ward Laboratories, Inc. Yield goals used in the fertility recommendations are based on three to five year yield averages for that specific field or by an owner's choice. Maps of the application sites and their legal descriptions are included in this land application plan.

Soil sampling is used by the facility as another tool to ensure proper nutrient management and good crop production. Soil sampling is used by the facility on an annual basis to monitor phosphorus accumulation in the soil and also to determine the proper application rate and location. Soil sampling is done prior to applications and the minimum soil sampling depth is 0-8 inches for all application areas. Soil sampling shall be consistent year to year and sampling dates will be stated on all reports and sampling results.

One soil sampling technique used to select sampling points is a zig-zag pattern. The sub-samples are collected at points where cropping practices and land use are similar, and which are not drainage ditches or other topographic positions which would have caused significant variation in the sample results. The soil samples are collected on the application ground that maybe used to a soil depth of 0-8 inches using a hand or hydraulic probe. The sub-samples of each soil depth collected are then thoroughly mixed. A composite sample for each sample depth represents approximately 40 acres.

Another soil sampling technique that maybe used to select sampling points is grid sampling. The application area is mapped using a global positioning system and sample points are set up on

a grid of 2-10 acres. The soil samples are collected on the application ground that maybe used to a soil depth of 0-6 or 0-8 inches using a hand or hydraulic probe. The sub-samples collected are thoroughly mixed.

The composite samples are then placed in sample bags supplied by a qualified laboratory. The composite samples are then delivered to the laboratory three to four days following collection. Sampling maps indicate sample sites and labels for designated area are part of the record keeping. The laboratory determines the chemical analysis methods used. Generally, the methods used for phosphorus are either Bray P-1 or Mehlich M-2 (high excess lime soils).

Records that will be maintained during 2007 crop season

- A daily record of the amount and location of the clarifier rinsate applied
- The number of acres to which the clarifier rinsate was applied
- The application rate in gallons per acre
- A review of crop and soil conditions to determine if the clarifier rinsate is having long-term detrimental effects to the soil characteristics
- Soil testing results conducted following the crop season
- A discussion of any concerns or problems encountered during the preceding year
- The location of all application sites (i.e. either a map or legal description)

CLARIFIER RINSATE APPLICATION AGREEMENT

This agreement is made between M.G. Waldbaum Co.________________, here after known as the "Production Facility" and TIMOTHY BEBEE________________, here after known as the "Owner" in consideration of their mutual promises as follows:

1. The Production Facility requires access to spread clarifier rinsate.
2. Owner is the owner of the following described real estate, to wit:

¼ or ½		Section	Township	Range		County		
NE 1/4	of	28,	27 N,	5	(E circled or W)	DIXON	Co.	Irrigated or Dryland Acres 154
______	of	____,	____N,	____	(E or W)	______	Co.	Irrigated or Dryland Acres____
______	of	____,	____N,	____	(E or W)	______	Co.	Irrigated or Dryland Acres____
______	of	____,	____N,	____	(E or W)	______	Co.	Irrigated or Dryland Acres____
______	of	____,	____N,	____	(E or W)	______	Co.	Irrigated or Dryland Acres____
______	of	____,	____N,	____	(E or W)	______	Co.	Irrigated or Dryland Acres____

Total **irrigated** crop acres for clarifier rinsate application is________________ acres.

Total **dryland** crop acres for clarifier rinsate application is 154 acres.

[redacted]

4. Owner consents to Production Facility applying clarifier rinsate on said premises at such times as are mutually agreeable by both parties. Further, the Owner may specify the location on the premises in which to apply rinsate.
5. The Production Facility will make available a copy of the clarifier rinsate nutrient analysis for the Owner.
6. Access to the above mentioned real estate will be limited to clarifier rinsate application only.
7. This agreement shall continue from year to year without further renewal, except if either party desires to cancel this Agreement they shall do so in writing on or before September 1, of any given year.

Dated this 15th day of AUGUST 2006

[signature]

Official of Production Facility

Landowner: [signature]

Address:________________

____

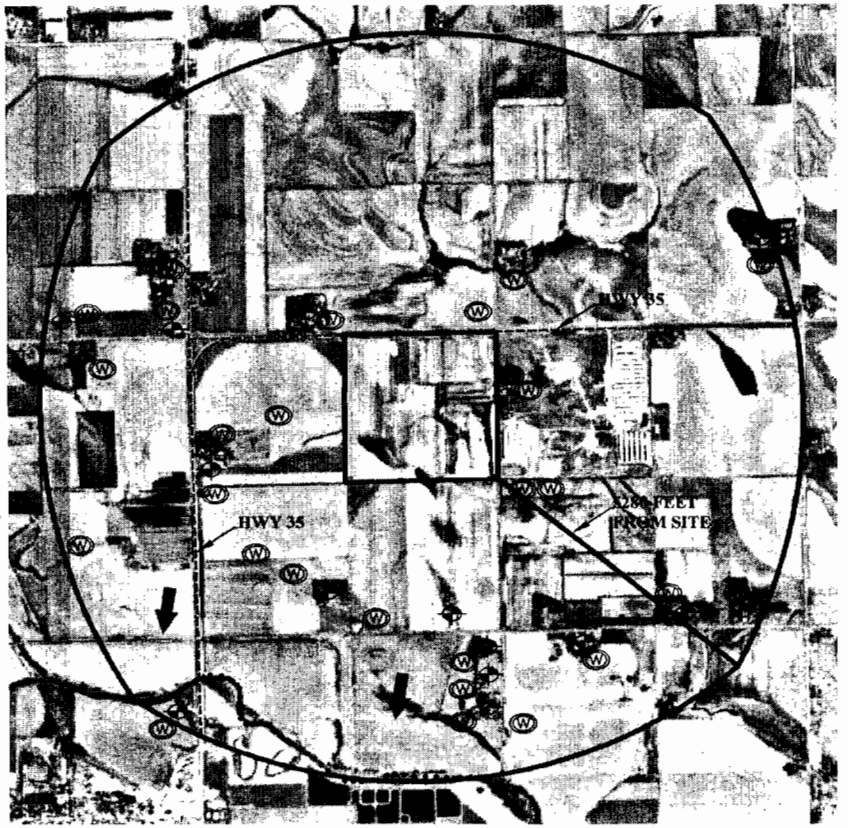
Phone:________________

Landowner:________________

Address:________________

____

Phone:________________

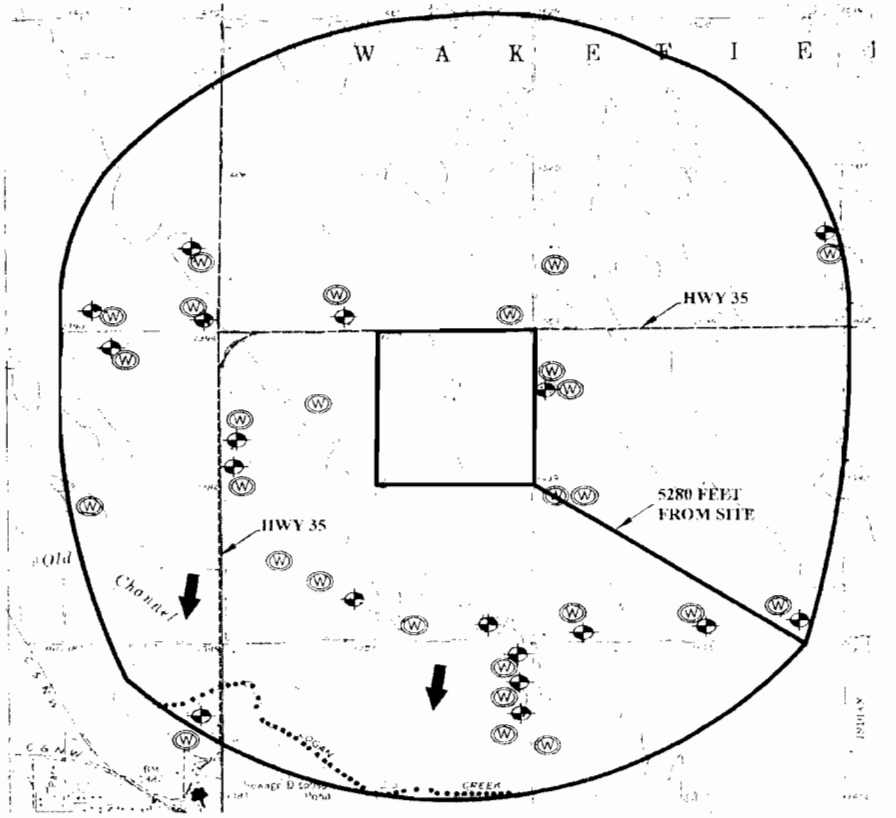


2000' 0' 2000'
SCALE

OWNER: TIM BEBEE

LEGAL DESCRIPTION: NE ¼ SEC. 28 T27N R5E DIXON COUNTY

SOURCE: TERRASERVER USGS TOPOGRAPHIC MAP DATED 7-''-1988

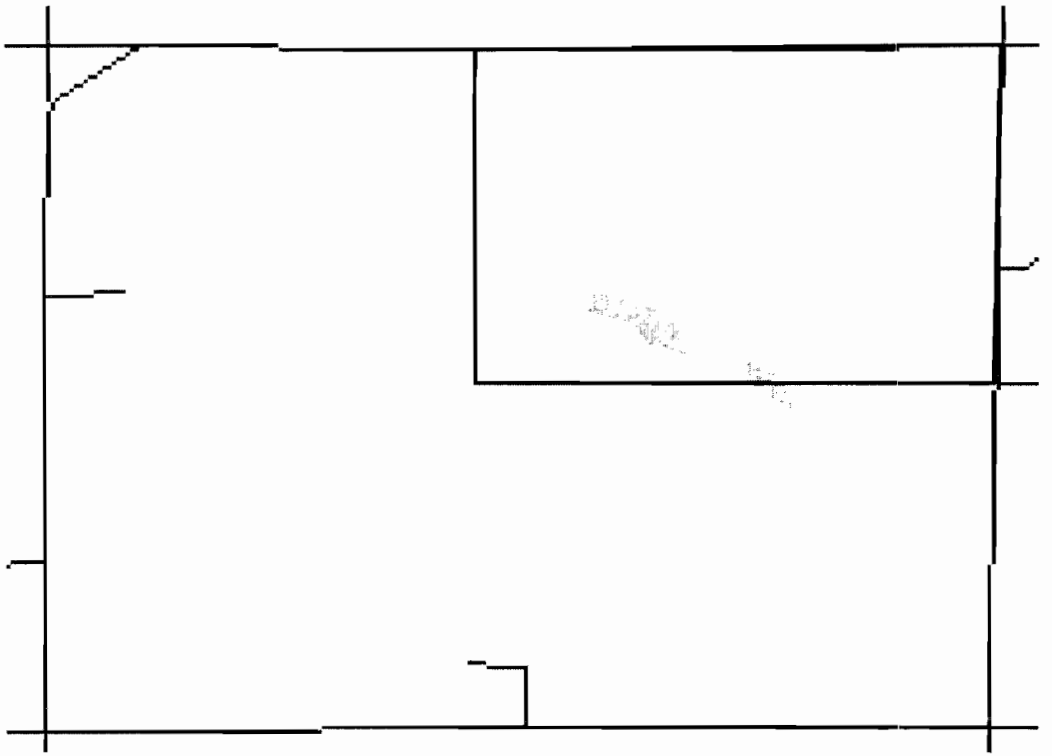


2000' 0' 2000'
SCALE

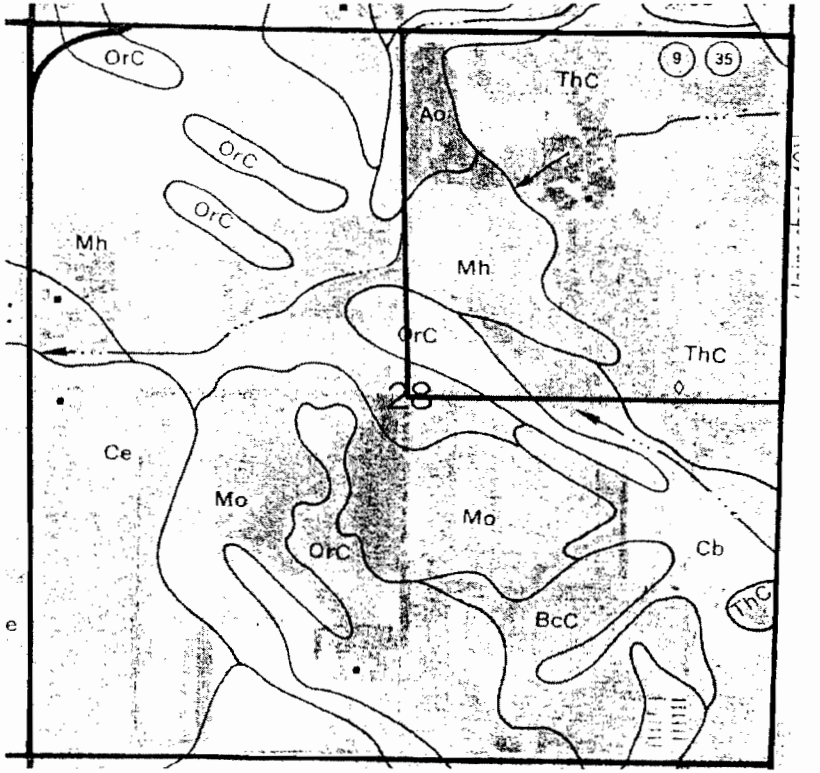
LEGEND
- FARMSTEAD
- HIGHWAY
- WELL
- SURFACE WATER
- GENERAL DIRECTION OF GROUNDWATER FLOW

FACILITY:	M G Waraldbaum Dixon County Nebraska
SCALE:	AS SHOWN
DRAWN BY:	CHECKED BY:
SHEET NUMBER:	DATE:
DESCRIPTION:	SERTAI AND TOPOGRAPHIC MAPS

ESI



SOURCE - NATIONAL WETLAND INVENTORY



DIXON COUNTY SOIL SURVEY

SOIL LEGEND

SYMBOL	NAME
ThC	THURMAN LOAMY SAND, 2 TO 6 PERCENT SLOPE
Mh	MASKELL LOAM, 0 TO 2 PERCENT SLOPE
OrC	ORTELLO SANDY LOAM, 2 TO 6 PERCENT SLOPE
Ao	AOWA SILT LOAM, 0 TO 2 PERCENT SLOPES

OWNER TIM BLEET

LEGAL DESCRIPTION NE ¼ SEC. 28 T27N R5E DIXON COUNTY

SOURCE TERRASERVER USGS TOPOGRAPHIC MAP DATED 7-1-1988

FACILITY: M G Waanddbaum Co.
Dixon County Nebraska
SCALE AS SHOWN
DRAWN BY KB CHECKED BY KB
SHEET NUMBER DATE
DESCRIPTION
WETLAND AND SOIL SURVEY MAPS

ESI

M.G. Waldbaum Company
Clarifier Rinsate Application Information for Site 2

Land Owner(s)

Dwain Ekberg
Rural Route 1 Box 145
Wakefield, NE 68784
(402) 287-2653

Legal Description

SW ¼ Sec 25 T27N R5E Dixon County

Distance to Surface Water	Soil Texture*	Slope*	Application Acres	Approximate Depth to ground-water
0 ft.	Loamy Sand	6-11 %	160	40-55 feet

Application Rate	Total nitrogen applied (available first year)
Approximately 2,500 gallons per acre	52.0 lbs/acre

Current crop or vegetation to be grown and agricultural practices utilized.

This application site will be planted to soybeans and alfalfa. The yield used for application rate determination will be an average of Dixon County yield information for the most recent 3 years. Agricultural practices used on the site are generally a minimum tillage system using a corn - soybean rotation and alternating the implementation of alfalfa.

Fertilizer applied for the 2007 crop year.

The north one-third of the application site has been alfalfa the last three years and will receive a nitrogen credit of 100 lbs/ac for the cropping history, which will be included in determing the appropriate application rate of clarifier rinsate. Additional commercial fertilizer may be applied following the application of clarifier rinsate to ensure the application site yield potential is maximized.

M.G. Waldbaum Company
Soil Management Evaluation for Site 2

Soil Texture*	Soil Structure*	Soil Drainage*	Excess Lime Rating*	Proposed Crop	Salt Tolerance**
Loamy Sand	Granular	Well Drained	None	Soybeans Alfalfa	6 3

* = The dominant soil characteristic of the application area.

* * = Information obtained from Ward laboratories Inc., of Kearney NE.

Sodium (Alkali) Hazard Rating

The Sodium (Alkali) Hazard Rating for Site 2 is low.

Irrigation Method

This application site will utilize a pull type liquid manure applicator.

Clarifier Rinsate Assessment

The evaluation of plant assimilation characteristics of Site 2 reveals the Sodium Adsorption Ratio (SAR) for the site is 2.9 (from a previous soil test), suggesting that there are currently no sodium or salinity problems.

The application rate to be use at the site is based on the nitrogen availability of the clarifier rinsate being applied and the fertilizer recommendation for the proposed crop. The clarifier rinsate contains 20.7 lbs. nitrogen (TKN) /1000gals and the nitrogen removal for soybeans to be raised is 167 lbs N for a yield goal of 45 Bu/ac. Therefore the facility would be able to apply up to 8,000 gals /acre of clarifier rinsate to meet the nitrogen requirement of the crop. If we evaluate the application rate per year on other nutrients such as phosphorus or sodium, the facility could apply a maximum of 2,100 gals / acre per year (phosphorus) or 178,000 gals / acre per year (sodium) of clarifier rinsate before potentially causing a potential crop problem. Additional commercial fertilizer may be necessary to meet the facility's yield goal for the application site depending on the final application rate.

The table lists the maximum amount of clarifier rinsate per acre which can be applied without incurring a cropping injury or exceeding crop removal rates. In addition to the sodium or soluble salt accumulation as a potential problem, the soluble salt content could potentially reduce germination of the production crop if not applied correctly.

	Maximum Application Volume Per Acre for a yield goal of 45 Bu/ac of Soybeans		
Source	Nitrogen (N)	Phosphorus (P_2O_5)	Sodium (Na)
Clarifier	8,000	2,100	178,000

To prevent surface or groundwater contamination, the facility will continue to soil test the site. Application records will be maintained at the M.G. Waldbaum facility.

Oversight of Clarifier Rinsate Application

The application of clarifier rinsate will be done in cooperation with the owner or tenant of the property to ensure proper application of the clarifier rinsate. Kendall Bonenberger of Environmental Sciences, Inc. will meet with the owner or the tenant to determine the timing and amount of the clarifier rinsate application. M.G. Waldbaum Co. will operate the pull type liquid manure applicator.

Clarifier Rinsate Application Setbacks

Clarifier rinsate shall not be allowed to run-off the application site when applied. The application equipment used shall insure that no clarifier rinsate is sprayed onto or across any public right of way. A 30 foot vegetative buffer strip shall be maintained between the application site and any public right of way. A 300 foot separation from an inhabited dwelling shall be maintained. If the clarifier rinsate is incorporated with the soil and the owner/occupant of the dwelling gives written consent to such, the separation may be reduced to 200 feet. A 300 foot separation from any potable water supply and a 1000 foot separation from a public water supply shall be maintained. A 200 foot separation to any waters of the State such as a stream or wetland with an exception that if a 30 foot vegetative buffer strip is maintained between the site and the surface water, the separation may be reduced to 100 feet. Beginning January 1, 2007 the facility will conduct phosphorus assessments on each application site prior to application. Depending on the final phosphorus assessment rating, clarifier rinsate may or may not be applied to an application site.

Soil Sampling and Testing Procedures

Soil tests are done prior to application on application sites, which will receive clarifier rinsate to a minimum soil depth of 8 inches and maximum depth of 48 inches depending on the cropping rotation. A qualified individual or company currently does soil sampling and a qualified laboratory does the soil chemical analysis. The soil chemical analysis includes nitrate-N, phosphorus, and potassium at a minimum. The facility will maintain soil test results for the application sites for a minimum of 5 years. Soil fertility recommendations are made using information obtained from the University of Nebraska or Dr. Ray Ward of Ward Laboratories, Inc. Yield goals used in the fertility recommendations are based on three to five year yield averages for that specific field or by an owner's choice. Maps of the application sites and their legal descriptions are included in this land application plan.

Soil sampling is used by the facility as another tool to ensure proper nutrient management and good crop production. Soil sampling is used by the facility on an annual basis to monitor phosphorus accumulation in the soil and also to determine the proper application rate and location. Soil sampling is done prior to applications and the minimum soil sampling depth is 0-8 inches for all application areas. Soil sampling shall be consistent year to year and sampling dates will be stated on all reports and sampling results.

One soil sampling technique used to select sampling points is a zig-zag pattern. The sub-samples are collected at points where cropping practices and land use are similar, and which are not drainage ditches or other topographic positions which would have caused significant variation in the sample results. The soil samples are collected on the application ground that maybe used to a soil depth of 0-8 inches using a hand or hydraulic probe. The sub-samples of each soil depth collected are then thoroughly mixed. A composite sample for each sample depth represents approximately 40 acres.

Another soil sampling technique that maybe used to select sampling points is grid sampling. The application area is mapped using a global positioning system and sample points are set up on

a grid of 2-10 acres. The soil samples are collected on the application ground that maybe used to a soil depth of 0-6 or 0-8 inches using a hand or hydraulic probe. The sub-samples collected are thoroughly mixed.

The composite samples are then placed in sample bags supplied by a qualified laboratory. The composite samples are then delivered to the laboratory three to four days following collection. Sampling maps indicate sample sites and labels for designated area are part of the record keeping. The laboratory determines the chemical analysis methods used. Generally, the methods used for phosphorus are either Bray P-1 or Mehlich M-2 (high excess lime soils).

Records that will be maintained during 2007 crop season

- A daily record of the amount and location of the clarifier rinsate applied
- The number of acres to which the clarifier rinsate was applied
- The application rate in gallons per acre
- A review of crop and soil conditions to determine if the clarifier rinsate is having long-term detrimental effects to the soil characteristics
- Soil testing results conducted following the crop season
- A discussion of any concerns or problems encountered during the preceding year
- The location of all application sites (i.e. either a map or legal description)

CLARIFIER RINSATE APPLICATION AGREEMENT

This agreement is made between M.G. Waldbaum Co., here after known as the "Production Facility" and DWAIN EKBERG, here after known as the "Owner" in consideration of their mutual promises as follows:

1. The Production Facility requires access to spread clarifier rinsate.
2. Owner is the owner of the following described real estate, to wit:

¼ or ½		Section	Township	Range	(E or W)		Irrigated or Dryland Acres
SW 1/4	of	25	27 N,	5	(E)	DIXON Co.	Irrigated or Dryland Acres 160
	of		N,		(E or W)	Co.	Irrigated or Dryland Acres
	of		N,		(E or W)	Co.	Irrigated or Dryland Acres
	of		N,		(E or W)	Co.	Irrigated or Dryland Acres
	of		N,		(E or W)	Co.	Irrigated or Dryland Acres
	of		N,		(E or W)	Co.	Irrigated or Dryland Acres

Total **irrigated** crop acres for clarifier rinsate application is _____ acres.

Total **dryland** crop acres for clarifier rinsate application is 160 acres.

[redacted]

4. Owner consents to Production Facility applying clarifier rinsate on said premises at such times as are mutually agreeable by both parties. Further, the Owner may specify the location on the premises in which to apply rinsate.
5. The Production Facility will make available a copy of the clarifier rinsate nutrient analysis for the Owner.
6. Access to the above mentioned real estate will be limited to clarifier rinsate application only.
7. This agreement shall continue from year to year without further renewal, except if either party desires to cancel this Agreement they shall do so in writing on or before September 1, of any given year.

Dated this 22 day of AUGUST 20 06

Official of Production Facility

Landowner: Dwain E Ekberg

Address: 58540 859TH ROAD
WAKEFIELD, NE 68784

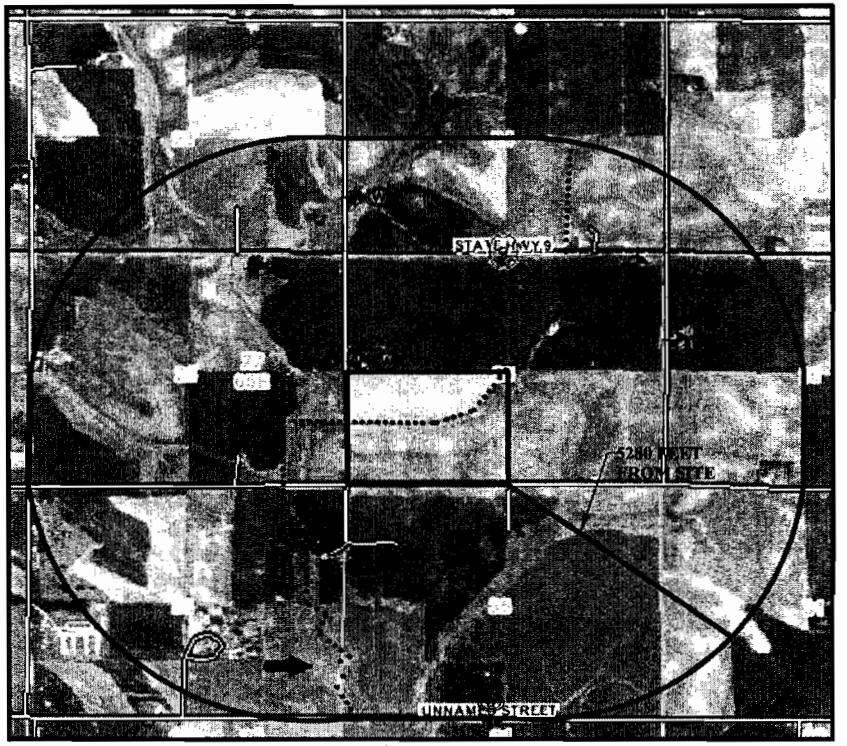
Phone: 402-287-2653

Landowner: _____

Address: _____

_____

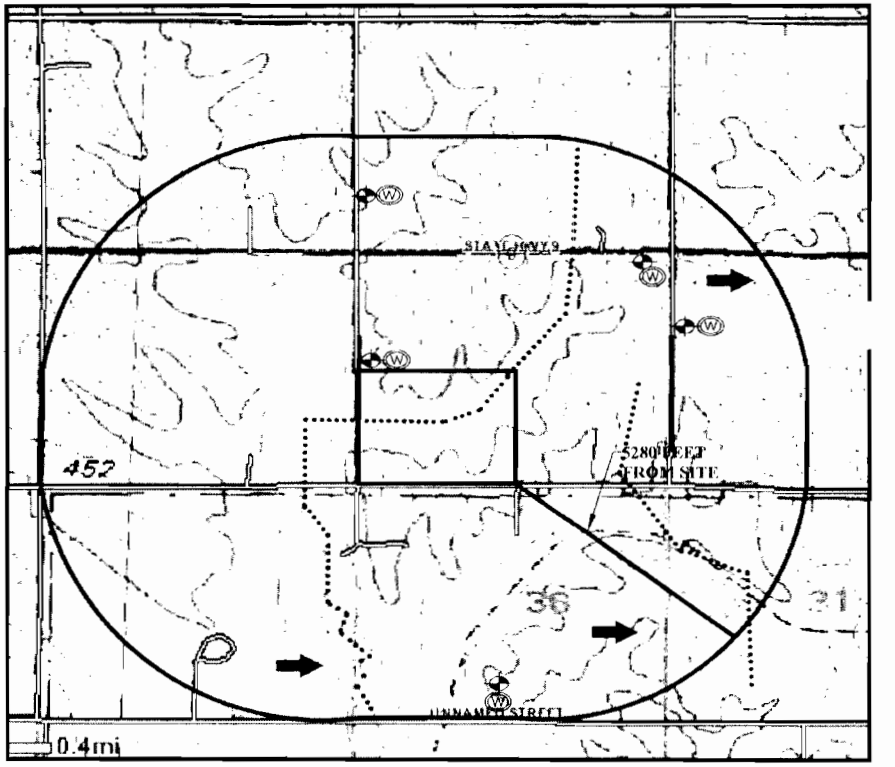
Phone: _____



OWNER DWAIN EKBERG

LEGAL DESCRIPTION: SW ¼ SEC. 25 T27N R5E DIXON COUNTY

SOURCE TERRASERVER USGS AERIAL MAP DATED 4-16-1993



SOURCE: TERRASERVER USGS TOPOGRAPHIC MAP DATED 7-1-1983

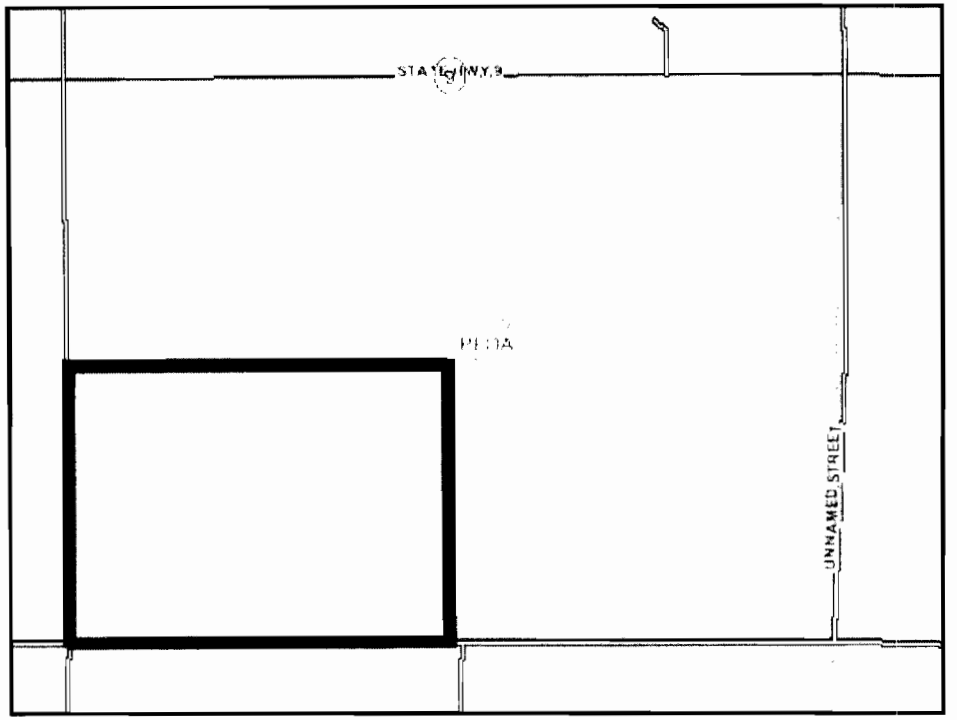
2350' 0' 2350'
SCALE

LEGEND:

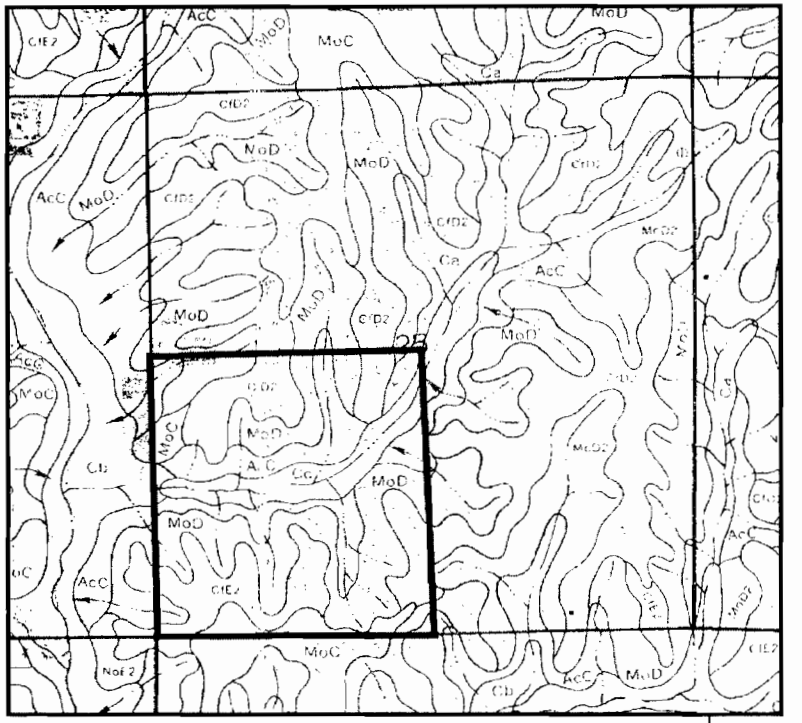
- FARMSTEAD
- HIGHWAY
- WELL
- SURFACE WATER
- GENERAL DIRECTION OF GROUNDWATER FLOW

FACILITY:	M.G. Waldbaum Co. Dixon County, Nebraska
SCALE:	AS SHOWN
DRAWN BY:	CHECKED BY:
SHEET NUMBER:	DATE:
DESCRIPTION:	AERIAL AND TOPOGRAPHIC MAPS

ESI



SOURCE NATIONAL WETLAND INVENTORY



DIXON COUNTY SOIL SURVEY

SOIL LEGEND

SYMBOL	NAME
JuA	JUDSON SILT LOAM, 0 TO 2 PERCENT SLOPE
MoB	MOODY SILTY CLAY LOAM, 1 TO 7 PERCENT SLOPE
OrB	ORTELLO FINE SANDY LOAM, 2 TO 5 PERCENT SLOPE

OWNER: DWAIN EKBERG

LEGAL DESCRIPTION: SW ¼ SEC. 25 T27N R5E DIXON COUNTY

SOURCE: TERRASERVER USGS TOPOGRAPHIC MAP DATED 7-1-1983

FACILITY: M.G. Waldbaum Co.
Dixon County, Nebraska
SCALE: AS SHOWN
DRAWN BY: N.H. CHECKED BY: S.B.
SHEET NUMBER: DATE:
DESCRIPTION: WETLAND AND SOIL SURVEY MAPS

M.G. Waldbaum Company
Clarifier Rinsate Application Information for Site 3

Land Owner(s)

Dwain Eckberg
Rural Route 1 Box 145
Wakefield, NE 68784
(402) 287-2653

Legal Description

NE ¼ Sec 25 T27N R5E Dixon County

Distance to Surface Water	Soil Texture*	Slope*	Application Acres	Approximate Depth to ground-water
0 ft.	Silty Clay Loam	6-11 %	151	40-55 feet

Application Rate	Total nitrogen applied (available first year)
Approximately 2,500 gallons per acre	52.0 lbs/acre

Crop or vegetation to be grown and agricultural practices utilized.

This application site will planted to corn and some alfalfa. The yield used for application rate determination will be an average of Dixon County yield information for the most recent 3 years. Agricultural practices used on the site are generally a minimum tillage system using an alfalfa-corn - soybean rotation.

Fertilizer applied for the 2007 crop year.

The west 25 acres of the application has been alfalfa the last two years and will receive a nitrogen credit of 100 lbs/ac for the cropping history, which will be included in determing the appropriate application rate of clarifier rinsate. Additional commercial fertilizer may be applied following the application of clarifier rinsate to ensure the application site yield potential is maximized.

M.G. Waldbaum Company
Soil Management Evaluation for Site 3

Soil Texture*	Soil Structure*	Soil Drainage*	Excess Lime Rating*	Proposed Crop	Salt Tolerance**
Silty Clay Loam	Granular	Well Drained	None	Corn/Alfalfa	5/3

* = The dominant soil characteristic of the application area.

* * = Information obtained from Ward laboratories Inc., of Kearney NE.

Sodium (Alkali) Hazard Rating

The Sodium (Alkali) Hazard Rating for Site 3 is low.

Irrigation Method

This application site will utilize a pull type liquid manure applicator.

Clarifier Rinsate Assessment

The evaluation of plant assimilation characteristics of Site 3 reveals the Sodium Adsorption Ratio (SAR) for the site is assumed to be low, suggesting that there are currently no sodium or salinity problems.

The application rate to be use at the site is based on the nitrogen availability of the clarifier rinsate being applied and the fertilizer recommendation for the proposed crop. The clarifier rinsate contains 20.7 lbs. nitrogen (TKN) /1000gals and the nitrogen removal for corn to be raised is 213 lbs N for a yield goal of 160 Bu/ac. Therefore the facility would be able to apply up to 10,250 gals /acre of clarifier rinsate to meet the nitrogen requirement of the crop. If we evaluate the application rate per year on other nutrients such as phosphorus or sodium, the facility could apply a maximum of 3,400 gals / acre per year (phosphorus) or 178,000 gals / acre per year (sodium) of clarifier rinsate before potentially causing a potential crop problem. Additional commercial fertilizer may be necessary to meet the facility's yield goal for the application site depending on the final application rate.

The table lists the maximum amount of clarifier rinsate per acre which can be applied without incurring a cropping injury or exceeding crop removal rates. In addition to the sodium or soluble salt accumulation as a potential problem, the soluble salt content could potentially reduce germination of the production crop if not applied correctly.

	Maximum Application Volume Per Acre for a yield goal of 160 Bu/ac of Corn		
Source	Nitrogen (N)	Phosphorus (P_2O_5)	Sodium (Na)
Clarifier	10,250	3,400	178,000

To prevent surface or groundwater contamination, the facility will continue to soil test the site. Application records will be maintained at the M.G. Waldbaum facility.

Oversight of Clarifier Rinsate Application

The application of clarifier rinsate will be done in cooperation with the owner or tenant of the property to ensure proper application of the clarifier rinsate. Kendall Bonenberger of Environmental Sciences, Inc. will meet with the owner or the tenant to determine the timing and amount of the clarifier rinsate application. M.G. Waldbaum Co. will operate the pull type liquid manure applicator.

Clarifier Rinsate Application Setbacks

Clarifier rinsate shall not be allowed to run-off the application site when applied. The application equipment used shall insure that no clarifier rinsate is sprayed onto or across any public right of way. A 30 foot vegetative buffer strip shall be maintained between the application site and any public right of way. A 300 foot separation from an inhabited dwelling shall be maintained. If the clarifier rinsate is incorporated with the soil and the owner/occupant of the dwelling gives written consent to such, the separation may be reduced to 200 feet. A 300 foot separation from any potable water supply and a 1000 foot separation from a public water supply shall be maintained. A 200 foot separation to any waters of the State such as a stream or wetland with an exception that if a 30 foot vegetative buffer strip is maintained between the site and the surface water, the separation may be reduced to 100 feet. Beginning January 1, 2007 the facility will conduct phosphorus assessments on each application site prior to application. Depending on the final phosphorus assessment rating, clarifier rinsate may or may not be applied to an application site.

Soil Sampling and Testing Procedures

Soil tests are done prior to application on application sites, which will receive clarifier rinsate to a minimum soil depth of 8 inches and maximum depth of 48 inches depending on the cropping rotation. A qualified individual or company currently does soil sampling and a qualified laboratory does the soil chemical analysis. The soil chemical analysis includes nitrate-N, phosphorus, and potassium at a minimum. The facility will maintain soil test results for the application sites for a minimum of 5 years. Soil fertility recommendations are made using information obtained from the University of Nebraska or Dr. Ray Ward of Ward Laboratories, Inc. Yield goals used in the fertility recommendations are based on three to five year yield averages for that specific field or by an owner's choice. Maps of the application sites and their legal descriptions are included in this land application plan.

Soil sampling is used by the facility as another tool to ensure proper nutrient management and good crop production. Soil sampling is used by the facility on an annual basis to monitor phosphorus accumulation in the soil and also to determine the proper application rate and location. Soil sampling is done prior to applications and the minimum soil sampling depth is 0-8 inches for all application areas. Soil sampling shall be consistent year to year and sampling dates will be stated on all reports and sampling results.

One soil sampling technique used to select sampling points is a zig-zag pattern. The sub-samples are collected at points where cropping practices and land use are similar, and which are not drainage ditches or other topographic positions which would have caused significant variation in the sample results. The soil samples are collected on the application ground that maybe used to a soil depth of 0-8 inches using a hand or hydraulic probe. The sub-samples of each soil depth collected are then thoroughly mixed. A composite sample for each sample depth represents approximately 40 acres.

Another soil sampling technique that maybe used to select sampling points is grid sampling. The application area is mapped using a global positioning system and sample points are set up on

a grid of 2-10 acres. The soil samples are collected on the application ground that maybe used to a soil depth of 0-6 or 0-8 inches using a hand or hydraulic probe. The sub-samples collected are thoroughly mixed.

The composite samples are then placed in sample bags supplied by a qualified laboratory. The composite samples are then delivered to the laboratory three to four days following collection. Sampling maps indicate sample sites and labels for designated area are part of the record keeping. The laboratory determines the chemical analysis methods used. Generally, the methods used for phosphorus are either Bray P-1 or Mehlich M-2 (high excess lime soils).

Records that will be maintained during 2007 crop season

- A daily record of the amount and location of the clarifier rinsate applied
- The number of acres to which the clarifier rinsate was applied
- The application rate in gallons per acre
- A review of crop and soil conditions to determine if the clarifier rinsate is having long-term detrimental effects to the soil characteristics
- Soil testing results conducted following the crop season
- A discussion of any concerns or problems encountered during the preceding year
- The location of all application sites (i.e. either a map or legal description)

CLARIFIER RINSATE APPLICATION AGREEMENT

This agreement is made between M.G. Waldbaum Co., here after known as the "Production Facility" and DWAIN EKBERG, here after known as the "Owner" in consideration of their mutual promises as follows:

1. The Production Facility requires access to spread clarifier rinsate.
2. Owner is the owner of the following described real estate, to wit:

¼ or ½		Section	Township	Range			Irrigated or Dryland Acres
NE 1/4	of	25	27 N,	5 (E or W)	DIXON	Co.	151
N½ NW 1/4	of	34	27 N,	5 (E or W)	DIXON	Co.	73
	of		N,	(E or W)		Co.	
	of		N,	(E or W)		Co.	
	of		N,	(E or W)		Co.	
	of		N,	(E or W)		Co.	

Total **irrigated** crop acres for clarifier rinsate application is 73 acres.

Total **dryland** crop acres for clarifier rinsate application is 151 acres.

[redacted]

4. Owner consents to Production Facility applying clarifier rinsate on said premises at such times as are mutually agreeable by both parties. Further, the Owner may specify the location on the premises in which to apply rinsate.
5. The Production Facility will make available a copy of the clarifier rinsate nutrient analysis for the Owner.
6. Access to the above mentioned real estate will be limited to clarifier rinsate application only.
7. This agreement shall continue from year to year without further renewal, except if either party desires to cancel this Agreement they shall do so in writing on or before September 1, of any given year.

Dated this 22 day of AUGUST 2006

Official of Production Facility

Landowner: Dwain E Ekberg

Address: 58540 859TH ROAD
WAKEFIELD, NE 68784

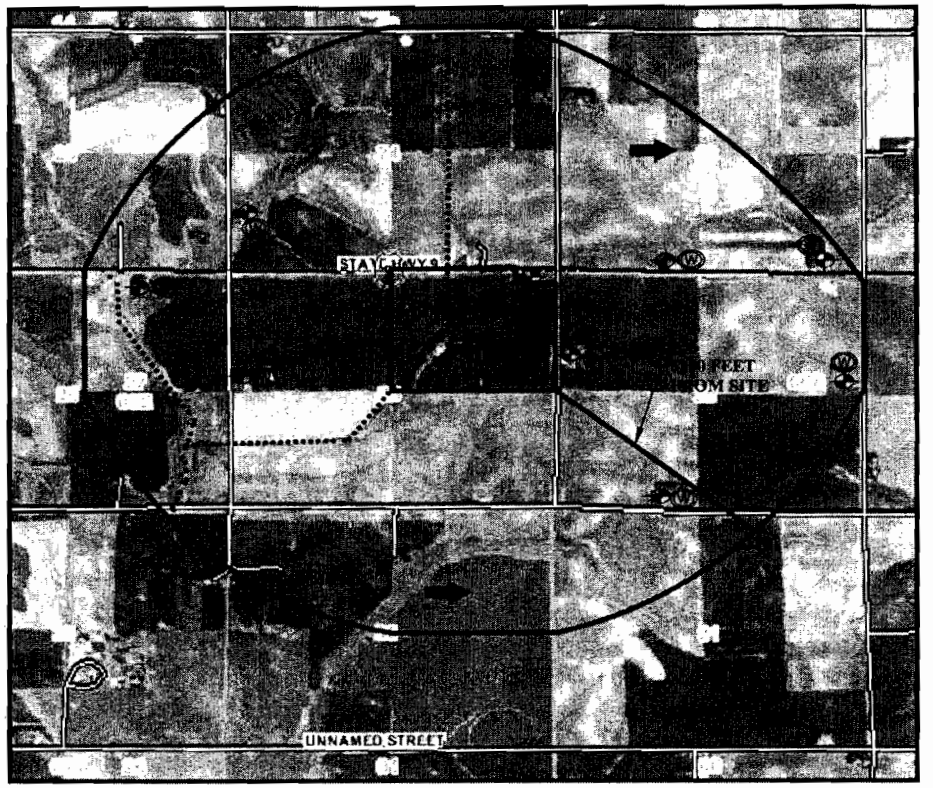
Phone: 402-287-2653

Landowner: _____

Address: _____

_____

Phone: _____

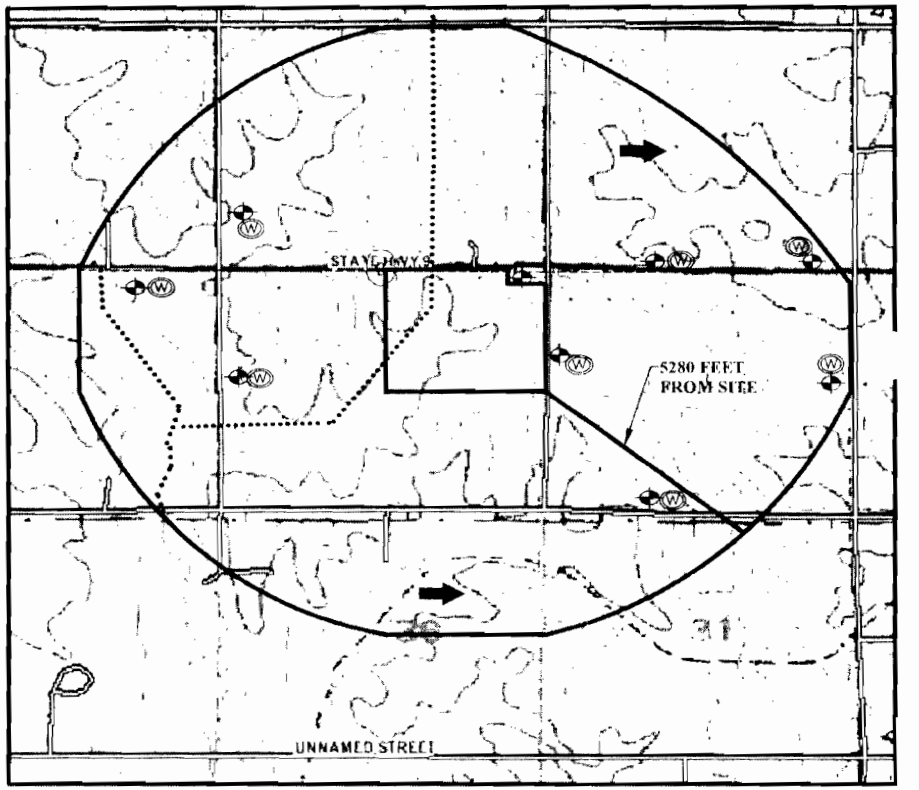


2590' 0' 2590'
SCALE

OWNER: DWAIN EKBERG

LEGAL DESCRIPTION: NE ¼ SEC. 25 T27N R5E DIXON COUNTY

SOURCE: TERRASERVER USGS AERIAL MAP DATED 4-16-1993



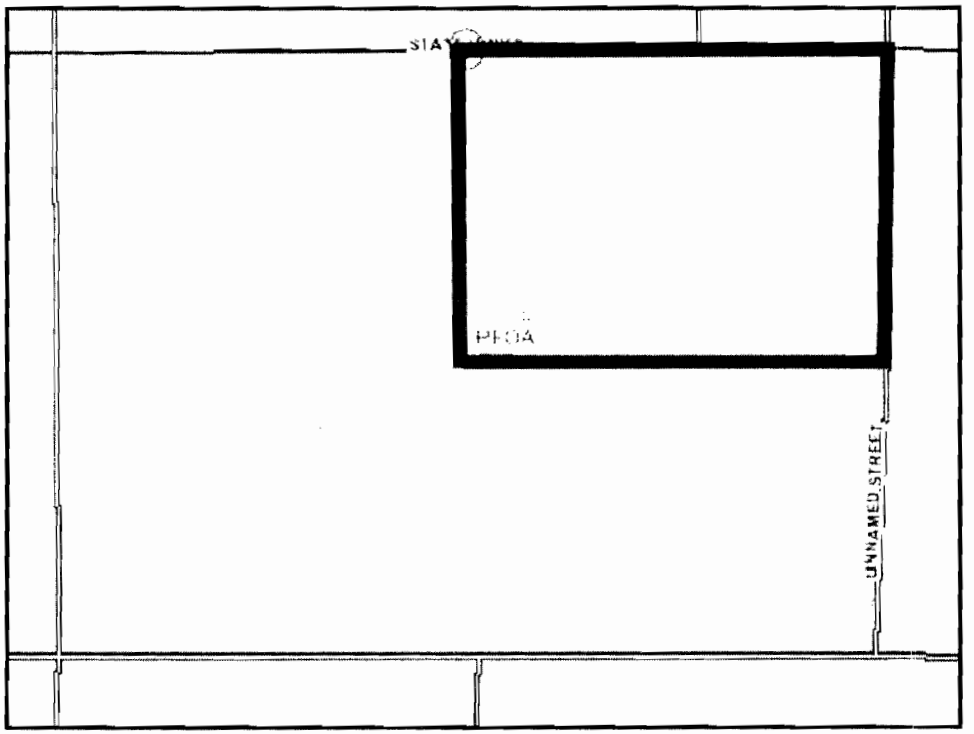
SOURCE: TERRASERVER USGS TOPOGRAPHIC MAP DATED 7-1-1983

2590' 0' 2590'
SCALE

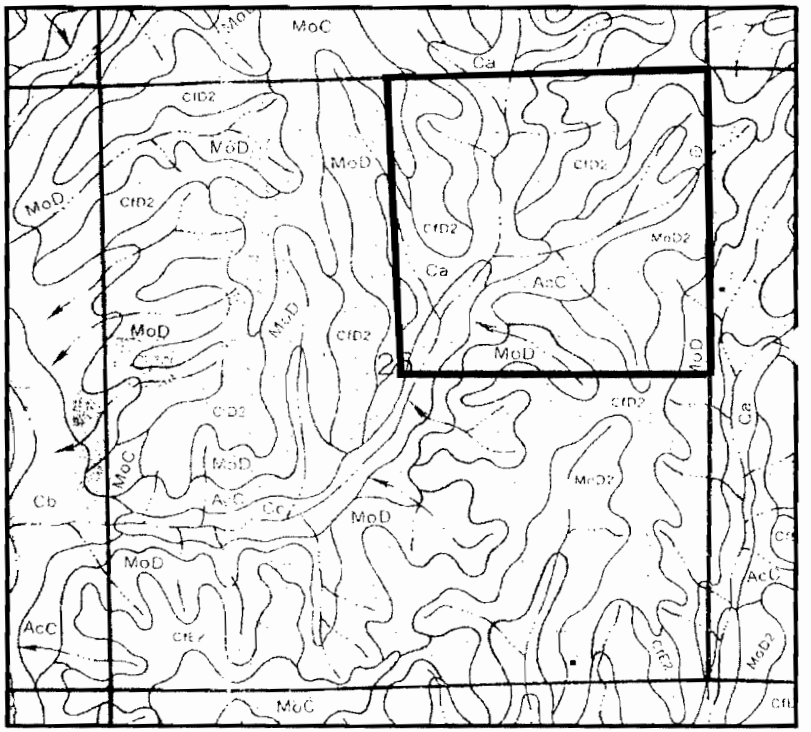
LEGEND
- FARMSTEAD
- HIGHWAY
- WELL
- SURFACE WATER
- GENERAL DIRECTION OF GROUNDWATER FLOW

FACILITY:	M.G. Waldbaum Co. Dixon County, Nebraska
SCALE:	AS SHOWN
DRAWN BY:	KJJ
CHECKED BY:	KJJ
SHEET NUMBER:	
DATE:	5-22-96
DESCRIPTION:	AERIAL AND TOPOGRAPHIC MAPS

ESI



SOURCE NATIONAL WETLAND INVENTORY



DIXON COUNTY SOIL SURVEY

SOIL LEGEND

SYMBOL	NAME
JuA	JUDSON SILT LOAM, 0 TO 2 PERCENT SLOPE
MoB	MOODY SILTY CLAY LOAM, 1 TO 7 PERCENT SLOPE
OrB	ORTELLO FINE SANDY LOAM, 2 TO 5 PERCENT SLOPE

OWNER: DWAIN EKBERG

LEGAL DESCRIPTION: NE ¼ SEC. 25 T27N R5E DIXON COUNTY

SOURCE: TERRASERVER USGS TOPOGRAPHIC MAP DATED 7-1-1983

FACILITY: M.G. Waldbaum Co.
Dixon County, Nebraska
SCALE: AS SHOWN
DRAWN BY: K.B. CHECKED BY: K.B.
SHEET NUMBER: DATE: 8-22-06
DESCRIPTION: WETLAND AND SOIL SURVEY MAPS
ESI

M.G. Waldbaum Company
Clarifier Rinsate Application Information for Site 4

Land Owner(s)

Dwain Ekberg
Rural Route 1 Box 145
Wakefield, NE 68784
(402) 287-2653

Legal Description

NW ¼ Sec 34 T27N R5E Dixon County

Distance to Surface Water	Soil Texture*	Slope*	Application Acres	Approximate Depth to ground-water
400 ft.	Silty Clay Loam	0-6 %	153	21-44 feet

Application Rate	Total nitrogen applied (available first year)
Approximately 2,500 gallons per acre	52.0 lbs/acre

Crop or vegetation being grown and agricultural practices utilized.

This application site will be planted to corn. The yield used for application rate determination will be an average of Dixon County yield information for the most recent 3 years. Agricultural practices used on the site are generally a minimum tillage system using a corn - soybean rotation.

Fertilizer applied for the 2007 crop year.

The application site was previously planted to corn. Additional commercial fertilizer may be applied following the application of clarifier rinsate to ensure the application site yield potential is maximized.

M.G. Waldbaum Company
Soil Management Evaluation for Site 4

Soil Texture*	Soil Structure*	Soil Drainage*	Excess Lime Rating*	Proposed Crop	Salt Tolerance**
Silty Clay Loam	Granular	Well Drained	None	Corn	5

* = The dominant soil characteristic of the application area.

* * = Information obtained from Ward laboratories Inc., of Kearney NE.

Sodium (Alkali) Hazard Rating

The Sodium (Alkali) Hazard Rating for Site 4 is low.

Irrigation Method

This application site will utilize a pull type liquid manure applicator.

Clarifier Rinsate Assessment

The evaluation of plant assimilation characteristics of Site 4 reveals that the Sodium Adsorption Ratio (SAR) for the site is assumed to be low, suggesting that there are currently no sodium or salinity problems.

The application rate to be use at the site is based on the nitrogen availability of the clarifier rinsate being applied and the fertilizer recommendation for the proposed crop. The clarifier rinsate contains 20.7 lbs. nitrogen (TKN) /1000gals and the nitrogen removal for corn to be raised is 213 lbs N for a yield goal of 160 Bu/ac. Therefore the facility would be able to apply up to 10,250 gals /acre of clarifier rinsate to meet the nitrogen requirement of the crop. If we evaluate the application rate per year on other nutrients such as phosphorus or sodium, the facility could apply a maximum of 3,400 gals / acre per year (phosphorus) or 178,000 gals / acre per year (sodium) of clarifier rinsate before potentially causing a potential crop problem. Additional commercial fertilizer may be necessary to meet the facility's yield goal for the application site depending on the final application rate.

The table lists the maximum amount of clarifier rinsate per acre which can be applied without incurring a cropping injury or exceeding crop removal rates. In addition to the sodium or soluble salt accumulation as a potential problem, the soluble salt content could potentially reduce germination of the production crop if not applied correctly.

	Maximum Application Volume Per Acre for a yield goal of 160 Bu/ac of Corn		
Source	Nitrogen (N)	Phosphorus (P_2O_5)	Sodium (Na)
Clarifier	10,250	3,400	178,000

To prevent surface or groundwater contamination, the facility will continue to soil test the site. Application records will be maintained at the M.G. Waldbaum facility.

Oversight of Clarifier Rinsate Application

The application of clarifier rinsate will be done in cooperation with the owner or tenant of the property to ensure proper application of the clarifier rinsate. Kendall Bonenberger of Environmental Sciences, Inc. will meet with the owner or the tenant to determine the timing and amount of the clarifier rinsate application. M.G. Waldbaum Co. will operate the pull type liquid manure applicator.

Clarifier Rinsate Application Setbacks

Clarifier rinsate shall not be allowed to run-off the application site when applied. The application equipment used shall insure that no clarifier rinsate is sprayed onto or across any public right of way. A 30 foot vegetative buffer strip shall be maintained between the application site and any public right of way. A 300 foot separation from an inhabited dwelling shall be maintained. If the clarifier rinsate is incorporated with the soil and the owner/occupant of the dwelling gives written consent to such, the separation may be reduced to 200 feet. A 300 foot separation from any potable water supply and a 1000 foot separation from a public water supply shall be maintained. A 200 foot separation to any waters of the State such as a stream or wetland with an exception that if a 30 foot vegetative buffer strip is maintained between the site and the surface water, the separation may be reduced to 100 feet. Beginning January 1, 2007 the facility will conduct phosphorus assessments on each application site prior to application. Depending on the final phosphorus assessment rating, clarifier rinsate may or may not be applied to an application site.

Soil Sampling and Testing Procedures

Soil tests are done prior to application on application sites, which will receive clarifier rinsate to a minimum soil depth of 8 inches and maximum depth of 48 inches depending on the cropping rotation. A qualified individual or company currently does soil sampling and a qualified laboratory does the soil chemical analysis. The soil chemical analysis includes nitrate-N, phosphorus, and potassium at a minimum. The facility will maintain soil test results for the application sites for a minimum of 5 years. Soil fertility recommendations are made using information obtained from the University of Nebraska or Dr. Ray Ward of Ward Laboratories, Inc. Yield goals used in the fertility recommendations are based on three to five year yield averages for that specific field or by an owner's choice. Maps of the application sites and their legal descriptions are included in this land application plan.

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Another soil sampling technique that maybe used to select sampling points is grid sampling. The application area is mapped using a global positioning system and sample points are set up on

a grid of 2-10 acres. The soil samples are collected on the application ground that maybe used to a soil depth of 0-6 or 0-8 inches using a hand or hydraulic probe. The sub-samples collected are thoroughly mixed.

The composite samples are then placed in sample bags supplied by a qualified laboratory. The composite samples are then delivered to the laboratory three to four days following collection. Sampling maps indicate sample sites and labels for designated area are part of the record keeping. The laboratory determines the chemical analysis methods used. Generally, the methods used for phosphorus are either Bray P-1 or Mehlich M-2 (high excess lime soils).

Records that will be maintained during 2007 crop season

- A daily record of the amount and location of the clarifier rinsate applied
- The number of acres to which the clarifier rinsate was applied
- The application rate in gallons per acre
- A review of crop and soil conditions to determine if the clarifier rinsate is having long-term detrimental effects to the soil characteristics
- Soil testing results conducted following the crop season
- A discussion of any concerns or problems encountered during the preceding year
- The location of all application sites (i.e. either a map or legal description)

CLARIFIER RINSATE APPLICATION AGREEMENT

This agreement is made between M.G. Waldbaum Co., here after known as the "Production Facility" and DWAIN EKBERG, here after known as the "Owner" in consideration of their mutual promises as follows:

1. The Production Facility requires access to spread clarifier rinsate.
2. Owner is the owner of the following described real estate, to wit:

¼ or ½	Section	Township	Range		County	Irrigated or Dryland Acres
NE 1/4	25	27 N,	5	(E or W)	DIXON Co.	Irrigated or Dryland Acres 151
N/2 NW 1/4	34	27 N,	5	(E or W)	DIXON Co.	Irrigated or Dryland Acres 73
		N,		(E or W)	Co.	Irrigated or Dryland Acres
		N,		(E or W)	Co.	Irrigated or Dryland Acres
		N,		(E or W)	Co.	Irrigated or Dryland Acres
		N,		(E or W)	Co.	Irrigated or Dryland Acres

Total irrigated crop acres for clarifier rinsate application is 73 acres.

Total dryland crop acres for clarifier rinsate application is 151 acres.

4. Owner consents to Production Facility applying clarifier rinsate on said premises at such times as are mutually agreeable by both parties. Further, the Owner may specify the location on the premises in which to apply rinsate.
5. The Production Facility will make available a copy of the clarifier rinsate nutrient analysis for the Owner.
6. Access to the above mentioned real estate will be limited to clarifier rinsate application only.
7. This agreement shall continue from year to year without further renewal, except if either party desires to cancel this Agreement they shall do so in writing on or before September 1, of any given year.

Dated this 22 day of AUGUST 2006

Official of Production Facility

Landowner:

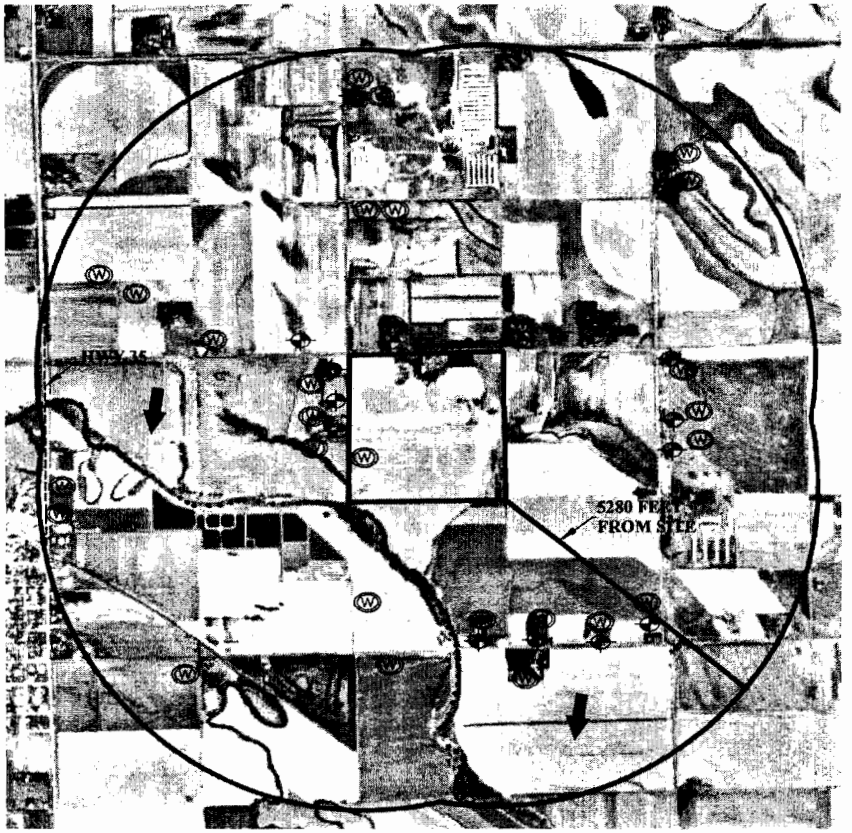
Address: 58540 859TH ROAD
WAKEFIELD, NE 68784

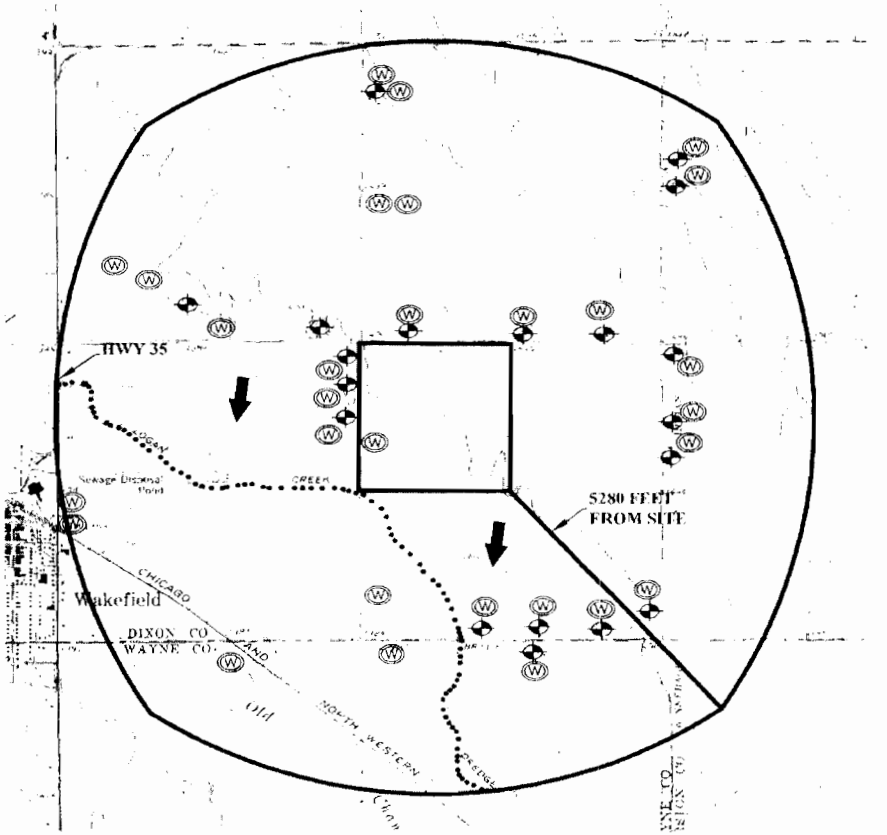
Phone: 402-287-2653

Landowner:

Address:

Phone:





2000' 0' 2000'
SCALE

2000' 0' 2000'
SCALE

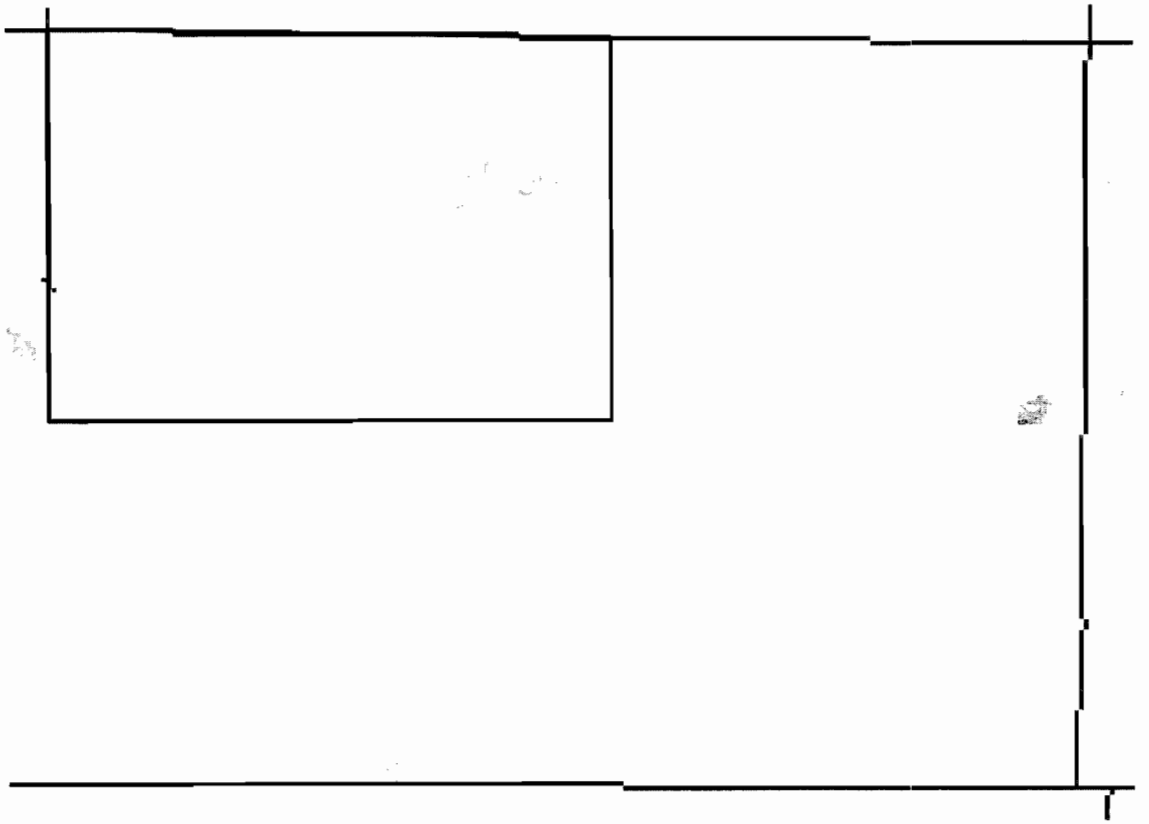
OWNER: DWAINE EKBERG

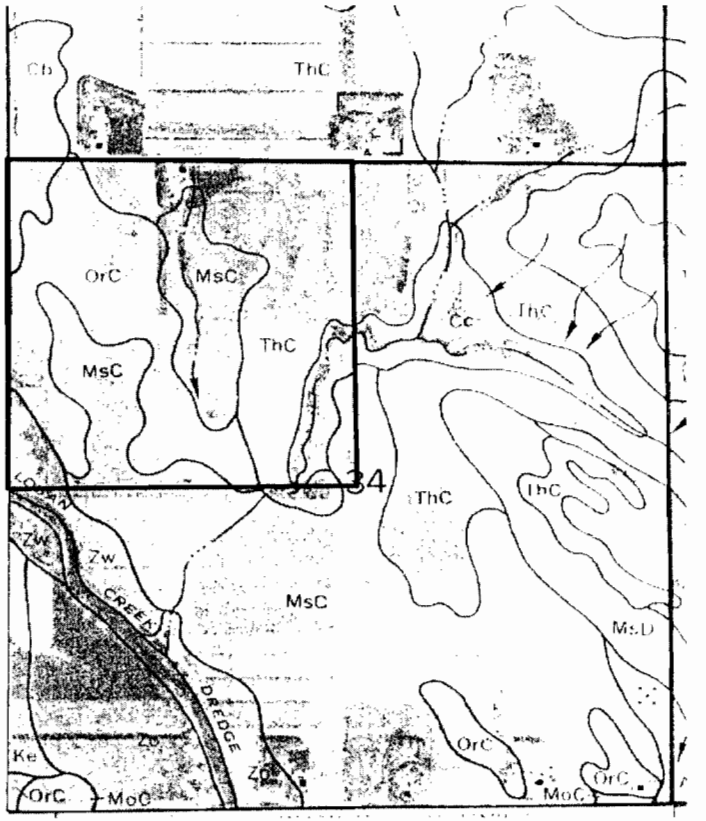
LEGAL DESCRIPTION: N ½ NW ¼ SEC. 34 T27N R5E DIXON COUNTY

SOURCE: TERRASERVER USGS TOPOGRAPHIC MAP DATED 7-1-1988

LEGEND:
- FARMSTEAD
- HIGHWAY
- WELL
- SURFACE WATER
- GENERAL DIRECTION OF GROUNDWATER FLOW

FACILITY: M G Wauldbaum Co.
Dixon County, Nebraska
SCALE: AS SHOWN
DRAWN BY: KH CHECKED BY: KD
SHEET NUMBER: DATE:
DESCRIPTION: AERIAL AND TOPOGRAPHIC MAPS
ESI





SOURCE : NATIONAL WETLAND INVENTORY

OWNER: DWAINE EKBERG

LEGAL DESCRIPTION: N ½ NW ¼ SEC. 34 T27N R5E DIXON COUNTY

SOURCE: TERRASERVER USGS TOPOGRAPHIC MAP DATED 7-1-1988

DIXON COUNTY SOIL SURVEY:

SOIL LEGEND

SYMBOL	NAME
Cb	CALCO SILTY CLAY LOAM, 0 TO 2 PERCENT SLOPE
OrC	ORTELLO SANDY LOAM, 0 TO 2 PERCENT SLOPE
MsC	MOODY-LEHSY COMPLEX, 2 TO 6 PERCENT SLOPE
ThC	THURMAN LOAMY SAND, 2 TO 6 PERCENT SLOPE
Cc	CALCO SILTY CLAY LOAM, WET, 0 TO 2 PERCENT SLOPE
Zw	ZOOK SILTY CLAY, 0 TO 2 PERCENT SLOPE

FACILITY: M.G. Wauldbaum
Dixon County Nebraska
SCALE: AS SHOWN
DRAWN BY: K.B. CHECKED BY: KB
SHEET NUMBER DATE:
DESCRIPTION:
WETLAND AND SOIL SURVEY MAPS
ESI

M.G. Waldbaum Company
Clarifier Rinsate Application Information for Site 5

Land Owner(s)

Lyle Ekberg	Dwain Ekberg
58485 859 Road	58540 859 Road
Wakefield, NE 68784	Wakefield, NE 68784
(402) 287-2107	(402) 287-2653

Legal Description

SE ¼ Sec 28 T27N R5E Dixon County

Distance to Surface Water	Soil Texture*	Slope*	Application Acres	Approximate Depth to ground-water
3000 ft.	Silty Clay Loam	0-3 %	157	21 to 44 feet

Application Rate	Total nitrogen applied (available first year)
Approximately 2,500 gallons per acre	52.0 lbs/acre

Crop or vegetation to be grown and agricultural practices utilized.

This application site will be planted to soybeans. The yield used for application rate determination will be an average of Dixon County yield information for the most recent 3 years. Agricultural practices used on the site are generally a minimum tillage system using a corn - soybean rotation.

Fertilizer applied for the 2007 crop year.

The application site was planted to corn in 2006. Additional commercial fertilizer may be applied following the application of clarifier rinsate to ensure the application site yield potential is maximized.

M.G. Waldbaum Company
Soil Management Evaluation for Site 5

Soil Texture*	Soil Structure*	Soil Drainage*	Excess Lime Rating*	Proposed Crop	Salt Tolerance**
Silt Loam	Granular	Moderately Well Drained	None	Soybeans	5

* = The dominant soil characteristic of the application area.

* * = Information obtained from Ward laboratories Inc., of Kearney NE.

Sodium (Alkali) Hazard Rating

The Sodium (Alkali) Hazard Rating for Site 5 is low.

Irrigation Method

This application site will utilize a pull type liquid manure applicator.

Clarifier Rinsate Assessment

The evaluation of plant assimilation characteristics of Site 5 reveals the Sodium Adsorption Ratio (SAR) for the site is assumed to be low, suggesting that there are currently no sodium or salinity problems.

The application rate to be use at the site is based on the nitrogen availability of the clarifier rinsate being applied and the fertilizer recommendation for the proposed crop. The clarifier rinsate contains 20.7 lbs. nitrogen (TKN) /1000gals and the nitrogen removal for soybeans to be raised is 167 lbs N for a yield goal of 45 Bu/ac. Therefore the facility would be able to apply up to 8,000 gals /acre of clarifier rinsate to meet the nitrogen requirement of the crop. If we evaluate the application rate per year on other nutrients such as phosphorus or sodium, the facility could apply a maximum of 2,100 gals / acre per year (phosphorus) or 178,000 gals / acre per year (sodium) of clarifier rinsate before potentially causing a potential crop problem. Additional commercial fertilizer may be necessary to meet the facility's yield goal for the application site depending on the final application rate.

The table lists the maximum amount of clarifier rinsate per acre which can be applied without incurring a cropping injury or exceeding crop removal rates. In addition to the sodium or soluble salt accumulation as a potential problem, the soluble salt content could potentially reduce germination of the production crop if not applied correctly.

	Maximum Application Volume Per Acre for a yield goal of 45 Bu/ac of Soybeans		
Source	Nitrogen (N)	Phosphorus (P_2O_5)	Sodium (Na)
Clarifier	8,000	2,100	178,000

To prevent surface or groundwater contamination, the facility will continue to soil test the site. Application records will be maintained at the M.G. Waldbaum facility.

Oversight of Clarifier Rinsate Application

The application of clarifier rinsate will be done in cooperation with the owner or tenant of the property to ensure proper application of the clarifier rinsate. Kendall Bonenberger of Environmental Sciences, Inc. will meet with the owner or the tenant to determine the timing and amount of the clarifier rinsate application. M.G. Waldbaum Co. will operate the pull type liquid manure applicator.

Clarifier Rinsate Application Setbacks

Clarifier rinsate shall not be allowed to run-off the application site when applied. The application equipment used shall insure that no clarifier rinsate is sprayed onto or across any public right of way. A 30 foot vegetative buffer strip shall be maintained between the application site and any public right of way. A 300 foot separation from an inhabited dwelling shall be maintained. If the clarifier rinsate is incorporated with the soil and the owner/occupant of the dwelling gives written consent to such, the separation may be reduced to 200 feet. A 300 foot separation from any potable water supply and a 1000 foot separation from a public water supply shall be maintained. A 200 foot separation to any waters of the State such as a stream or wetland with an exception that if a 30 foot vegetative buffer strip is maintained between the site and the surface water, the separation may be reduced to 100 feet. Beginning January 1, 2007 the facility will conduct phosphorus assessments on each application site prior to application. Depending on the final phosphorus assessment rating, clarifier rinsate may or may not be applied to an application site.

Soil Sampling and Testing Procedures

Soil tests are done prior to application on application sites, which will receive clarifier rinsate to a minimum soil depth of 8 inches and maximum depth of 48 inches depending on the cropping rotation. A qualified individual or company currently does soil sampling and a qualified laboratory does the soil chemical analysis. The soil chemical analysis includes nitrate-N, phosphorus, and potassium at a minimum. The facility will maintain soil test results for the application sites for a minimum of 5 years. Soil fertility recommendations are made using information obtained from the University of Nebraska or Dr. Ray Ward of Ward Laboratories, Inc. Yield goals used in the fertility recommendations are based on three to five year yield averages for that specific field or by an owner's choice. Maps of the application sites and their legal descriptions are included in this land application plan.

Soil sampling is used by the facility as another tool to ensure proper nutrient management and good crop production. Soil sampling is used by the facility on an annual basis to monitor phosphorus accumulation in the soil and also to determine the proper application rate and location. Soil sampling is done prior to applications and the minimum soil sampling depth is 0-8 inches for all application areas. Soil sampling shall be consistent year to year and sampling dates will be stated on all reports and sampling results.

One soil sampling technique used to select sampling points is a zig-zag pattern. The sub-samples are collected at points where cropping practices and land use are similar, and which are not drainage ditches or other topographic positions which would have caused significant variation in the sample results. The soil samples are collected on the application ground that maybe used to a soil depth of 0-8 inches using a hand or hydraulic probe. The sub-samples of each soil depth collected are then thoroughly mixed. A composite sample for each sample depth represents approximately 40 acres.

Another soil sampling technique that maybe used to select sampling points is grid sampling. The application area is mapped using a global positioning system and sample points are set up on

a grid of 2-10 acres. The soil samples are collected on the application ground that maybe used to a soil depth of 0-6 or 0-8 inches using a hand or hydraulic probe. The sub-samples collected are thoroughly mixed.

The composite samples are then placed in sample bags supplied by a qualified laboratory. The composite samples are then delivered to the laboratory three to four days following collection. Sampling maps indicate sample sites and labels for designated area are part of the record keeping. The laboratory determines the chemical analysis methods used. Generally, the methods used for phosphorus are either Bray P-1 or Mehlich M-2 (high excess lime soils).

Records that will be maintained during 2007 crop season

- A daily record of the amount and location of the clarifier rinsate applied
- The number of acres to which the clarifier rinsate was applied
- The application rate in gallons per acre
- A review of crop and soil conditions to determine if the clarifier rinsate is having long-term detrimental effects to the soil characteristics
- Soil testing results conducted following the crop season
- A discussion of any concerns or problems encountered during the preceding year
- The location of all application sites (i.e. either a map or legal description)

CLARIFIER RINSATE APPLICATION AGREEMENT

This agreement is made between M.G. Waldbaum Co., here after known as the "Production Facility" and LYLE AND DWAIN EKBERG, here after known as the "Owner" in consideration of their mutual promises as follows:

1. The Production Facility requires access to spread clarifier rinsate.
2. Owner is the owner of the following described real estate, to wit:

¼ or ½		Section	Township	Range			Irrigated or Dryland Acres
SE 1/4	of	28,	27 N,	5 (E) or W)	DIXON	Co.	157
	of	,	N,	(E or W)		Co.	
	of	,	N,	(E or W)		Co.	
	of	,	N,	(E or W)		Co.	
	of	,	N,	(E or W)		Co.	
	of	,	N,	(E or W)		Co.	

Total **irrigated** crop acres for clarifier rinsate application is 157 acres.

Total **dryland** crop acres for clarifier rinsate application is _____ acres.

[redacted]

4. Owner consents to Production Facility applying clarifier rinsate on said premises at such times as are mutually agreeable by both parties. Further, the Owner may specify the location on the premises in which to apply rinsate.
5. The Production Facility will make available a copy of the clarifier rinsate nutrient analysis for the Owner.
6. Access to the above mentioned real estate will be limited to clarifier rinsate application only.
7. This agreement shall continue from year to year without further renewal, except if either party desires to cancel this Agreement they shall do so in writing on or before September 1, of any given year.

Dated this 22 day of AUGUST 2006

Kenneth J Behrens

Official of Production Facility

Landowner: Dwain E Ekberg

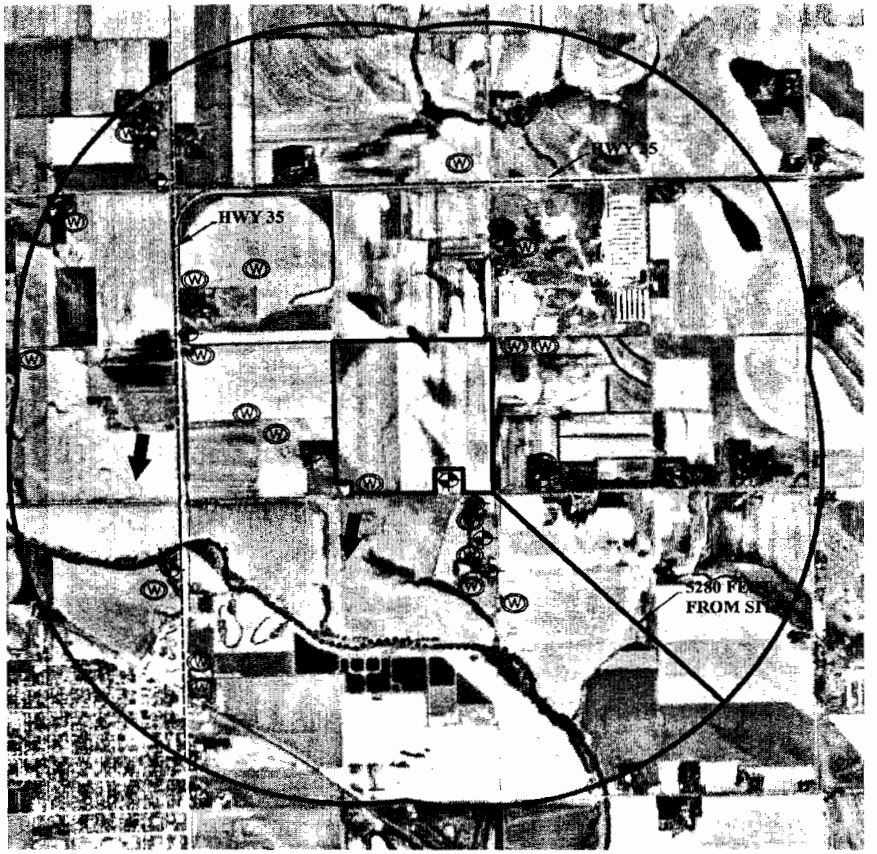
Address: 58540 859TH ROAD
WAKEFIELD, NE 68784

Phone: 402-287-2653

Landowner: Lyle Ekberg

Address: 584 55- 859 Road
Wakefield Ne 68784

Phone: 402 287- 2107



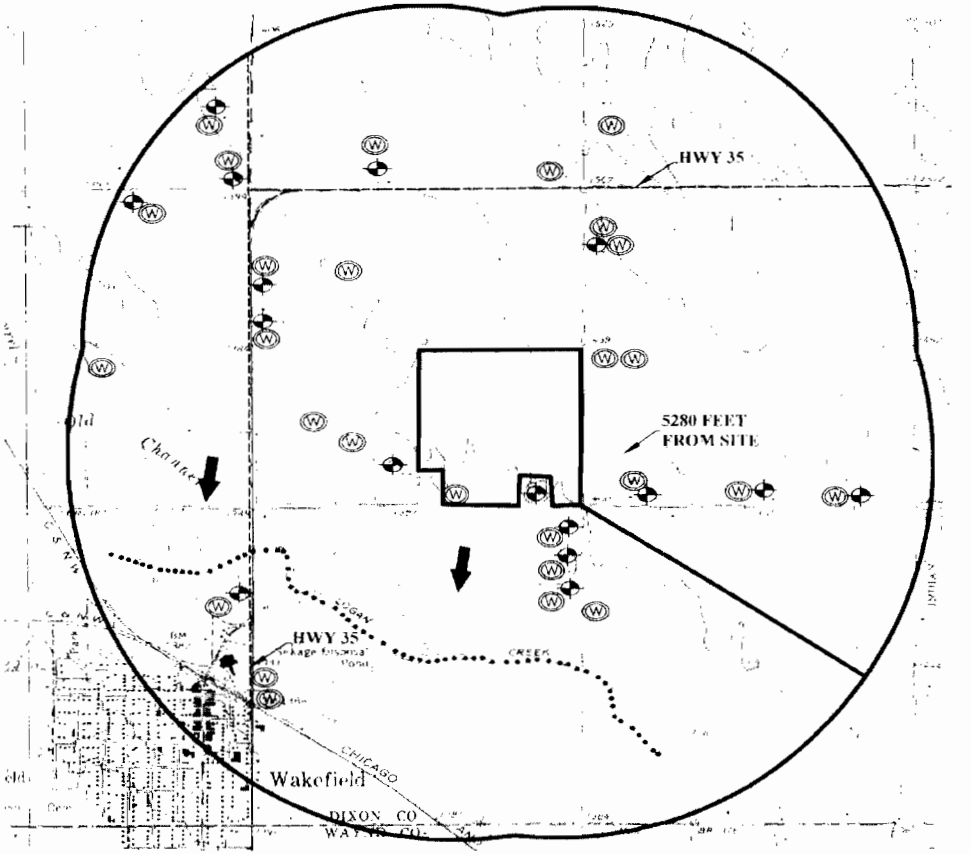
2000' 0' 2000'

SCALE

OWNER: LYLE AND DWAIN EKBERG

LEGAL DESCRIPTION: SE ¼ SEC. 28 T27N R5E DIXON COUNTY

SOURCE: TERRASERVER USGS TOPOGRAPHIC MAP DATED 7 1 1988



2000' 0' 2000'

SCALE

LEGEND

FARMSTEAD

HIGHWAY

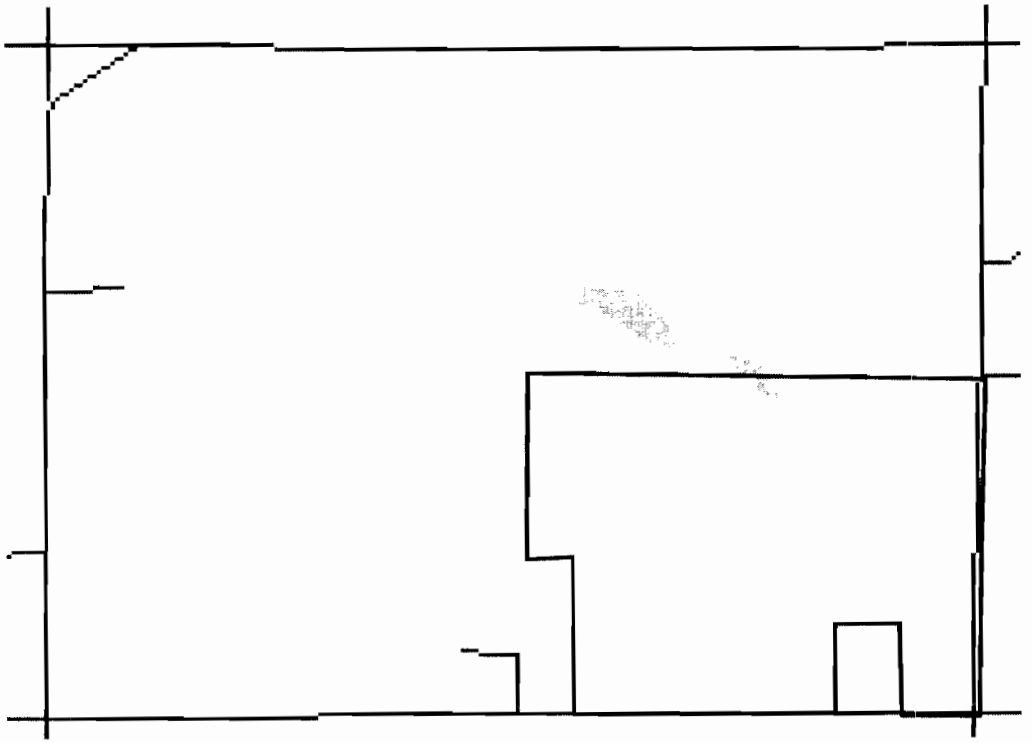
WELL

SURFACE WATER

GENERAL DIRECTION OF GROUNDWATER FLOW

FACILITY:	M.G. WAULDBAUM CO. Dixon County Nebraska
SCALE:	AS SHOWN
DRAWN BY:	KD CHECKED BY: KD
SHEET NUMBER:	DATE:
DESCRIPTION:	AERIAL AND TOPOGRAPHIC MAPS

ESI

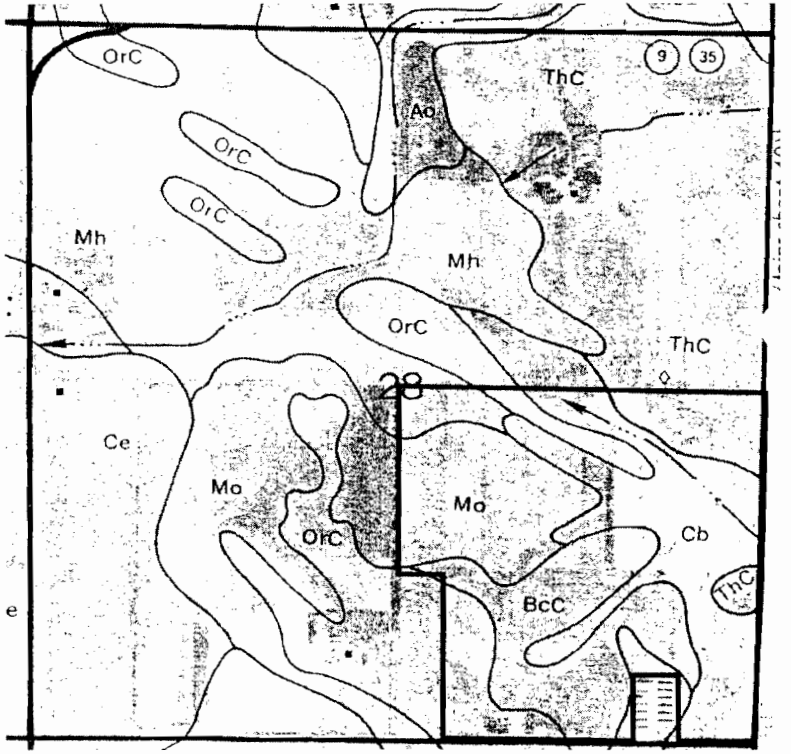


SOURCE : NATIONAL WETLAND INVENTORY

OWNER: LYLE AND DWAIN EKBERG

LEGAL DESCRIPTION: SE ¼ SEC. 28 T27N R5E DIXON COUNTY

SOURCE: TERRASERVER USGS TOPOGRAPHIC MAP DATED 7-1-1988



DIXON COUNTY SOIL SURVEY

SOIL LEGEND

SYMBOL	NAME
Mo	MOODY SILTY CLAY LOAM, 0 TO 2 PERCENT SLOPE
Cb	CALCO SILTY CLAY LOAM, 0 TO 2 PERCENT SLOPE
BcC	BAZILE SILTY CLAY LOAM, 2 TO 6 PERCENT SLOPE
ThC	THURMAN LOAMY SAND, 2 TO 6 PERCENT SLOPE

FACILITY: M G Waldbaum Co.
Dixon County Nebraska
SCALE: AS SHOWN
DRAWN BY: KJ CHECKED BY: KJ
SHEET NUMBER: DATE:
DESCRIPTION: WETLAND AND SOIL SURVEY MAPS

M.G. Waldbaum Company
Clarifier Rinsate Application Information for Site 6

Land Owner(s)

Donovan Bjorklund
85527 Highway 16
Wakefield, NE 68784
402-287-2906

Legal Description

Pts. E ½ Sec 17 T26N R5E Wayne County

Distance to Surface Water	Soil Texture*	Slope*	Application Acres	Approximate Depth to ground-water
0 ft.	Silt Clay Loam	2-11 %	241	80-150 feet

Application Rate	Total nitrogen applied (available first year)
Approximately 2,500 gallons per acre	52.0 lbs/acre

Crop or vegetation to be grown and agricultural practices utilized.

This application site will be planted to soybeans, cool season grasses and alfalfa. The yield used for application rate determination will be an average of Wayne County yield information for the most recent 3 years. Agricultural practices used on the site are generally a minimum tillage system using a corn - soybean rotation.

Fertilizer applied for the 2007 crop year.

Part of the application site has been alfalfa the last three years and will receive a nitrogen credit of 100 lbs/ac for the cropping history, which will be included in determing the appropriate application rate of clarifier rinsate. Approximately 60 acres of the application site received poultry manure during the last winter. Additional commercial fertilizer maybe added on various parts of the application to ensure maximizing the yield potential of the site.

M.G. Waldbaum Company
Soil Management Evaluation for Site 6

Soil Texture*	Soil Structure*	Soil Drainage*	Excess Lime Rating*	Proposed Crop	Salt Tolerance**
Silty Clay Loam	Granular	Well Drained	None	Soybeans	6

* = The dominant soil characteristic of the application area.

* * = Information obtained from Ward laboratories Inc., of Kearney NE.

Sodium (Alkali) Hazard Rating

The Sodium (Alkali) Hazard Rating for Site 6 is low.

Irrigation Method

This application site will utilize a pull type liquid manure applicator.

Clarifier Rinsate Assessment

The evaluation of plant assimilation characteristics of Site 6 reveals that the Sodium Adsorption Ratio (SAR) for the site is assumed to be low, suggesting that there are currently no sodium or salinity problems.

The application rate to be use at the site is based on the nitrogen availability of the clarifier rinsate being applied and the fertilizer recommendation for the proposed crop. The clarifier rinsate contains 20.7 lbs. nitrogen (TKN) /1000gals and the nitrogen removal for soybeans to be raised is 167 lbs N for a yield goal of 45 Bu/ac. Therefore the facility would be able to apply up to 8,000 gals /acre of clarifier rinsate to meet the nitrogen requirement of the crop. If we evaluate the application rate per year on other nutrients such as phosphorus or sodium, the facility could apply a maximum of 2,100 gals / acre per year (phosphorus) or 178,000 gals / acre per year (sodium) of clarifier rinsate before potentially causing a potential crop problem. Additional commercial fertilizer may be necessary to meet the facility's yield goal for the application site depending on the final application rate.

The table lists the maximum amount of clarifier rinsate per acre which can be applied without incurring a cropping injury or exceeding crop removal rates. In addition to the sodium or soluble salt accumulation as a potential problem, the soluble salt content could potentially reduce germination of the production crop if not applied correctly.

	Maximum Application Volume Per Acre for a yield goal of 45 Bu/ac of Soybeans		
Source	Nitrogen (N)	Phosphorus (P_2O_5)	Sodium (Na)
Clarifier	8,000	2,100	178,000

To prevent surface or groundwater contamination, the facility will continue to soil test the site. Application records will be maintained at the M.G. Waldbaum facility.

Oversight of Clarifier Rinsate Application

The application of clarifier rinsate will be done in cooperation with the owner or tenant of the property to ensure proper application of the clarifier rinsate. Kendall Bonenberger of Environmental Sciences, Inc. will meet with the owner or the tenant to determine the timing and amount of the clarifier rinsate application. M.G. Waldbaum Co. will operate the pull type liquid manure applicator.

Clarifier Rinsate Application Setbacks

Clarifier rinsate shall not be allowed to run-off the application site when applied. The application equipment used shall insure that no clarifier rinsate is sprayed onto or across any public right of way. A 30 foot vegetative buffer strip shall be maintained between the application site and any public right of way. A 300 foot separation from an inhabited dwelling shall be maintained. If the clarifier rinsate is incorporated with the soil and the owner/occupant of the dwelling gives written consent to such, the separation may be reduced to 200 feet. A 300 foot separation from any potable water supply and a 1000 foot separation from a public water supply shall be maintained. A 200 foot separation to any waters of the State such as a stream or wetland with an exception that if a 30 foot vegetative buffer strip is maintained between the site and the surface water, the separation may be reduced to 100 feet. Beginning January 1, 2007 the facility will conduct phosphorus assessments on each application site prior to application. Depending on the final phosphorus assessment rating, clarifier rinsate may or may not be applied to an application site.

Soil Sampling and Testing Procedures

Soil tests are done prior to application on application sites, which will receive clarifier rinsate to a minimum soil depth of 8 inches and maximum depth of 48 inches depending on the cropping rotation. A qualified individual or company currently does soil sampling and a qualified laboratory does the soil chemical analysis. The soil chemical analysis includes nitrate-N, phosphorus, and potassium at a minimum. The facility will maintain soil test results for the application sites for a minimum of 5 years. Soil fertility recommendations are made using information obtained from the University of Nebraska or Dr. Ray Ward of Ward Laboratories, Inc. Yield goals used in the fertility recommendations are based on three to five year yield averages for that specific field or by an owner's choice. Maps of the application sites and their legal descriptions are included in this land application plan.

Soil sampling is used by the facility as another tool to ensure proper nutrient management and good crop production. Soil sampling is used by the facility on an annual basis to monitor phosphorus accumulation in the soil and also to determine the proper application rate and location. Soil sampling is done prior to applications and the minimum soil sampling depth is 0-8 inches for all application areas. Soil sampling shall be consistent year to year and sampling dates will be stated on all reports and sampling results.

One soil sampling technique used to select sampling points is a zig-zag pattern. The sub-samples are collected at points where cropping practices and land use are similar, and which are not drainage ditches or other topographic positions which would have caused significant variation in the sample results. The soil samples are collected on the application ground that maybe used to a soil depth of 0-8 inches using a hand or hydraulic probe. The sub-samples of each soil depth collected are then thoroughly mixed. A composite sample for each sample depth represents approximately 40 acres.

Another soil sampling technique that maybe used to select sampling points is grid sampling. The application area is mapped using a global positioning system and sample points are set up on

a grid of 2-10 acres. The soil samples are collected on the application ground that maybe used to a soil depth of 0-6 or 0-8 inches using a hand or hydraulic probe. The sub-samples collected are thoroughly mixed.

The composite samples are then placed in sample bags supplied by a qualified laboratory. The composite samples are then delivered to the laboratory three to four days following collection. Sampling maps indicate sample sites and labels for designated area are part of the record keeping. The laboratory determines the chemical analysis methods used. Generally, the methods used for phosphorus are either Bray P-1 or Mehlich M-2 (high excess lime soils).

Records that will be maintained during 2007 crop season

- A daily record of the amount and location of the clarifier rinsate applied
- The number of acres to which the clarifier rinsate was applied
- The application rate in gallons per acre
- A review of crop and soil conditions to determine if the clarifier rinsate is having long-term detrimental effects to the soil characteristics
- Soil testing results conducted following the crop season
- A discussion of any concerns or problems encountered during the preceding year
- The location of all application sites (i.e. either a map or legal description)

CLARIFIER RINSATE APPLICATION AGREEMENT

This agreement is made between M.G. Waldbaum Co., here after known as the "Production Facility" and DONOVAN BJORKLUND, here after known as the "Owner" in consideration of their mutual promises as follows:

1. The Production Facility requires access to spread clarifier rinsate.
2. Owner is the owner of the following described real estate, to wit:

¼ or ½	Section	Township	Range	(E or W)	Co.	Irrigated or Dryland Acres
PTS. E ½	17	26 N	5	(E)	WAYNE	241
		N		(E or W)		
		N		(E or W)		
		N		(E or W)		
		N		(E or W)		
		N		(E or W)		

Total irrigated crop acres for clarifier rinsate application is _____ acres.

Total dryland crop acres for clarifier rinsate application is 241 acres.

[redacted]

4. Owner consents to Production Facility applying clarifier rinsate on said premises at such times as are mutually agreeable by both parties. Further, the Owner may specify the location on the premises in which to apply rinsate.
5. The Production Facility will make available a copy of the clarifier rinsate nutrient analysis for the Owner.
6. Access to the above mentioned real estate will be limited to clarifier rinsate application only.
7. This agreement shall continue from year to year without further renewal, except if either party desires to cancel this Agreement they shall do so in writing on or before September 1, of any given year.

Dated this 22 day of AUGUST 2006

Official of Production Facility

Landowner: Donnan D. Bjorklund

Address: 85521 Highway #16
Wakefield, Ne. 68784

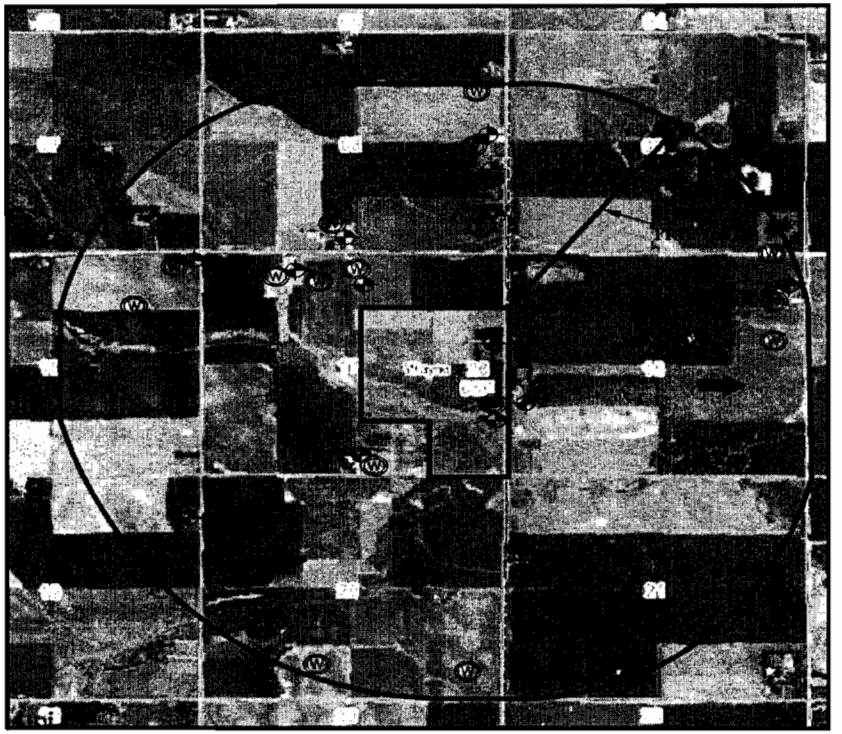
Phone: 402-287-2906.

Landowner: _____

Address: _____

_____

Phone: _____



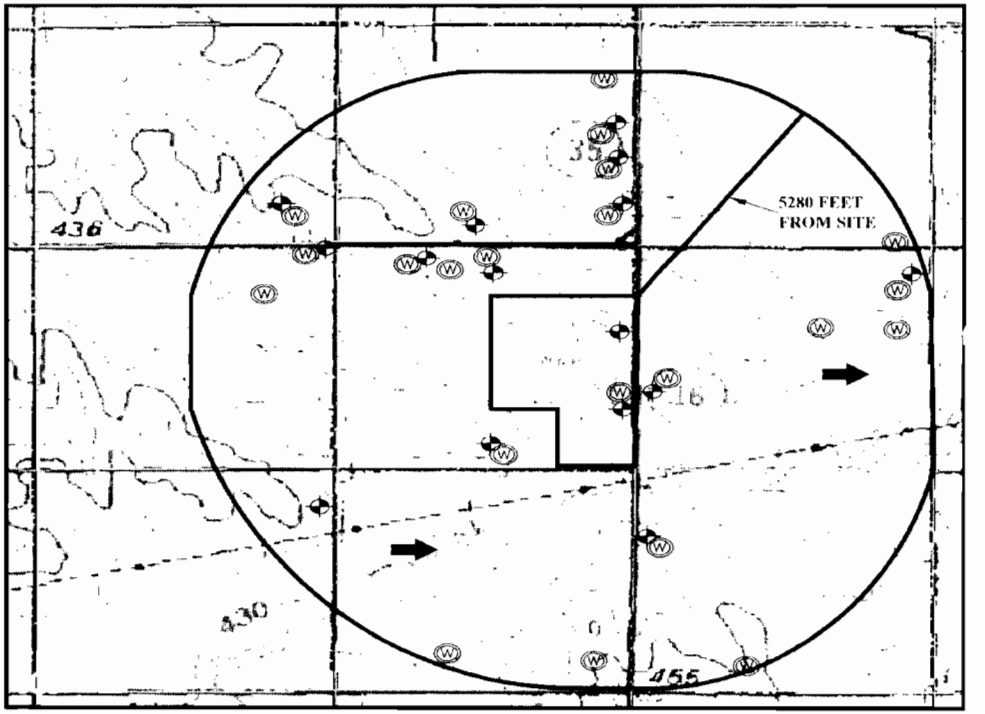
2108' 0' 2108'

SCALE

OWNER: DONAVON BJORKLAND

LEGAL DESCRIPTION: Pts E ½ SEC. 17 T26N R5E WAYNE COUNTY

SOURCE: TERRASERVER USGS AERIAL MAP DATED 4-16-1993



SOURCE: TERRASERVER USGS TOPOGRAPHIC MAP DATED 7-1-1983

2108' 0' 2108'

SCALE

LEGEND:

FARMSTEAD

HIGHWAY

WELL

SURFACE WATER

GENERAL DIRECTION OF GROUNDWATER FLOW

FACILITY: M.G. Waldbaum Co.
Dixon County Nebraska

SCALE AS SHOWN

DRAWN BY: S.J.

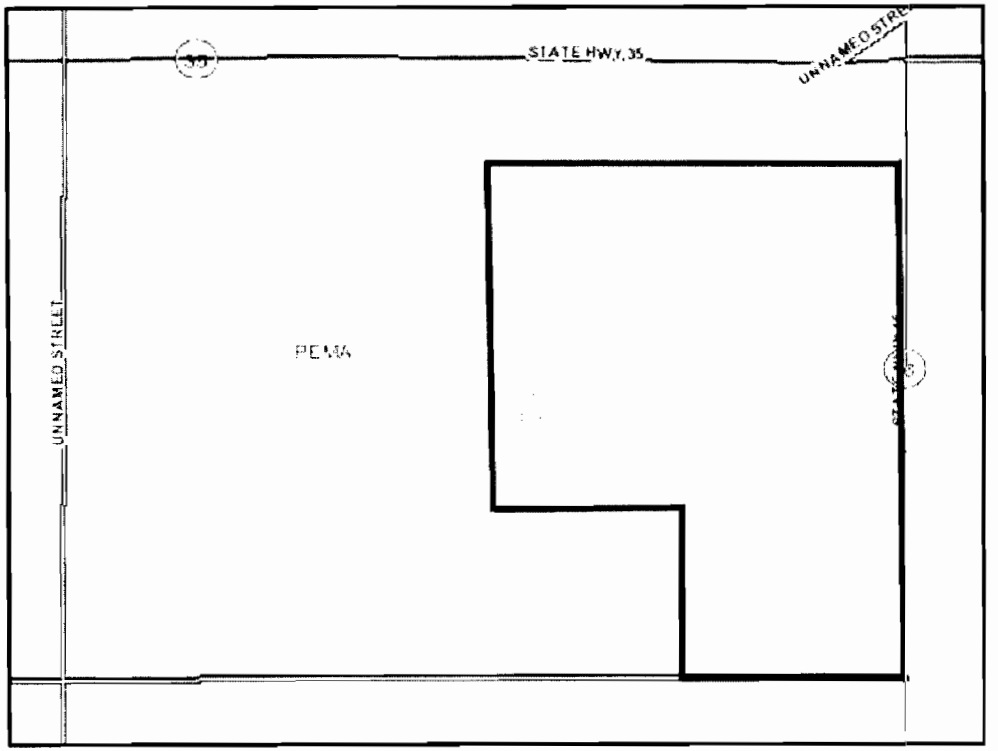
CHECKED BY: J.H.

SHEET NUMBER:

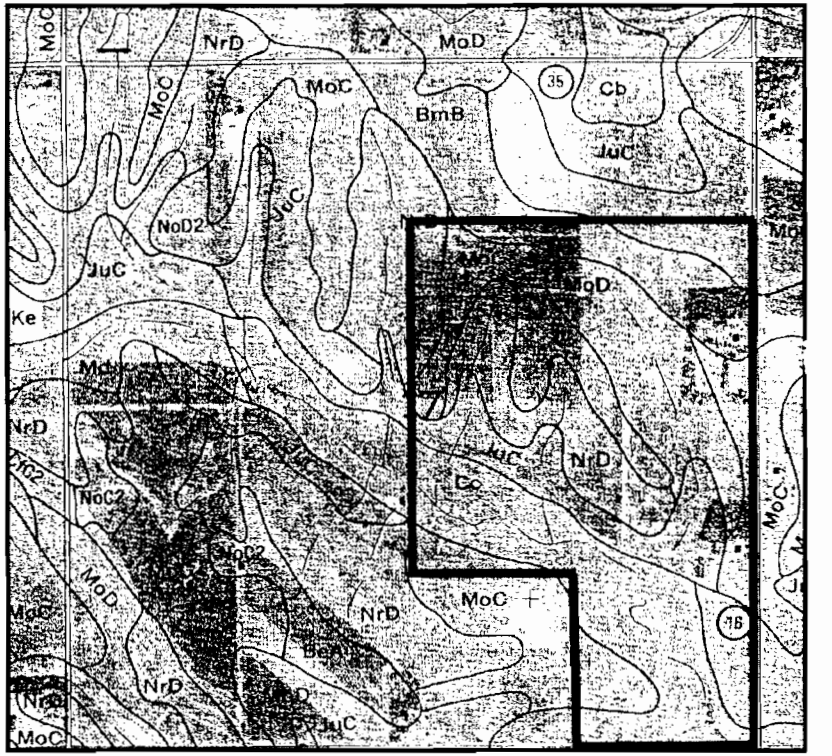
DATE: X-XX-X

DESCRIPTION: AERIAL AND TOPOGRAPHIC MAPS

ESI



SOURCE - NATIONAL WETLAND INVENTORY



WAYNE COUNTY SOIL SURVEY

SOIL LEGEND

SYMBOL	NAME
MoC	MOODY SILTY CLAY LOAM, 2 TO 7 PERCENT SLOPE
MoD	MOODY SILTY CLAY LOAM, 6 TO 11 PERCENT SLOPE
Co	CALCO SILT LOAM

OWNER: DONAVON BJORKLAND

LEGAL DESCRIPTION: Pts E ½ SEC. 17 T26N R5E WAYNE COUNTY

FACILITY: M G Waldbaum Co.
Dixon County Nebraska
SCALE: AS SHOWN
DRAWN BY: N.B. CHECKED BY: N.D.
SHEET NUMBER: DATE:
DESCRIPTION: WETLAND AND SOIL SURVEY MAPS

M.G. Waldbaum Company
Clarifier Rinsate Application Information for Site 7

Land Owner(s)

Lyle Boeckenhauer
Rural Route 1, Box 111
Wakefield, NE 68784
402-287-2580

Legal Description

N ½ Sec 22 T26N R5E Wayne County

Distance to Surface Water	Soil Texture*	Slope*	Application Acres	Approximate Depth to ground-water
500 ft.	Silt Clay Loam	1-3 %	320	30-90 feet

Application Rate	Total nitrogen applied (available first year)
Approximately 2,500 gallons per acre	52.0 lbs/acre

Crop or vegetation to be grown and agricultural practices utilized.

This application site will be planted to corn, soybeans and some alfalfa. The yield used for application rate determination will be an average of Wayne County yield information for the most recent 3 years. Agricultural practices used on the site are generally a minimum tillage system using a corn - soybean rotation.

Fertilizer applied for the 2007 crop year.

The south east 70 acres of the application site has been alfalfa the last three years and will receive a nitrogen credit of 100 lbs/ac for the cropping history, which will be included in determing the appropriate application rate of clarifier rinsate. Part of the application site was planted to soybeans last year and will receive the appropriate nitrogen credit for the previous yield. Additional commercial fertilizer may be applied following the application of clarifier rinsate to ensure the application site yield potential is maximized.

M.G. Waldbaum Company
Soil Management Evaluation for Site 7

Soil Texture*	Soil Structure*	Soil Drainage*	Excess Lime Rating*	Proposed Crop	Salt Tolerance**
Silty Clay Loam	Granular	Well Drained	None	Corn	5

* = The dominant soil characteristic of the application area.

* * = Information obtained from Ward laboratories Inc., of Kearney NE.

Sodium (Alkali) Hazard Rating

The Sodium (Alkali) Hazard Rating for Site 7 is low.

Irrigation Method

This application site will utilize a pull type liquid manure applicator.

Clarifier Rinsate Assessment

The evaluation of plant assimilation characteristics of Site 7 reveals that the Sodium Adsorption Ratio (SAR) for the site is assumed low, suggesting that there are currently no sodium or salinity problems.

The application rate to be use at the site is based on the nitrogen availability of the clarifier rinsate being applied and the fertilizer recommendation for the proposed crop. The clarifier rinsate contains 20.7 lbs. nitrogen (TKN) /1000gals and the nitrogen removal for corn to be raised is 213 lbs N for a yield goal of 160 Bu/ac. Therefore the facility would be able to apply up to 10,250 gals /acre of clarifier rinsate to meet the nitrogen requirement of the crop. If we evaluate the application rate per year on other nutrients such as phosphorus or sodium, the facility could apply a maximum of 3,400 gals / acre per year (phosphorus) or 178,000 gals / acre per year (sodium) of clarifier rinsate before potentially causing a potential crop problem. Additional commercial fertilizer may be necessary to meet the facility's yield goal for the application site depending on the final application rate.

The table lists the maximum amount of clarifier rinsate per acre which can be applied without incurring a cropping injury or exceeding crop removal rates. In addition to the sodium or soluble salt accumulation as a potential problem, the soluble salt content could potentially reduce germination of the production crop if not applied correctly.

	Maximum Application Volume Per Acre for a yield goal of 160 Bu/ac of Corn		
Source	Nitrogen (N)	Phosphorus (P_2O_5)	Sodium (Na)
Clarifier	10,250	3,400	178,000

To prevent surface or groundwater contamination, the facility will continue to soil test the site. Application records will be maintained at the M.G. Waldbaum facility.

Oversight of Clarifier Rinsate Application

The application of clarifier rinsate will be done in cooperation with the owner or tenant of the property to ensure proper application of the clarifier rinsate. Kendall Bonenberger of Environmental Sciences, Inc. will meet with the owner or the tenant to determine the timing and amount of the clarifier rinsate application. M.G. Waldbaum Co. will operate the pull type liquid manure applicator.

Clarifier Rinsate Application Setbacks

Clarifier rinsate shall not be allowed to run-off the application site when applied. The application equipment used shall insure that no clarifier rinsate is sprayed onto or across any public right of way. A 30 foot vegetative buffer strip shall be maintained between the application site and any public right of way. A 300 foot separation from an inhabited dwelling shall be maintained. If the clarifier rinsate is incorporated with the soil and the owner/occupant of the dwelling gives written consent to such, the separation may be reduced to 200 feet. A 300 foot separation from any potable water supply and a 1000 foot separation from a public water supply shall be maintained. A 200 foot separation to any waters of the State such as a stream or wetland with an exception that if a 30 foot vegetative buffer strip is maintained between the site and the surface water, the separation may be reduced to 100 feet. Beginning January 1, 2007 the facility will conduct phosphorus assessments on each application site prior to application. Depending on the final phosphorus assessment rating, clarifier rinsate may or may not be applied to an application site.

Soil Sampling and Testing Procedures

Soil tests are done prior to application on application sites, which will receive clarifier rinsate to a minimum soil depth of 8 inches and maximum depth of 48 inches depending on the cropping rotation. A qualified individual or company currently does soil sampling and a qualified laboratory does the soil chemical analysis. The soil chemical analysis includes nitrate-N, phosphorus, and potassium at a minimum. The facility will maintain soil test results for the application sites for a minimum of 5 years. Soil fertility recommendations are made using information obtained from the University of Nebraska or Dr. Ray Ward of Ward Laboratories, Inc. Yield goals used in the fertility recommendations are based on three to five year yield averages for that specific field or by an owner's choice. Maps of the application sites and their legal descriptions are included in this land application plan.

Soil sampling is used by the facility as another tool to ensure proper nutrient management and good crop production. Soil sampling is used by the facility on an annual basis to monitor phosphorus accumulation in the soil and also to determine the proper application rate and location. Soil sampling is done prior to applications and the minimum soil sampling depth is 0-8 inches for all application areas. Soil sampling shall be consistent year to year and sampling dates will be stated on all reports and sampling results.

One soil sampling technique used to select sampling points is a zig-zag pattern. The sub-samples are collected at points where cropping practices and land use are similar, and which are not drainage ditches or other topographic positions which would have caused significant variation in the sample results. The soil samples are collected on the application ground that maybe used to a soil depth of 0-8 inches using a hand or hydraulic probe. The sub-samples of each soil depth collected are then thoroughly mixed. A composite sample for each sample depth represents approximately 40 acres.

Another soil sampling technique that maybe used to select sampling points is grid sampling. The application area is mapped using a global positioning system and sample points are set up on

a grid of 2-10 acres. The soil samples are collected on the application ground that maybe used to a soil depth of 0-6 or 0-8 inches using a hand or hydraulic probe. The sub-samples collected are thoroughly mixed.

The composite samples are then placed in sample bags supplied by a qualified laboratory. The composite samples are then delivered to the laboratory three to four days following collection. Sampling maps indicate sample sites and labels for designated area are part of the record keeping. The laboratory determines the chemical analysis methods used. Generally, the methods used for phosphorus are either Bray P-1 or Mehlich M-2 (high excess lime soils).

Records that will be maintained during 2007 crop season

- A daily record of the amount and location of the clarifier rinsate applied
- The number of acres to which the clarifier rinsate was applied
- The application rate in gallons per acre
- A review of crop and soil conditions to determine if the clarifier rinsate is having long-term detrimental effects to the soil characteristics
- Soil testing results conducted following the crop season
- A discussion of any concerns or problems encountered during the preceding year
- The location of all application sites (i.e. either a map or legal description)

CLARIFIER RINSATE APPLICATION AGREEMENT

This agreement is made between M.G. Waldbaum Co., here after known as the "Production Facility" and LYLE BOECKENHAVER, here after known as the "Owner" in consideration of their mutual promises as follows:

1. The Production Facility requires access to spread clarifier rinsate.
2. Owner is the owner of the following described real estate, to wit:

¼ or ½		Section	Township	Range		County	Irrigated or Dryland Acres
N ½	of	22,	26 N,	5 (E or W)		WAYNE Co.	Irrigated 320
	of	,	N,	(E or W)		Co.	Irrigated or Dryland Acres
	of	,	N,	(E or W)		Co.	Irrigated or Dryland Acres
	of	,	N,	(E or W)		Co.	Irrigated or Dryland Acres
	of	,	N,	(E or W)		Co.	Irrigated or Dryland Acres
	of	,	N,	(E or W)		Co.	Irrigated or Dryland Acres

Total **irrigated** crop acres for clarifier rinsate application is 280 acres.

Total **dryland** crop acres for clarifier rinsate application is 40 acres.

[redacted]

4. Owner consents to Production Facility applying clarifier rinsate on said premises at such times as are mutually agreeable by both parties. Further, the Owner may specify the location on the premises in which to apply rinsate.
5. The Production Facility will make available a copy of the clarifier rinsate nutrient analysis for the Owner.
6. Access to the above mentioned real estate will be limited to clarifier rinsate application only.
7. This agreement shall continue from year to year without further renewal, except if either party desires to cancel this Agreement they shall do so in writing on or before September 1, of any given year.

Dated this 22 day of AUGUST 20 06

Official of Production Facility

Landowner: Lyle Boeckenhaver

Address: RR 1 BOX 111
WAKEFIELD, NE 68784

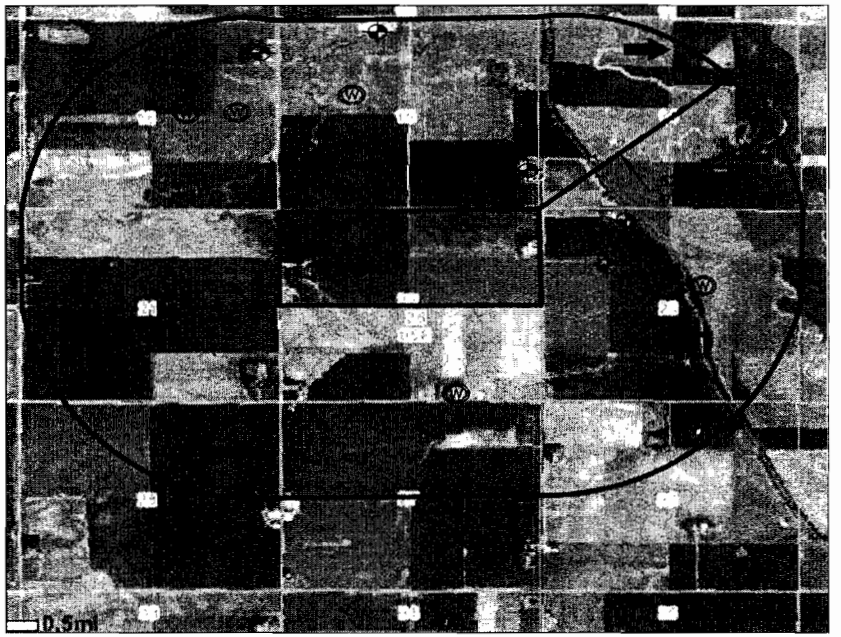
Phone: 402-287-2580

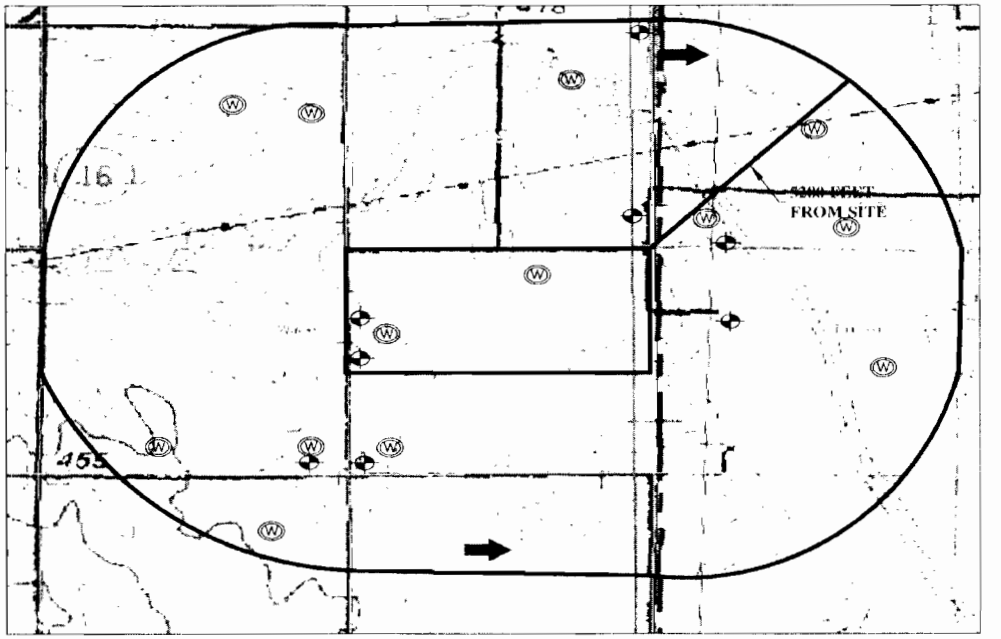
Landowner: _____

Address: _____

_____

Phone: _____





SOURCE: TERRASERVER USGS TOPOGRAPHIC MAP DATED 7-1-1983

2430' 0' 2430'

SCALE

2060' 0' 2060'

SCALE

OWNER: LYLE BOECKENHAUER

LEGAL DESCRIPTION: N ½ SEC. 22 T26N R5E WAYNE COUNTY

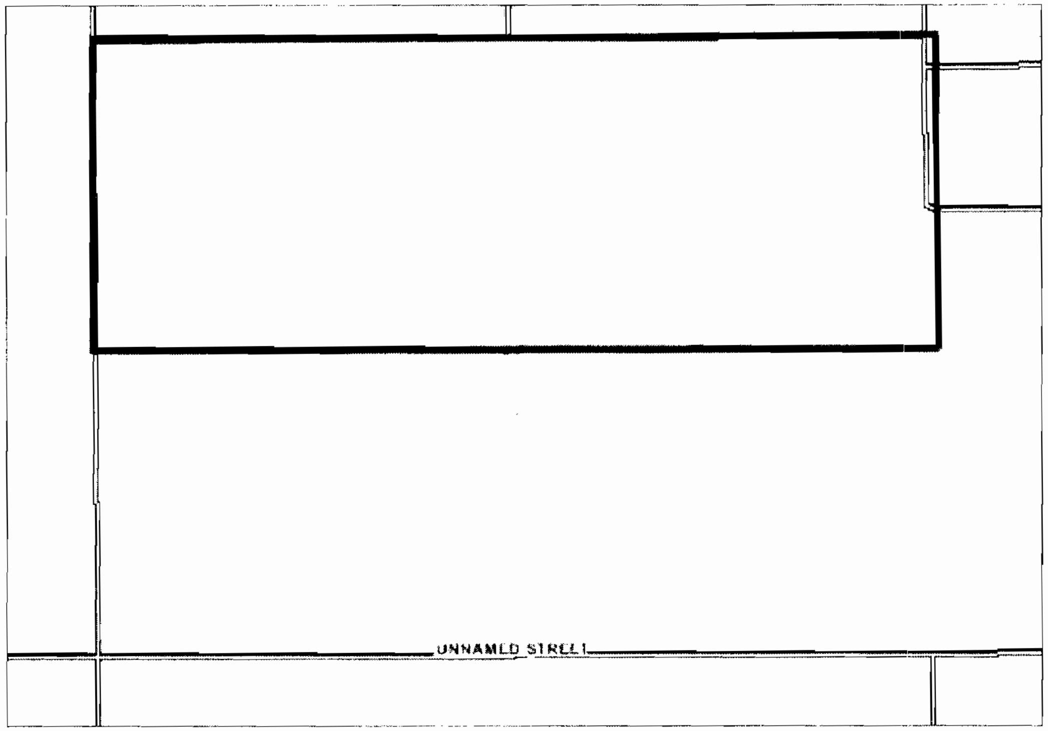
SOURCE: TERRASERVER USGS AERIAL MAP DATED 4-16-1993

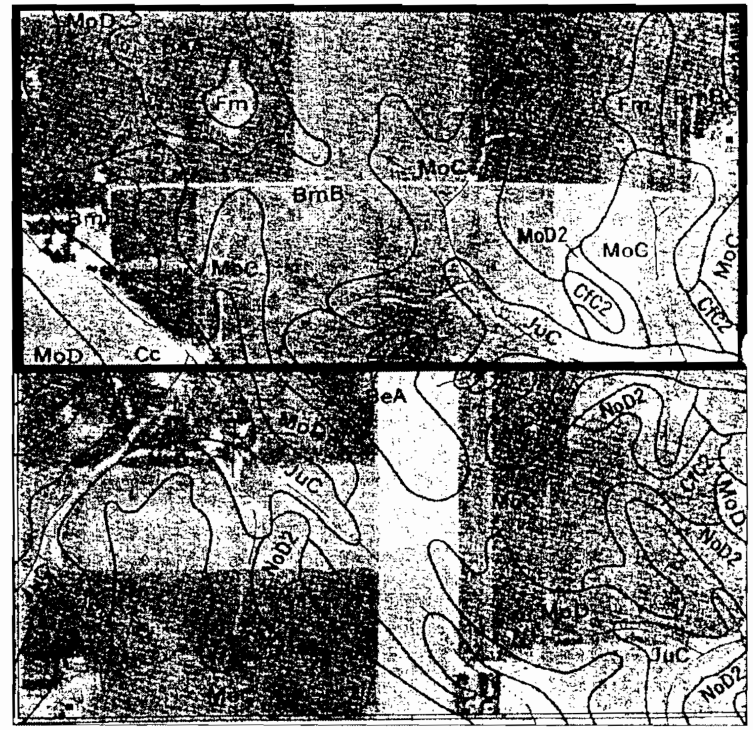
LEGEND:

- FARMSTEAD
- HIGHWAY
- WELL
- SURFACE WATER
- GENERAL DIRECTION OF GROUNDWATER FLOW

FACILITY: M.G. Waldbaum Co.
Dixon County, Nebraska
SCALE: AS SHOWN
DRAWN BY: LD CHECKED BY: TH
SHEET NUMBER: DATE:
DESCRIPTION: AERIAL AND TOPOGRAPHIC MAPS

ESI





WAYNE COUNTY SOIL SURVEY

SOURCE : NATIONAL WETLAND INVENTORY

OWNER: LYLE BOECKENHAUER

LEGAL DESCRIPTION: N ½ SEC. 22 T26N R5E WAYNE COUNTY

SOURCE: TERRASERVER USGS TOPOGRAPHIC MAP DATED 7-1-1983

SOIL LEGEND

SYMBOL	NAME
MoC	MOODY SILTY CLAY LOAM, 2 TO 7 PERCENT SLOPE
BmB	BELFORE-MOODY SILTY CLAY LOAM, 1 TO 3 PERCENT SLOPE
BeA	BELFORE SILTY CLAY LOAM, 0 TO 1 PERCENT SLOPE

FACILITY: M.G. Waldbaum Co.
Dixon County, Nebraska

SCALE: AS SHOWN

DRAWN BY: KB CHECKED BY: KB

SHEET NUMBER: DATE: [illegible]

DESCRIPTION: WETLAND AND SOIL SURVEY MAPS

ESI

M.G. Waldbaum Company
Clarifier Rinsate Application Information for Site 8

Land Owner(s)

Thomas Gustafson
86025 586 Ave.
Wakefield, NE 68784
(402) 287-2436

Legal Description

S ½ NE ¼, SE ¼ Sec 22 T27N R5E Dixon County

Distance to Surface Water	Soil Texture*	Slope*	Application Acres	Approximate Depth to ground-water
800 ft.	Silty Clay Loam	2-11 %	228	21 to 44 feet

Application Rate	Total nitrogen applied (available first year)
Approximately 2,500 gallons per acre	52.0 lbs/acre

Crop or vegetation to be grown and agricultural practices utilized.

This application site will be planted to soybeans and corn. The yield used for application rate determination will be an average of Dixon County yield information for the most recent 3 years. Agricultural practices used on the site are generally a minimum tillage system using a corn – soybean rotation.

Fertilizer applied for the 2007 crop year.

The west half of the application site was soybeans in 2006 and will receive a nitrogen credit of 1 lbs/bu of grain harvested/ac. for the cropping history, which will be included in determing the appropriate application rate of clarifier rinsate. Additional commercial fertilizer may be applied following the application of clarifier rinsate to ensure the application site yield potential is maximized.

M.G. Waldbaum Company
Soil Management Evaluation for Site 8

Soil Texture*	Soil Structure*	Soil Drainage*	Excess Lime Rating*	Proposed Crop	Salt Tolerance**
Silty Clay Loam	Prismatic	Well Drained	None	Corn	5

* = The dominant soil characteristic of the application area.

* * = Information obtained from Ward laboratories Inc., of Kearney NE.

Sodium (Alkali) Hazard Rating

The Sodium (Alkali) Hazard Rating for Site 8 is low.

Irrigation Method

This application site will utilize a pull type liquid manure applicator.

Clarifier Rinsate Assessment

The evaluation of plant assimilation characteristics of Site 8 reveals that the Sodium Adsorption Ratio (SAR) for the site is assumed to be low (from a previous soil test), suggesting that there are currently no sodium or salinity problems.

The application rate to be use at the site is based on the nitrogen availability of the clarifier rinsate being applied and the fertilizer recommendation for the proposed crop. The clarifier rinsate contains 20.7 lbs. nitrogen (TKN) /1000gals and the nitrogen removal for corn to be raised is 213 lbs N for a yield goal of 160 Bu/ac. Therefore the facility would be able to apply up to 10,250 gals /acre of clarifier rinsate to meet the nitrogen requirement of the crop. If we evaluate the application rate per year on other nutrients such as phosphorus or sodium, the facility could apply a maximum of 3,400 gals / acre per year (phosphorus) or 178,000 gals / acre per year (sodium) of clarifier rinsate before potentially causing a potential crop problem. Additional commercial fertilizer may be necessary to meet the facility's yield goal for the application site depending on the final application rate.

The table lists the maximum amount of clarifier rinsate per acre which can be applied without incurring a cropping injury or exceeding crop removal rates. In addition to the sodium or soluble salt accumulation as a potential problem, the soluble salt content could potentially reduce germination of the production crop if not applied correctly.

	Maximum Application Volume Per Acre for a yield goal of 160 Bu/ac of Corn		
Source	Nitrogen (N)	Phosphorus (P_2O_5)	Sodium (Na)
Clarifier	10,250	3,400	178,000

To prevent surface or groundwater contamination, the facility will continue to soil test the site. Application records will be maintained at the M.G. Waldbaum facility.

Oversight of Clarifier Rinsate Application

The application of clarifier rinsate will be done in cooperation with the owner or tenant of the property to ensure proper application of the clarifier rinsate. Kendall Bonenberger of Environmental Sciences, Inc. will meet with the owner or the tenant to determine the timing and amount of the clarifier rinsate application. M.G. Waldbaum Co. will operate the pull type liquid manure applicator.

Clarifier Rinsate Application Setbacks

Clarifier rinsate shall not be allowed to run-off the application site when applied. The application equipment used shall insure that no clarifier rinsate is sprayed onto or across any public right of way. A 30 foot vegetative buffer strip shall be maintained between the application site and any public right of way. A 300 foot separation from an inhabited dwelling shall be maintained. If the clarifier rinsate is incorporated with the soil and the owner/occupant of the dwelling gives written consent to such, the separation may be reduced to 200 feet. A 300 foot separation from any potable water supply and a 1000 foot separation from a public water supply shall be maintained. A 200 foot separation to any waters of the State such as a stream or wetland with an exception that if a 30 foot vegetative buffer strip is maintained between the site and the surface water, the separation may be reduced to 100 feet. Beginning January 1, 2007 the facility will conduct phosphorus assessments on each application site prior to application. Depending on the final phosphorus assessment rating, clarifier rinsate may or may not be applied to an application site.

Soil Sampling and Testing Procedures

Soil tests are done prior to application on application sites, which will receive clarifier rinsate to a minimum soil depth of 8 inches and maximum depth of 48 inches depending on the cropping rotation. A qualified individual or company currently does soil sampling and a qualified laboratory does the soil chemical analysis. The soil chemical analysis includes nitrate-N, phosphorus, and potassium at a minimum. The facility will maintain soil test results for the application sites for a minimum of 5 years. Soil fertility recommendations are made using information obtained from the University of Nebraska or Dr. Ray Ward of Ward Laboratories, Inc. Yield goals used in the fertility recommendations are based on three to five year yield averages for that specific field or by an owner's choice. Maps of the application sites and their legal descriptions are included in this land application plan.

Soil sampling is used by the facility as another tool to ensure proper nutrient management and good crop production. Soil sampling is used by the facility on an annual basis to monitor phosphorus accumulation in the soil and also to determine the proper application rate and location. Soil sampling is done prior to applications and the minimum soil sampling depth is 0-8 inches for all application areas. Soil sampling shall be consistent year to year and sampling dates will be stated on all reports and sampling results.

One soil sampling technique used to select sampling points is a zig-zag pattern. The sub-samples are collected at points where cropping practices and land use are similar, and which are not drainage ditches or other topographic positions which would have caused significant variation in the sample results. The soil samples are collected on the application ground that maybe used to a soil depth of 0-8 inches using a hand or hydraulic probe. The sub-samples of each soil depth collected are then thoroughly mixed. A composite sample for each sample depth represents approximately 40 acres.

Another soil sampling technique that maybe used to select sampling points is grid sampling. The application area is mapped using a global positioning system and sample points are set up on

a grid of 2-10 acres. The soil samples are collected on the application ground that maybe used to a soil depth of 0-6 or 0-8 inches using a hand or hydraulic probe. The sub-samples collected are thoroughly mixed.

The composite samples are then placed in sample bags supplied by a qualified laboratory. The composite samples are then delivered to the laboratory three to four days following collection. Sampling maps indicate sample sites and labels for designated area are part of the record keeping. The laboratory determines the chemical analysis methods used. Generally, the methods used for phosphorus are either Bray P-1 or Mehlich M-2 (high excess lime soils).

Records that will be maintained during 2007 crop season

- A daily record of the amount and location of the clarifier rinsate applied
- The number of acres to which the clarifier rinsate was applied
- The application rate in gallons per acre
- A review of crop and soil conditions to determine if the clarifier rinsate is having long-term detrimental effects to the soil characteristics
- Soil testing results conducted following the crop season
- A discussion of any concerns or problems encountered during the preceding year
- The location of all application sites (i.e. either a map or legal description)

CLARIFIER RINSATE APPLICATION AGREEMENT

This agreement is made between M.G. Waldbaum Co., here after known as the "Production Facility" and THOMAS GUSTAFSON, here after known as the "Owner" in consideration of their mutual promises as follows:

1. The Production Facility requires access to spread clarifier rinsate.
2. Owner is the owner of the following described real estate, to wit:

¼ or ½		Section	Township	Range			
S 1/2 NE 1/4, SE 1/4	of	22,	27 N,	5	(E or W) (E circled)	DIXON Co.	Irrigated or Dryland Acres 228
____	of	____,	____ N,	____	(E or W)	____ Co.	Irrigated or Dryland Acres ____
____	of	____,	____ N,	____	(E or W)	____ Co.	Irrigated or Dryland Acres ____
____	of	____,	____ N,	____	(E or W)	____ Co.	Irrigated or Dryland Acres ____
____	of	____,	____ N,	____	(E or W)	____ Co.	Irrigated or Dryland Acres ____
____	of	____,	____ N,	____	(E or W)	____ Co.	Irrigated or Dryland Acres ____

Total irrigated crop acres for clarifier rinsate application is ____________ acres.

Total dryland crop acres for clarifier rinsate application is 228 acres.

[redacted]

4. Owner consents to Production Facility applying clarifier rinsate on said premises at such times as are mutually agreeable by both parties. Further, the Owner may specify the location on the premises in which to apply rinsate.
5. The Production Facility will make available a copy of the clarifier rinsate nutrient analysis for the Owner.
6. Access to the above mentioned real estate will be limited to clarifier rinsate application only.
7. This agreement shall continue from year to year without further renewal, except if either party desires to cancel this Agreement they shall do so in writing on or before September 1, of any given year.

Dated this ________ day of ____________ 20____

____
Official of Production Facility

Landowner: ______________________________

Address: 86025 586 Ave.
Wakefield, NE 68784

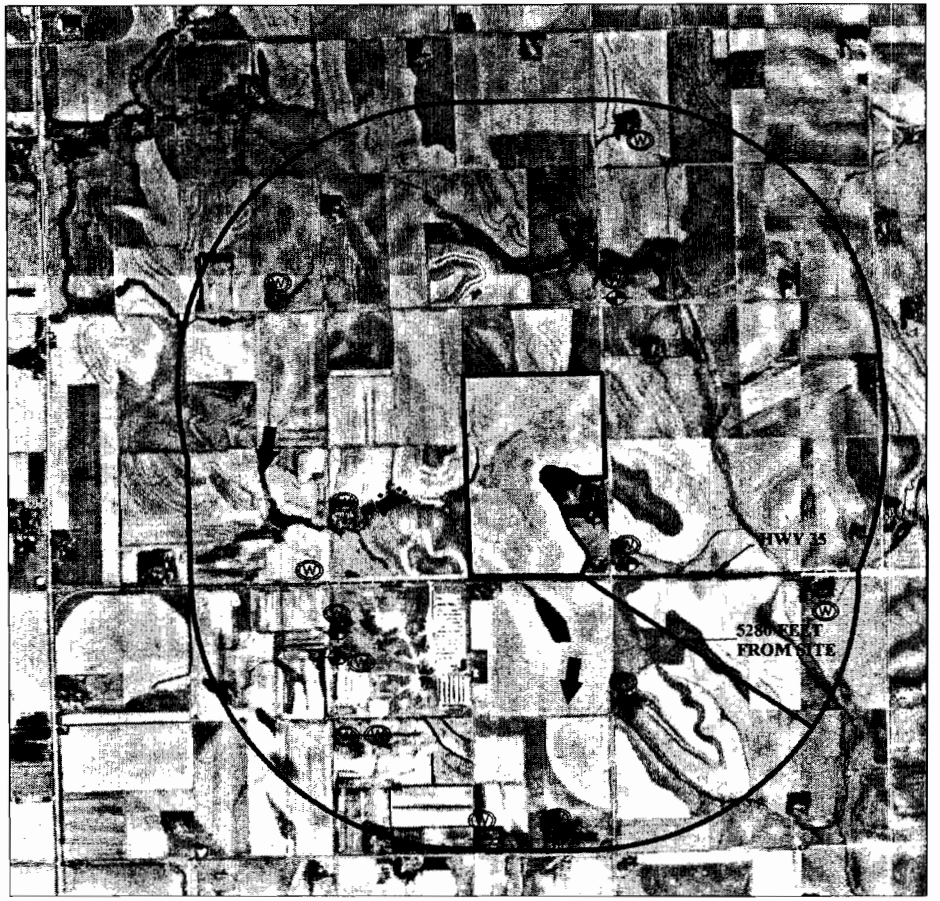
Phone: 402-287-2436

Landowner: ______________________________

Address: ______________________________

____

Phone: ______________________________



2300' 0' 2300'

SCALE

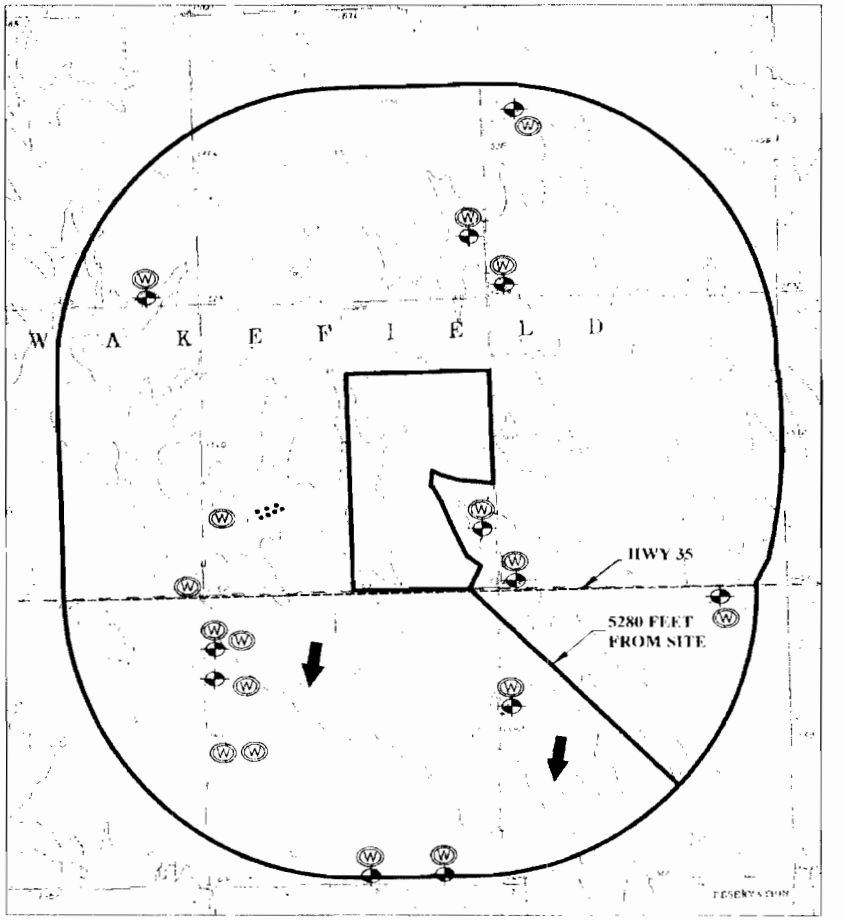
OWNER: THOMAS GUSTAFSON

LEGAL DESCRIPTION: S ½ NE ¼, SE ¼ SEC. 22 T27N R5E DIXON COUNTY

SOURCE: TERRASERVER USGS TOPOGRAPHIC MAP DATED 7-1-1988

LEGEND:

- FARMSTEAD
- HIGHWAY
- WELL
- SURFACE WATER
- GENERAL DIRECTION OF GROUNDWATER FLOW



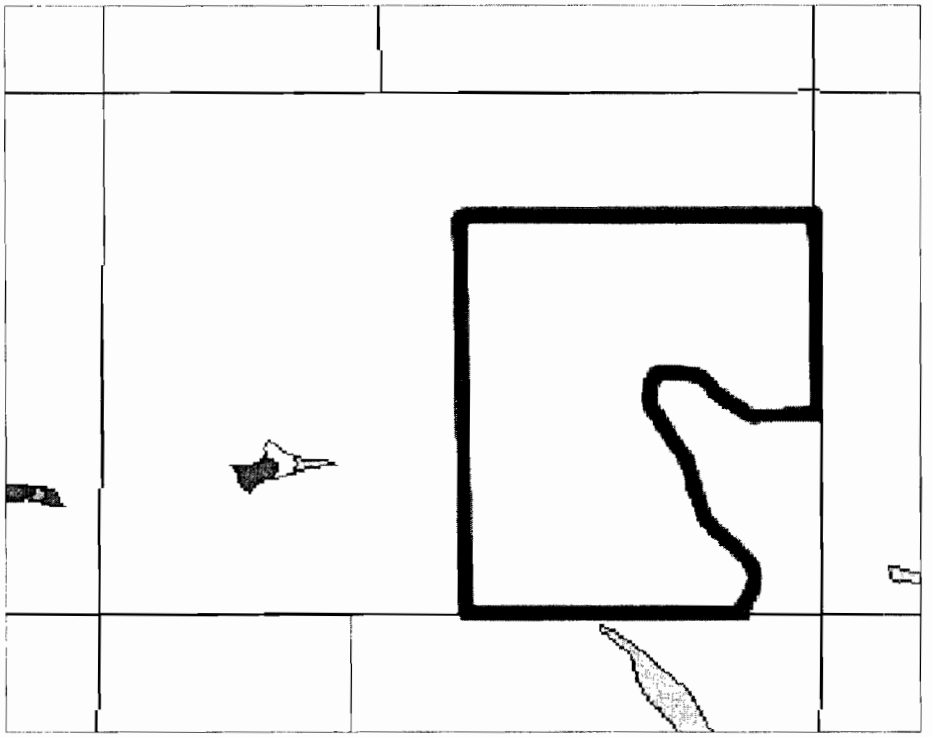
2000' 0' 2000'

SCALE

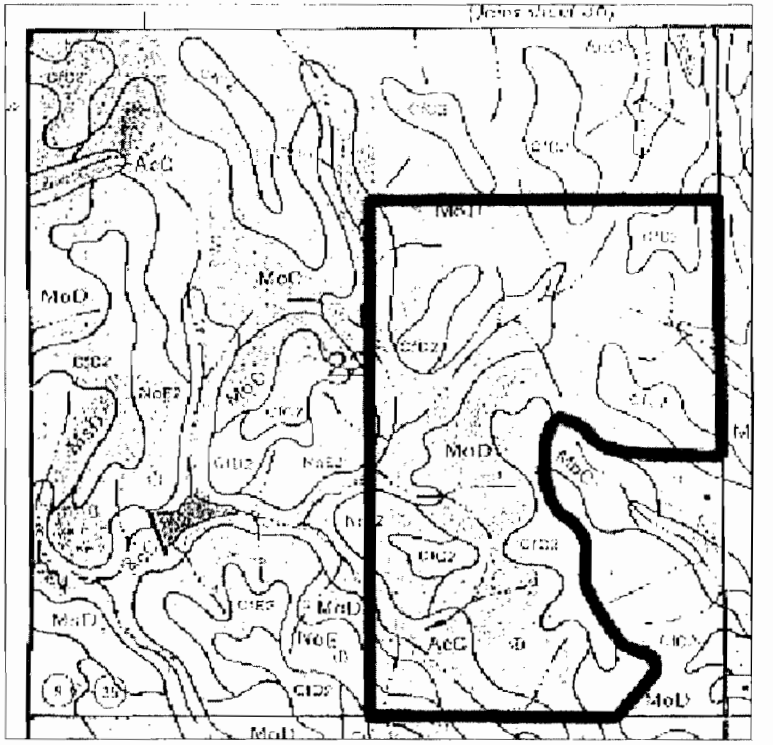
FACILITY: M.G. Waldbaum Co.
Dixon County Nebraska

SCALE: AS SHOWN
DRAWN BY: EH CHECKED BY: EH
SHEET NUMBER DATE
DESCRIPTION: AERIAL AND TOPOGRAPHIC MAPS

ES



SOURCE : NATIONAL WETLAND INVENTORY



DIXON COUNTY SOIL SURVEY

SOIL LEGEND

SYMBOL	NAME
AcC	ALCESTER SILT LOAM, 2 TO 6 PERCENT SLOPE
CrC2	CROFTON SILT LOAM, 2 TO 6 PERCENT SLOPE, ERODED
CrD2	CROFTON SILT LOAM, 2 TO 6 PERCENT SLOPE, ERODED
MoC	MOODY SILTY CLAY LOAM, 2 TO 6 PERCENT SLOPE
MoD	MOODY SILTY CLAY LOAM, 6 TO 11 PERCENT SLOPE

OWNER THOMAS GUSTAFSON

LEGAL DESCRIPTION. S ½ NL ¼, SE ¼ SEC. 22 T27N R5E DIXON COUNTY

SOURCE. TERRASERVER USGS TOPOGRAPHIC MAP DATED 7-1-1988

FACILITY: M G Wauldbaum Co.
Dixon County Nebraska
SCALE: AS SHOWN
DRAWN BY: KB CHECKED BY: KD
SHEET NUMBER: DATE:
DESCRIPTION: WETLAND AND SOIL SURVEY MAPS

M.G. Waldbaum Company
Clarifier Rinsate Application Information for Site 9

Land Owner(s)

Larry Baker
86165 Highway 9
Wakefield, NE 68784
(402) 287-2833

Legal Description

S ½ NE ¼; S ½ NW ¼; N ½ SW ¼ Sec 17 T27N R5E Dixon County

Distance to Surface Water	Soil Texture*	Slope*	Application Acres	Approximate Depth to ground-water
2,640 ft.	Silt Loam	0-15%	220	19 to 31 feet

Application Rate	Total nitrogen applied (available first year)
Approximately 2,500 gallons per acre	52.0 lbs/acre

Crop or vegetation to be grown and agricultural practices utilized.

This application site will be planted to soybeans, cool season grasses and some alfalfa. The yield used for application rate determination will be an average of Dixon County yield information for the most recent 3 years. Agricultural practices used on the site are generally a minimum tillage system using a corn – soybean-alfalfa rotation.

Fertilizer applied for the 2007 crop year.

The southeast part of the application site has been alfalfa the last three years and will receive a nitrogen credit of 100 lbs/ac for the cropping history, which will be included in determing the appropriate application rate of clarifier rinsate. The southeast part of the application site may receive effluent from the lagoons at Husker Pride and the clarifier rinsate application rate will be adjusted if effluent is applied prior to clarifier rinsate. Additional commercial fertilizer may be applied following the application of clarifier rinsate to ensure the application site yield potential is maximized.

M.G. Waldbaum Company
Soil Management Evaluation for Site 9

Soil Texture*	Soil Structure*	Soil Drainage*	Excess Lime Rating*	Proposed Crop	Salt Tolerance**
Silty Clay Loam	Prismatic	Well Drained	None	Corn	5

* = The dominant soil characteristic of the application area.

* * = Information obtained from Ward laboratories Inc., of Kearney NE.

Sodium (Alkali) Hazard Rating

The Sodium (Alkali) Hazard Rating for Site 9 is low.

Irrigation Method

This application site will utilize a pull type liquid manure applicator.

Clarifier Rinsate Assessment

The evaluation of plant assimilation characteristics of Site 9 reveals that the Sodium Adsorption Ratio (SAR) for the site is assumed to be low (from a previous soil test), suggesting that there are currently no sodium or salinity problems.

The application rate to be use at the site is based on the nitrogen availability of the clarifier rinsate being applied and the fertilizer recommendation for the proposed crop. The clarifier rinsate contains 20.7 lbs. nitrogen (TKN) /1000gals and the nitrogen removal for corn to be raised is 213 lbs N for a yield goal of 160 Bu/ac. Therefore the facility would be able to apply up to 10,250 gals /acre of clarifier rinsate to meet the nitrogen requirement of the crop. If we evaluate the application rate per year on other nutrients such as phosphorus or sodium, the facility could apply a maximum of 3,400 gals / acre per year (phosphorus) or 178,000 gals / acre per year (sodium) of clarifier rinsate before potentially causing a potential crop problem. Additional commercial fertilizer may be necessary to meet the facility's yield goal for the application site depending on the final application rate.

The table lists the maximum amount of clarifier rinsate per acre which can be applied without incurring a cropping injury or exceeding crop removal rates. In addition to the sodium or soluble salt accumulation as a potential problem, the soluble salt content could potentially reduce germination of the production crop if not applied correctly.

	Maximum Application Volume Per Acre for a yield goal of 160 Bu/ac of Corn		
Source	Nitrogen (N)	Phosphorus (P_2O_5)	Sodium (Na)
Clarifier	10,250	3,400	178,000

To prevent surface or groundwater contamination, the facility will continue to soil test the site. Application records will be maintained at the M.G. Waldbaum facility.

Oversight of Clarifier Rinsate Application

The application of clarifier rinsate will be done in cooperation with the owner or tenant of the property to ensure proper application of the clarifier rinsate. Kendall Bonenberger of Environmental Sciences, Inc. will meet with the owner or the tenant to determine the timing and amount of the clarifier rinsate application. M.G. Waldbaum Co. will operate the pull type liquid manure applicator.

Clarifier Rinsate Application Setbacks

Clarifier rinsate shall not be allowed to run-off the application site when applied. The application equipment used shall insure that no clarifier rinsate is sprayed onto or across any public right of way. A 30 foot vegetative buffer strip shall be maintained between the application site and any public right of way. A 300 foot separation from an inhabited dwelling shall be maintained. If the clarifier rinsate is incorporated with the soil and the owner/occupant of the dwelling gives written consent to such, the separation may be reduced to 200 feet. A 300 foot separation from any potable water supply and a 1000 foot separation from a public water supply shall be maintained. A 200 foot separation to any waters of the State such as a stream or wetland with an exception that if a 30 foot vegetative buffer strip is maintained between the site and the surface water, the separation may be reduced to 100 feet. Beginning January 1, 2007 the facility will conduct phosphorus assessments on each application site prior to application. Depending on the final phosphorus assessment rating, clarifier rinsate may or may not be applied to an application site.

Soil Sampling and Testing Procedures

Soil tests are done prior to application on application sites, which will receive clarifier rinsate to a minimum soil depth of 8 inches and maximum depth of 48 inches depending on the cropping rotation. A qualified individual or company currently does soil sampling and a qualified laboratory does the soil chemical analysis. The soil chemical analysis includes nitrate-N, phosphorus, and potassium at a minimum. The facility will maintain soil test results for the application sites for a minimum of 5 years. Soil fertility recommendations are made using information obtained from the University of Nebraska or Dr. Ray Ward of Ward Laboratories, Inc. Yield goals used in the fertility recommendations are based on three to five year yield averages for that specific field or by an owner's choice. Maps of the application sites and their legal descriptions are included in this land application plan.

Soil sampling is used by the facility as another tool to ensure proper nutrient management and good crop production. Soil sampling is used by the facility on an annual basis to monitor phosphorus accumulation in the soil and also to determine the proper application rate and location. Soil sampling is done prior to applications and the minimum soil sampling depth is 0-8 inches for all application areas. Soil sampling shall be consistent year to year and sampling dates will be stated on all reports and sampling results.

One soil sampling technique used to select sampling points is a zig-zag pattern. The sub-samples are collected at points where cropping practices and land use are similar, and which are not drainage ditches or other topographic positions which would have caused significant variation in the sample results. The soil samples are collected on the application ground that maybe used to a soil depth of 0-8 inches using a hand or hydraulic probe. The sub-samples of each soil depth collected are then thoroughly mixed. A composite sample for each sample depth represents approximately 40 acres.

Another soil sampling technique that maybe used to select sampling points is grid sampling. The application area is mapped using a global positioning system and sample points are set up on

a grid of 2-10 acres. The soil samples are collected on the application ground that maybe used to a soil depth of 0-6 or 0-8 inches using a hand or hydraulic probe. The sub-samples collected are thoroughly mixed.

The composite samples are then placed in sample bags supplied by a qualified laboratory. The composite samples are then delivered to the laboratory three to four days following collection. Sampling maps indicate sample sites and labels for designated area are part of the record keeping. The laboratory determines the chemical analysis methods used. Generally, the methods used for phosphorus are either Bray P-1 or Mehlich M-2 (high excess lime soils).

Records that will be maintained during 2007 crop season

- A daily record of the amount and location of the clarifier rinsate applied
- The number of acres to which the clarifier rinsate was applied
- The application rate in gallons per acre
- A review of crop and soil conditions to determine if the clarifier rinsate is having long-term detrimental effects to the soil characteristics
- Soil testing results conducted following the crop season
- A discussion of any concerns or problems encountered during the preceding year
- The location of all application sites (i.e. either a map or legal description)

CLARIFIER RINSATE APPLICATION AGREEMENT

This agreement is made between M.G. Waldbaum Co., here after known as the "Production Facility" and LARRY BAKER, here after known as the "Owner" in consideration of their mutual promises as follows:

1. The Production Facility requires access to spread clarifier rinsate.
2. Owner is the owner of the following described real estate, to wit:

¼ or ½		Section	Township	Range				
1/2 NE 1/4, S1/2 NW 1/4, N1/2 SW 1/4	of	17,	27 N,	5	(E or W)	DIXON	Co.	Irrigated or Dryland Acres 220
	of	,	N,		(E or W)		Co.	Irrigated or Dryland Acres
	of	,	N,		(E or W)		Co.	Irrigated or Dryland Acres
	of	,	N,		(E or W)		Co.	Irrigated or Dryland Acres
	of	,	N,		(E or W)		Co.	Irrigated or Dryland Acres
	of	,	N,		(E or W)		Co.	Irrigated or Dryland Acres

Total **irrigated** crop acres for clarifier rinsate application is ______ acres.

Total **dryland** crop acres for clarifier rinsate application is 220 acres.

[redacted]

4. Owner consents to Production Facility applying clarifier rinsate on said premises at such times as are mutually agreeable by both parties. Further, the Owner may specify the location on the premises in which to apply rinsate.
5. The Production Facility will make available a copy of the clarifier rinsate nutrient analysis for the Owner.
6. Access to the above mentioned real estate will be limited to clarifier rinsate application only.
7. This agreement shall continue from year to year without further renewal, except if either party desires to cancel this Agreement they shall do so in writing on or before September 1, of any given year.

Dated this 22 day of Aug, 2006

[signature]

Official of Production Facility

Landowner: Larry Baker

Address: 86165 Highway 9

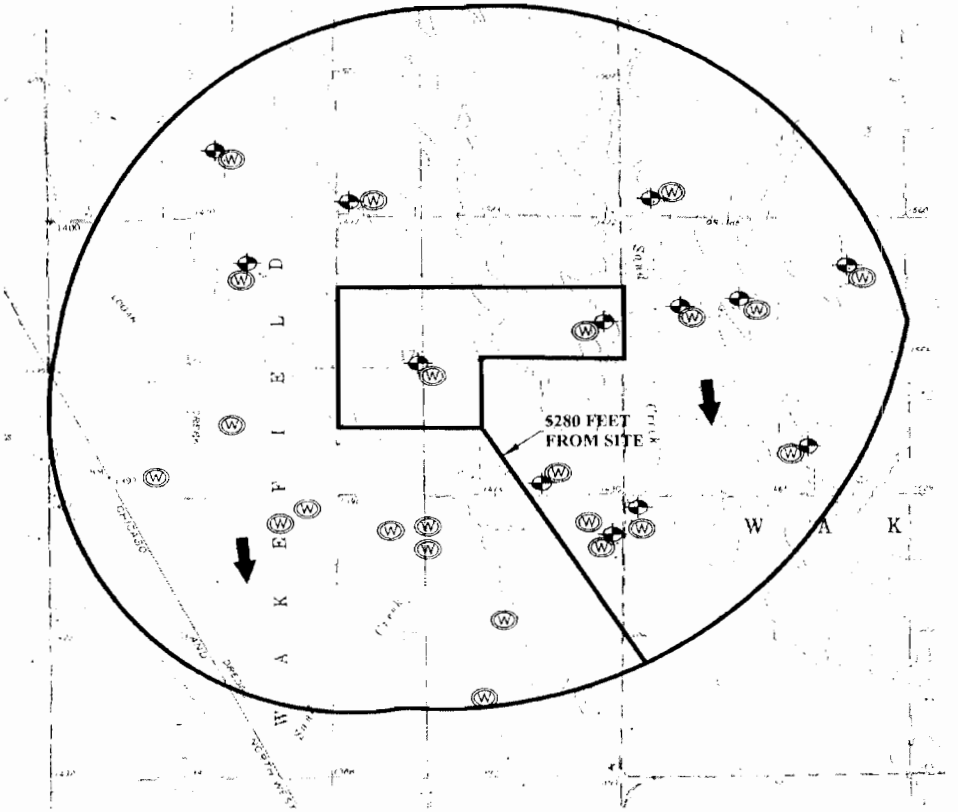
Wakefield, NE 68784

Phone: 402-287-2833

Landowner: ______

Address: ______

Phone: ______



OWNER: LARRY BAKER

LEGAL DESCRIPTION: S ½ NE ¼; S ½ NW ¼, N ½ SW ¼ SEC. 17 T27N R5E DIXON COUNTY

SOURCE: TERRASERVER USGS TOPOGRAPHIC MAP DATED 7-1-1988

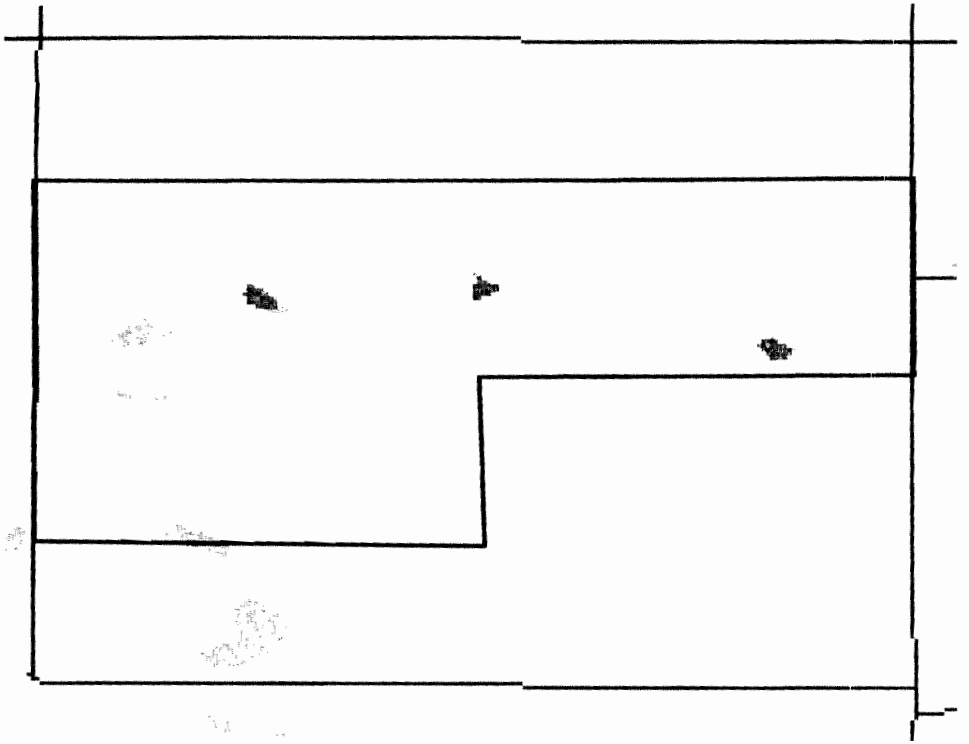
LEGEND:

- FARMSTEAD
- HIGHWAY
- WELL
- SURFACE WATER
- GENERAL DIRECTION OF GROUNDWATER FLOW

FACILITY: M.G. Waldbaum Co.
Dixon County Nebraska

SCALE: AS SHOWN
DRAWN BY: KB CHECKED BY: KB
SHEET NUMBER DATE:
DESCRIPTION: AERIAL AND TOPOGRAPHIC MAPS

ESI



SOURCE : NATIONAL WETLAND INVENTORY

OWNER LARRY BAKER

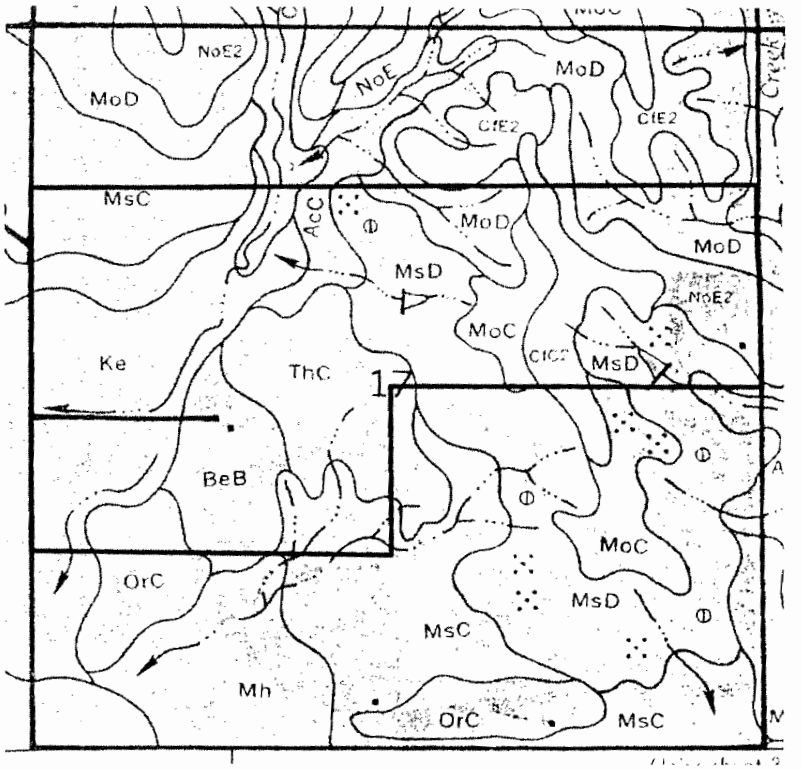
LEGAL DESCRIPTION: S ½ NE ¼, S ½ NW ¼; N ½ SW ¼ SEC 17 T27N R5E DIXON COUNTY

SOURCE: TERRASERVER USGS TOPOGRAPHIC MAP DATED 7-1-1988

DIXON COUNTY SOIL SURVEY:

SOIL LEGEND

SYMBOL	NAME
Ke	KENNEBEC SILT LOAM, 0 TO 2 PERCENT SLOPE
BeB	BLENDON SANDY LOAM, 0 TO 3 PERCENT SLOPE
OrC	ORTELLO SANDY LOAM, 2 TO 6 PERCENT SLOPE
MsD	MOODY-LEISE COMPLEX, 6 TO 11 PERCENT SLOPE
ThC	THURMAN LOAMY SAND, 2 TO 6 PERCENY SLOPE
MsC	MOODY-LEISE COMPLEX, 2 TO 6 PERCENT SLOPE
AcC	ALCESTER SILT LOAM, 2 TO 6 PERCENT SLOPE
CfC2	CROFTON SILT LOAM, 2 TO 6 PERCENT SLOPE, ERODED
NoE2	NORA SILT LOAM, 11 TO 15 PERCENT SLOPE, ERODED



DIXON COUNTY SOIL SURVEY:

SOIL LEGEND

SYMBOL	NAME
MsC	MOODY-LEISY COMPLEX, 6 TO 11 PERCENT SLOPE
MoD	MOODY SILTY CLAY LOAM, 6 TO 11 PERCENT SLOPE
MoC	MOODY SILTY CLAY LOAM, 2 TO 6 PERCENT SLOPE

FACILITY: M.G. Waldbaum Co.
Dixon County Nebraska

SCALE: AS SHOWN
DRAWN BY: JJJ
CHECKED BY: CH
SHEET NUMBER:
DATE:
DESCRIPTION: WETLAND AND SOIL SURVEY MAPS

ESI

ORIGINAL CONSENT DECREE FOR LODGING WITH THE CLERK'S OFFICE

DO NOT DESTROY

ORIGINAL CONSENT DECREE WILL BE RETURNED TO THE U.S. ATTORNEY'S OFFICE UPON THE FILING OF THE CONSENT DECREE BY THE U.S. DISTRICT COURT JUDGE

IN THE UNITED STATES DISTRICT COURT
FOR DISTRICT OF NEBRASKA

THE UNITED STATES OF AMERICA, and THE STATE OF NEBRASKA, Plaintiffs, v. THE CITY OF WAKEFIELD, NEBRASKA, A Municipal Corporation Defendant.	)	Civil Action No. [8:07CV14]

CONSENT DECREE

TABLE OF CONTENTS

WHEREAS, Plaintiff, the United States of America (United States), on behalf of the United States Environmental Protection Agency (EPA), along with the State of Nebraska, have filed Complaints in this action concurrently with this Consent Decree alleging that Defendant, City of Wakefield, Nebraska (Wakefield), has violated Sections 301, 307, and 402 of the Federal Water Pollution Control Act, commonly referred to as the Clean Water Act , 33 U.S.C. §§ 1311, 1317 and 1342, and implementing regulations thereunder at 40 C.F.R. Part 403.

WHEREAS, Wakefield is a municipal corporation organized and existing under the laws of the State of Nebraska. Wakefield owns and operates a lagoon wastewater treatment plant, which is a publicly owned treatment works (POTW or Facility), located within Section 33, Township 27N, Range 5E, Dixon County, Wakefield, Nebraska. Five lagoons are dedicated to treatment of municipal wastewater. During all times relevant to the Complaints, nine lagoons were dedicated to treatment of industrial wastewater, eight of which were transferred to M.G. Waldbaum Co. effective April 1, 2006, at which time M.G. Waldbaum Co. became the sole owner and operator of the eight industrial lagoons.

WHEREAS, the Complaints allege that Defendant has operated its POTW in violation of the requirements of Sections 301, 307, and 402 of the Act, 33 U.S.C. §§ 1311, 1317 and 1342, and 40 C.F.R. § 403.5(c)(2). These alleged violations include Defendant's failure to comply with the conditions and limitations of its National Pollutant Discharge Elimination System (NPDES) Permit Number NE0049018 for the POTW, issued under Section 402 of the Clean Water Act, 33 U.S.C. § 1342, and Defendant's failure to require M.G. Waldbaum Co. to comply with

pretreatment standards, limitations and conditions, pursuant to Section 307 of the Clean Water Act, 33 U.S.C. § 1317, and 40 C.F.R. § 403.5(c)(2).

WHEREAS, the State of Nebraska (State) has been joined as a Plaintiff in this action, thereby satisfying the requirements of Section 309(e) of the Clean Water Act, 33 U.S.C. § 1319(e). Plaintiff, the State, is filing a complaint in intervention concurrently with this Consent Decree.

WHEREAS, the Parties recognize, and the Court by entering this Consent Decree finds, that this Consent Decree has been negotiated by the Parties in good faith, will avoid litigation between the Parties, and is fair, reasonable, and in the public interest.

NOW, THEREFORE, with the consent of the Parties, and without any admission of fact or law, IT IS HEREBY ADJUDGED, ORDERED, AND DECREED as follows:

I. JURISDICTION AND VENUE

1. This Court has jurisdiction over the subject matter of this action, pursuant to 28 U.S.C. §§ 1331, 1345, and 1355, and Sections 309(b) of the Clean Water Act, 33 U.S.C. §§ 1319(b), and over the Parties. Venue lies in the District of Nebraska pursuant to 309(b) of the Clean Water Act, 33 U.S.C. §§ 1319(b) and 28 U.S.C. §§ 1391(b) and 1395(a), because Defendant resides and is located in this judicial district and the violations alleged in the Complaints occurred in this judicial district. For purposes of this Consent Decree, or any action to enforce this Consent Decree, Defendant consents to the Court's jurisdiction over this Consent Decree or such action and over Defendant, and consents to venue in this judicial district.

2. For purposes of this Consent Decree, Defendant agrees that the Complaints state claims upon which relief may be granted pursuant to Sections 301, 307, and 402 of the Clean Water Act, 33 U.S.C. §§ 1311, 1317 and 1342, and 40 C.F.R. Part 403.

3. Notice of the commencement of this action has been given to the State pursuant to Section 309(b) of the Clean Water Act, 33 U.S.C. § 1319(b).

II. APPLICABILITY

4. The obligations of this Consent Decree apply to and are binding upon the United States, the State, and upon Defendant and any successor or other entities or persons otherwise bound by law.

5. Any transfer of ownership or operation of the Facility to any other person, prior to termination or revocation of Defendant's EPA NPDES Permit Number NE0049018 and Termination of this Consent Decree pursuant to Section XIX, must be conditioned upon the transferee's agreement to undertake the obligations required by this Consent Decree, as provided in a written agreement between Defendant and the proposed transferee, enforceable by the United States and the State as third-party beneficiaries of such agreement. At least thirty (30) days prior to such transfer, Defendant shall provide a copy of this Consent Decree to the proposed transferee and shall simultaneously provide written notice of the prospective transfer, together with a copy of the proposed written agreement, to EPA, Region VII, the United States Department of Justice, and the State of Nebraska, in accordance with Section XV of this Consent Decree (Notices). Any attempt to transfer ownership or operation of the Facility without complying with this Paragraph constitutes a violation of this Consent Decree. No transfer of

ownership or operation of the Facility, whether in compliance with this Paragraph or otherwise, shall relieve Defendant of its obligation to ensure that the terms of the Consent Decree are implemented.

6. Defendant shall provide a copy of this Consent Decree to all officers, employees, and agents whose duties might reasonably include compliance with any provision of this Consent Decree, as well as to any contractor retained to perform work required under this Consent Decree. Defendant shall condition any such contract upon performance of the work in conformity with the terms of this Consent Decree.

7. In any action to enforce this Consent Decree, Defendant shall not raise as a defense the failure by any of its officers, directors, employees, agents, successors, assigns, or contractors to take any actions necessary to comply with the provisions of this Consent Decree.

III. DEFINITIONS

8. Terms used in this Consent Decree that are defined in the Clean Water Act, or in regulations promulgated pursuant to the Clean Water Act, shall have the meanings assigned to them in the statutes or such regulations, unless otherwise provided in this Consent Decree. Whenever the terms set forth below are used in this Consent Decree, the following definitions shall apply:

a. "Consent Decree" or "Decree" shall mean this Decree;

b. "Day" shall mean a calendar day unless expressly stated to be a business day. In computing any period of time under this Consent Decree, where the last day would fall

on a Saturday, Sunday, or federal holiday, the period shall run until the close of business of the next business day;

c. "Defendant" shall mean the City of Wakefield, Nebraska;

d. "EPA" shall mean the United States Environmental Protection Agency and any successor departments or agencies of the United States;

e. "Facility" shall mean Defendant's municipal wastewater treatment facility located in Wakefield, Nebraska, but shall not include the industrial lagoons that were transferred by Defendant to M.G. Waldbaum Co. effective April 1, 2006;

f. "NDEQ" shall mean the Nebraska Department of Environmental Quality, which is the agency authorized to administer the NPDES program in Nebraska under the provisions of Section 402(b) of the Clean Water Act, 33 U.S.C. § 1342(b);

g. "NPDES" shall mean the National Pollutant Discharge Elimination System authorized under Section 402 of the Act, 33 U.S.C. § 1342;

h. "Paragraph" shall mean a portion of this Consent Decree identified by an Arabic numeral;

i. "Parties" shall mean the United States, the State of Nebraska, and Defendant;

j. "POTW" shall mean a publicly owned treatment works as defined at 40 C.F.R. § 403.3. For purposes of this Consent Decree, "Defendant's POTW" shall mean the same as "Facility";

k. "Section" shall mean a portion of this Consent Decree identified by a Roman numeral;

l. "Site" The location of the Site begins at the City's outfall structure along Logan Creek and includes all of the lagoons at the City's Facility;

m. "State" shall mean the State of Nebraska; and

n. "United States" shall mean the United States of America, acting on behalf of EPA.

IV. CIVIL PENALTY

9. Defendant shall pay the sum of Nine Thousand and Three Hundred Dollars ($9,300.00) as a civil penalty to the United States. Such amount shall be paid in three (3) installments, specifically (a) Three Thousand Dollars ($3,000.00) within thirty (30) days of the Effective Date of this Consent Decree, (b) Three Thousand and Five Hundred Dollars ($3,500.00) on or before April 1, 2008 (representing a penalty amount of $3,281.25 and interest at a rate of 5% from January 1, 2007 to the due date), and (c) Three Thousand and Five Hundred Dollars ($3,500.00) on or before September 30, 2009 (representing a penalty amount of $3,018.75 and interest at a rate of 5% from January 1, 2007 to the due date). Payments shall be made by certified or cashier's checks made payable to the "U.S. Department of Justice," referencing the name and address of Defendant and DOJ case number 90-5-1-1-08346. Defendant shall send the checks to the Financial Litigation Unit of the United States Attorney's Office for the District of Nebraska, at 1620 Dodge Street, Suite 1400, Omaha, Nebraska, 68102-1506. Any payments received by the United States after 4:00 p.m. Eastern Time shall be

credited on the next business day. At the time of payment, Defendant shall simultaneously send written notice of payment and a copy of any transmittal documentation, which should reference DOJ case number 90-5-1-1-08346, to the United States and EPA in accordance with Section XV of this Consent Decree (Notices).

10. Defendant shall pay the sum of Ten Thousand Dollars ($10,000.00) as a civil penalty to the State of Nebraska. Such amount shall be paid in three (3) installments, specifically (a) Three Thousand Dollars ($3,000.00) within thirty (30) days of the Effective Date of this Consent Decree, (b) Three Thousand and Five Hundred Dollars ($3,500.00) on or before April 1, 2008, and (c) Three Thousand and Five Hundred Dollars ($3,500.00) on or before September 30, 2009. Payment of the civil penalty and any accrued interest, made payable to the "State of Nebraska," shall be delivered to:

Jodi Fenner
Assistant Attorney General
Chief, Agriculture, Environment, and
Natural Resources Division
2115 State Capitol Building
Lincoln, Nebraska 68509-8920

11. If Defendant fails to pay the civil penalties required to be paid under Section IV of this Consent Decree (Civil Penalty) when due, interest shall accrue on any amounts overdue to the United States under the terms of this Consent Decree at the rate established by the Secretary of the Treasury pursuant to 28 U.S.C. §1961. Interest shall accrue on any amounts overdue to the State under the terms of this Consent Decree pursuant to Nebraska Code § 45-103. Interest is to be paid from the date said payment is due until all amounts owed are paid. Late payment of the civil penalty including accrued interest shall be made in accordance with Section IV,

Paragraphs 9 and 10, above. All transmittal correspondence shall state that any such payment is for late payment of the civil penalty due under this Consent Decree, as applicable, and shall include the identifying information set forth in Paragraphs 9 and 10, above.

V. COMPLIANCE REQUIREMENTS

12. Defendant shall comply with Sections 301, 307, and 402 of the Clean Water Act, 33 U.S.C. §§ 1311, 1317 and 1342, and with regulations promulgated thereunder at 40 C.F.R. Part 403, and the Nebraska Environmental Protection Act, Neb. Rev. Stat. §81-1501 (Reissue 1999, Cum. Supp. 2004, Supp. 2005) *et seq.* and Nebraska Administrative Code, Title 19, Rules and Regulations Pertaining To The Issuance of Permits Under the National Pollutant Discharge Elimination System, and with the terms, conditions and requirements of applicable NPDES permits, including, but not limited to EPA NPDES Permit Number NE0049018 and any amendments, or modifications to Permit Number NE0049018.

13. Permits. Where any compliance obligation under this Section requires Defendant to obtain a federal, state, or local permit or approval, Defendant shall submit timely and complete applications and take all other actions necessary to obtain all such permits or approvals. Defendant may seek relief under the provisions of Section X (Force Majeure) of this Consent Decree for any delay in the performance of any such obligation resulting from a failure to obtain, or a delay in obtaining, any permit or approval required to fulfill such obligation, if Defendant has submitted timely and complete applications and has taken all other actions necessary to obtain all such permits or approvals.

VI. PROHIBITION ON TREATMENT OF M.G. WALDBAUM CO. WASTEWATER

14. From the Effective Date of this Consent Decree, Defendant shall not store, treat, or discharge any industrial waste from M.G. Waldbaum Co., except that pursuant to an existing contractual agreement between M.G. Waldbaum Co. and Defendant (included as Attachment A to this Consent Decree), until such time as M.G. Waldbaum Co.'s mechanical wastewater treatment facility is constructed and operational, M. G Waldbaum Co. is permitted to use lagoon I-7 and the discharge sampling building.

VII. MONITORING AND RECORD KEEPING REQUIREMENTS

15. From the Effective Date of this Consent Decree, Defendant shall conduct the following monitoring of wastewater activities associated with the Facility:

a. Facility Monitoring: Defendant shall measure wastewater influent parameters, as required by EPA NPDES Permit Number NE0049018.

b. Pre-discharge Monitoring. Defendant shall perform pre-discharge monitoring, as required by EPA NPDES Permit Number NE0049018.

c. Discharge Monitoring. In addition to any monitoring that is required under EPA NPDES Permit Number NE0049018, Defendant shall maintain records of each discharge from the Facility that include the following information:

i. date discharge commenced;

ii. date discharge ceased;

iii. identity of each cell that was discharged;

iv. the total flow for each day during which the discharge occurred;

v. the total flow for the discharge period; and

vi. the date, time and location of each sample taken, the method of sample preservation, if applicable, and complete chain of custody information.

VIII. REPORTING REQUIREMENTS

16. Beginning thirty (30) days after the date of lodging this Consent Decree, Defendant shall provide information and submit reports to the United States and the State contacts identified in Paragraph 57 of this Consent Decree, as follows:

a. Monthly Reporting. Within ten (10) days following the end of each month, Defendant shall submit by facsimile or electronic mail to the EPA, Region VII and the State a copy of all records for the month just ended of effluent flow measurements and Facility influent flow measurements, as required by Paragraph 15, Subparagraphs a and b of this Consent Decree.

b. Discharge Reporting. Within thirty (30) days following the end of a discharge from the Facility under NPDES Permit Number NE0049018, Defendant shall submit to the EPA, Region VII and the State a report that includes all information required under Paragraph 15, Subparagraphs a, b, and c. In addition, Defendant shall include within the report a copy of all laboratory reports showing the values of all pre-discharge and discharge monitoring required pursuant to NPDES Permit Number NE0049018.

c. Reporting Pursuant to NPDES Permit. Defendant shall submit a copy of all reports required under NPDES Permit Number NE0049018 to the EPA, Region VII at the same time each such report is submitted to the State.

17. If Defendant violates, or has reason to believe that it may violate, any requirement of this Consent Decree or of NPDES Permit Number NE 0049018, Defendant shall notify the EPA, Region VII and the State of such violation and its likely duration in writing within ten (10) business days of the day Defendant first becomes aware of the violation or the potential violation, with an explanation of the violation's likely cause and of the remedial steps taken, and/or to be taken, to prevent or minimize such violation. If the cause of a violation cannot be fully explained at the time the report is due, Defendant shall include a statement to that effect in the report. Defendant shall diligently investigate to determine the cause of the violation and then shall submit an amendment to the report, including a full explanation of the cause of the violation, within thirty (30) days of the day Defendant becomes aware of the cause of the violation. Nothing in this Paragraph or the following Paragraph relieves Defendant of its obligation to provide the requisite notice for purposes of Section X (Force Majeure).

18. In the case of any violation or other event that may pose an immediate threat to the public health or welfare or the environment, Defendant shall notify the EPA, Region VII and the State orally or by electronic or facsimile transmission as soon as possible, but not later than twenty-four (24) hours after Defendant first knew of, or should have known of, the violation or event. Defendant shall take all such actions as directed by EPA or the State to abate the threat. This procedure is in addition to the requirements set forth in the preceding Paragraph.

19. All reports shall be submitted to the persons designated in Section XV of this Consent Decree (Notices).

20. Each report submitted by Defendant under this Section shall be signed by an authorized official, as defined at 40 C.F.R. § 122.22, of the submitting party and include the following certification:

> I certify under penalty of law that I have examined and am familiar with the information submitted in this document and all attachments and that this document and its attachments were prepared either by me personally or under my direction or supervision as the responsible company official in a manner designed to ensure that qualified and knowledgeable personnel properly gathered and presented the information contained therein. I further certify, based on my personal knowledge or on my inquiry of those individuals immediately responsible for obtaining the information, that the information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fines and imprisonment for knowing and willful submission of a materially false statement.

This certification requirement does not apply to emergency or similar notifications if Defendant proves to the satisfaction of EPA and the State that compliance would be impractical.

21. The reporting requirements of this Consent Decree do not relieve Defendant of any reporting obligations required by the Clean Water Act or implementing regulations, or by any other federal, state, or local law, regulation, permit, or other requirement.

22. Any information provided pursuant to this Consent Decree may be used by the United States in any proceeding to enforce the provisions of this Consent Decree and as otherwise permitted by law.

IX. STIPULATED PENALTIES

23. Defendant shall be liable for Stipulated Penalties, 50% to the United States and 50% to the State of Nebraska, for violations of this Consent Decree as specified below, unless excused under Section X (Force Majeure). A violation includes failure to perform any obligation required by the terms of this Consent Decree, including any work plan or schedule approved under this Consent Decree, according to all applicable requirements of this Consent Decree and within the specified time schedules established by or approved under this Consent Decree.

24. Effluent Limits. The following Stipulated Penalties shall accrue per violation per day for each violation of any (applicable) requirement of Defendant's NPDES permit:

Period of Noncompliance	Penalty Per Violation Per Day
Daily Effluent Limit	$ 100
7-Day Average Limit	$ 800
30-Day Average Limit	$ 2,000

25. Monitoring and Record Keeping Requirements

a. The following Stipulated Penalties shall accrue per violation per day for each violation of the requirements identified in Subparagraph b:

Period of Noncompliance	Penalty Per Violation Per Day
1-30 days	$ 300
31-60 days	$ 700
61 or more days	$ 1,000

b. Monitoring and record keeping requirements subject to Stipulated Penalties under the provisions of Subparagraph a include Facility Monitoring pursuant to Subparagraph 15a, Pre-discharge Monitoring pursuant to Subparagraph 15b, and Discharge Monitoring pursuant to Subparagraph 15c.

26. Reporting Requirements. The following Stipulated Penalties shall accrue per violation per day for each violation of the reporting requirements of Section VIII of this Consent Decree:

Period of Noncompliance	Penalty Per Violation Per Day
1-30 days	$ 300
31-60 days	$ 700
61 or more days	$ 1,000

27. Stipulated Penalties under this Section shall begin to accrue on the day after performance is due or on the day a violation occurs, whichever is applicable, and shall continue to accrue until performance is satisfactorily completed or until the violation ceases. Stipulated Penalties shall accrue simultaneously for each individual violation of this Consent Decree. Defendant shall pay any Stipulated Penalty within thirty (30) days of receiving the United States' written demand.

28. Stipulated Penalties shall continue to accrue as provided in Paragraph 27, above, during any Dispute Resolution, with interest on accrued penalties payable and calculated at the rate established by the Secretary of the Treasury, pursuant to 28 U.S.C. § 1961, but need not be paid until the following:

a. If the dispute is resolved by agreement or by a decision of EPA that is not appealed to the Court, Defendant shall pay accrued penalties determined to be owing, together with interest, to the United States within thirty (30) days of the effective date of the agreement or the receipt of EPA's decision or order.

b. If the dispute is appealed to the Court and the United States prevails in whole or in part, Defendant shall pay all accrued penalties determined by the Court to be owing, together with interest, within sixty (60) days of receiving the Court's decision or order, except as provided in Subparagraph c, below.

c. If any Party appeals the District Court's decision, Defendant shall pay all accrued penalties determined to be owing, together with interest, within thirty (30) days of receiving the final appellate court decision.

29. Defendant shall pay Stipulated Penalties for violations of NPDES Permit Number NE0049018 occurring between the date of lodging and the Effective Date of this Consent Decree within thirty (30) days of the Effective Date of this Consent Decree.

30. Defendant shall, as directed by the United States, pay Stipulated Penalties owing to the United States in accordance with Section IV, Paragraph 9, above by certified or cashier's check in the amount due payable to the "U.S. Department of Justice," referencing DOJ Number 90-5-1-1-08346. Defendant shall pay Stipulated Penalties owing to the State in accordance with Section IV, Paragraph 10, above.

31. If Defendant fails to pay Stipulated Penalties according to the terms of this Consent Decree, Defendant shall be liable for interest on such penalties, as provided for in 28 U.S.C. § 1961, accruing as of the date payment became due.

32. Subject to the provisions of Section XIII of this Consent Decree (Effect of Settlement/Reservation of Rights), the Stipulated Penalties provided for in this Consent Decree shall be in addition to any other rights, remedies, or sanctions available to the United States for Defendant's violation of this Consent Decree or applicable law. Where a violation of this Consent Decree is also a violation of Sections 301, 307, or 402 of the Clean Water Act, 33 U.S.C. §§ 1311, 1317, or 1342, or regulations promulgated thereunder, Defendant shall be allowed a credit, for any Stipulated Penalties paid, against any statutory penalties imposed, or agreed to, for such violation.

X. FORCE MAJEURE

33. A "force majeure event" is any event beyond the control of Defendant, its contractors and consultants, or any entity controlled by Defendant that delays the performance of any obligation under this Consent Decree despite Defendant's best efforts to fulfill the obligation. "Best efforts" includes anticipating any potential force majeure event and addressing the effects of any such event (a) as it is occurring and (b) after it has occurred, to prevent or minimize any resulting delay to the greatest extent possible. Unanticipated or increased costs or expenses associated with implementation of this Consent Decree and changed financial circumstances shall not, in any event, be considered "force majeure" events. In addition, failure to apply for a required permit or approval or to provide in a timely manner all information

required to obtain a permit or approval that is necessary to meet the requirements of this Consent Decree or failure of Defendant to approve contracts, shall not, in any event, be considered "force majeure" events. However, if a permitting authority fails to issue, renew or modify--or delays in issuing, renewing or modifying--a lawful permit, order or other action required for any part of the work under this Consent Decree, and Defendant has taken all actions necessary to obtain all such permits or approvals in accordance with paragraph 13 of this Consent Decree, Defendant is entitled to seek relief under the "force majeure" provisions of this Consent Decree.

34. Defendant shall provide notice orally or by electronic or facsimile transmission as soon as possible, but not later than seventy-two (72) hours after the time Defendant first knew of, or by the exercise of due diligence, should have known of, a claimed force majeure event. Defendant shall also provide written notice, as provided in Section XV of this Consent Decree (Notices), within seven (7) days of the time Defendant first knew of, or by the exercise of due diligence, should have known of, the event. The notice shall state the anticipated duration of any delay; its cause(s); Defendant's past and proposed actions to prevent or minimize any delay; a schedule for carrying out those actions; and Defendant's rationale for attributing any delay to a force majeure event. Failure to provide oral and written notice as required by this Paragraph shall preclude Defendant from asserting any claim of force majeure.

35. If the United States agrees that a force majeure event has occurred, the United States may agree to extend the time for Defendant to perform the affected requirements for the time necessary to complete those obligations. An extension of time to perform the obligations affected by a force majeure event shall not, by itself, extend the time to perform any other

obligation. Where the United States agrees to an extension of time, the appropriate modification shall be made pursuant to Section XVIII of this Consent Decree (Modification).

36. If the United States does not agree that a force majeure event has occurred, or does not agree to the extension of time sought by Defendant, the United States' position shall be binding, unless Defendant invokes Dispute Resolution under Section XI of this Consent Decree. In any such dispute, the provisions of Section XI (Dispute Resolution) shall apply and Defendant bears the burden of proving that each claimed force majeure event is a force majeure event; that Defendant gave the notice required by Paragraph 34; that the force majeure event caused any delay Defendant claims was attributable to that event; and that Defendant exercised best efforts to prevent or minimize any delay caused by the event.

XI. DISPUTE RESOLUTION

37. Unless otherwise expressly provided for in this Consent Decree, the dispute resolution procedures of this Section shall be the exclusive mechanism to resolve disputes arising under or with respect to this Consent Decree. However, such procedures shall not apply to actions by any Plaintiff to enforce obligations of the Defendant that have not been disputed in accordance with this Section.

38. Informal Dispute Resolution. Any dispute subject to dispute resolution under this Consent Decree shall first be the subject of informal negotiations. The dispute shall be considered to have arisen on the day the Defendant hand delivers to each Plaintiff a written Notice of Dispute or on the day following delivery by overnight courier, or three days following delivery by U.S. Mail. Such Notice of Dispute shall state clearly the matter in dispute. The

period of informal negotiations shall not exceed twenty (20) days from the date the dispute arises, unless that period is modified by written agreement. If the Parties cannot resolve a dispute by informal negotiations, then the position advanced by the United States shall be considered binding unless, within fourteen (14) days after the conclusion of the informal negotiation period, Defendant invokes formal dispute resolution procedures as set forth below.

39. Formal Dispute Resolution. Defendant shall invoke formal dispute resolution procedures, within the time period provided in the preceding Paragraph, by serving on the Plaintiffs a written Statement of Position regarding the matter in dispute. The Statement of Position shall include, but may not necessarily be limited to, any factual data, analysis, or opinion supporting Defendant's position and any supporting documentation relied upon by Defendant.

40. The United States shall serve its Statement of Position within forty-five (45) days of receipt of Defendant's Statement of Position. The United States' Statement of Position shall include, but may not necessarily be limited to, any factual data, analysis, or opinion supporting that position and all supporting documents relied upon by the United States. The State of Nebraska may also serve a Statement of Position. The United States' Statement of Position shall be binding on Defendant, unless Defendant files a motion for judicial review of the dispute in accordance with the following Paragraph.

41. Defendant may seek judicial review of the dispute by filing with the Court and serving on the Plaintiffs, in accordance with Section XV of this Consent Decree (Notices), a motion requesting judicial resolution of the dispute. The motion must be filed within twenty

(20) days of receipt of the United States' Statement of Position pursuant to the preceding Paragraph. The motion shall contain a written statement of Defendant's position on the matter in dispute, including any supporting factual data, analysis, opinion, or documentation, and shall set forth the relief requested and any schedule within which the dispute must be resolved for orderly implementation of the Consent Decree.

42. The United States shall respond to Defendant's motion within the time period allowed by the Local Rules of this Court. The State of Nebraska may file its own motion in response to Defendant's motion. Defendant may file a reply memorandum, to the extent permitted by the Local Rules.

43. In any dispute under this Paragraph, Defendant shall bear the burden of demonstrating that actions or positions taken are in accordance with and will assure Defendant's compliance with the terms, conditions, requirements and objectives of this Consent Decree and the Clean Water Act. The United States reserves the right to argue that its position is reviewable only on the administrative record and must be upheld unless arbitrary and capricious or otherwise not in accordance with law.

44. The invocation of dispute resolution procedures under this Section shall not, by itself, extend, postpone, or affect in any way any obligation of Defendant under this Consent Decree, unless and until final resolution of the dispute so provides. Stipulated Penalties with respect to the disputed matter shall continue to accrue from the first day of noncompliance, but payment shall be stayed pending resolution of the dispute as provided in Paragraph 28, above. If

Defendant does not prevail on the disputed issue, Stipulated Penalties shall be assessed and paid as provided in Section IX (Stipulated Penalties).

XII. INFORMATION COLLECTION AND RETENTION

45. The United States, the State, and their representatives, including attorneys, contractors, and consultants, shall have the right of entry to any facility covered by this Consent Decree, at all reasonable times, upon presentation of credentials to:

a. monitor the progress of activities required under this Consent Decree;

b. verify any data or information submitted to the United States or the State in accordance with the terms of this Consent Decree;

c. obtain samples and, upon request, splits of any samples taken by Defendant or its representative, contractors, or consultants;

d. obtain documentary evidence, including photographs and similar data; and

e. assess Defendant's compliance with this Consent Decree.

46. Upon request, Defendant shall provide EPA and the State or their authorized representatives splits of any samples taken by Defendant. Upon request, EPA and the State shall provide Defendant splits of any samples taken by EPA or the State.

47. Until five (5) years after the termination of this Consent Decree, Defendant shall retain, and shall instruct its contractors and agents to preserve, all non-identical copies of all records and documents (including records or documents in electronic form) in its or its contractors' or agents' possession or control, or that come into its or its contractors' or agents' possession or control, and that relate in any manner to Defendant's performance of its

obligations under this Consent Decree. This record retention requirement shall apply regardless of any corporate or institutional document-retention policy to the contrary. At any time during this record-retention period, the United States or the State may request copies of any documents or records required to be maintained under this Paragraph.

48. At the conclusion of the document-retention period provided in the preceding Paragraph, Defendant shall notify the United States and the State at least ninety (90) days prior to the destruction of any records or documents subject to the requirements of the preceding Paragraph, and, upon request by the United States or the State, Defendant shall deliver any such records or documents to EPA or the State. Defendant may assert that certain documents, records, or other information is privileged under the attorney-client privilege or any other privilege recognized by federal law. If Defendant asserts such a privilege, it shall provide the following: (1) the title of the document, record, or information; (2) the date of the document, record, or information; (3) the name and title of the author of the document, record, or information; (4) the name and title of each addressee and recipient; (5) a description of the subject of the document, record, or information; and (6) the privilege asserted by Defendant. However, no documents, reports, or other information created or generated pursuant to the requirements of this Consent Decree shall be withheld on the grounds that they are privileged.

49. This Consent Decree in no way limits or affects any right of entry and inspection, or any right to obtain information, held by the United States or the State pursuant to applicable federal or state laws, regulations, or permits, nor does it limit or affect any duty or obligation of

Defendant to maintain records or information imposed by applicable federal or state laws, regulations, or permits.

XIII. EFFECT OF SETTLEMENT/RESERVATION OF RIGHTS

50. This Consent Decree resolves the claims for civil penalties for the violations alleged in the Complaints filed by the United States and the State in this action.

51. This Consent Decree shall not be construed to prevent or limit the rights of the United States, or the State to obtain penalties or injunctive relief under the Act or implementing regulations, or under other federal or state laws, regulations, or permit conditions, except as expressly specified in Paragraph 50 above.

52. Defendant is responsible for achieving and maintaining complete compliance with all applicable federal, State, and local laws, regulations, and permits; and Defendant's compliance with this Consent Decree shall be no defense to any action commenced pursuant to said laws, regulations, or permits. This Consent Decree is not a permit, or a modification of any permit, under any federal, State, or local laws or regulations. The United States does not, by its consent to the entry of this Consent Decree, warrant or aver in any manner that Defendant's compliance with any aspect of this Consent Decree will result in compliance with provisions of the Act, 33 U.S.C. § 1251, *et seq*.

53. This Consent Decree does not limit or affect the rights of Defendant or of the United States or the State against any third parties, not party to this Consent Decree, nor does it limit the rights of third parties, not party to this Consent Decree, against Defendant, except as otherwise provided by law.

54. This Consent Decree shall not be construed to create rights in, or grant any cause of action to, any third party not party to this Consent Decree.

55. The United States and the State reserve all legal and equitable remedies available to enforce the provisions of this Consent Decree, except as expressly stated herein. The United States and the State further reserve all legal and equitable remedies to address any imminent and substantial endangerment to the public health or welfare or the environment arising at, or posed by, Defendant's Facility, whether related to the violations addressed in this Consent Decree or otherwise.

XIV. COSTS

56. The Parties shall bear their own costs of this action, including attorneys' fees, except that the United States and the State shall be entitled to collect the costs incurred in any action necessary to collect any portion of the civil penalty or any stipulated penalties due but not paid by Defendant.

XV. NOTICES

57. Unless otherwise specified herein, whenever notifications, submissions, or communications are required by this Consent Decree, they shall be made in writing and addressed as follows:

To the United States:

Chief, Environmental Enforcement Section
Environment and Natural Resources Division
U.S. Department of Justice
PO Box 7611, Ben Franklin Station
Washington, D.C. 20044-7611
Re: DOJ Number 90-5-1-1-08346

To EPA:

Paul T. Marshall, P.E.
Water, Wetlands and Pesticides Division
U.S. Environmental Protection Agency, Region VII
901 North 5th Street
Kansas City, Kansas 66101

and

Elizabeth Huston
Office of Regional Counsel
U.S. Environmental Protection Agency, Region VII
901 North 5th Street
Kansas City, Kansas 66101

To the State:

Steven J. Moeller
Attorney, NDEQ Legal Services
Nebraska Department of Environmental Quality
1200 N Street, Suite 400
PO Box 98922
Lincoln, NE 68509-8922

and

Jodi M. Fenner
Assistant Attorney General
Chief, Agriculture, Environment, and Natural Resources Division
2115 State Capitol Building
Lincoln, Nebraska 68509-8920

To Defendant:

Jim Litchfield
City Administrator
City of Wakefield
405 Main Street
P.O. Box 178
Wakefield, NE 68784

and

M. Theresa Miner
Assistant City Attorney
405 Main Street
P.O. Box 178
Wakefield, NE 68784-0178

and

Mark A. Fahleson, Esq.
Rembolt Ludtke LLP
1201 Lincoln Mall, Suite 102
Lincoln, NE 68508

58. Any Party may, by written notice to the other Parties, change its designated notice recipient or notice address provided above.

59. Notices submitted pursuant to this Section shall be deemed submitted upon mailing, unless otherwise provided in this Consent Decree or by mutual agreement of the Parties in writing.

XVI. EFFECTIVE DATE

60. The Effective Date of this Consent Decree shall be the date upon which this Consent Decree is entered by the Court.

XVII. RETENTION OF JURISDICTION

61. The Court shall retain jurisdiction over this case until termination of this Consent Decree, for the purpose of resolving disputes arising under this Consent Decree or entering orders modifying this Consent Decree, pursuant to Sections XI and XVIII, or effectuating or enforcing compliance with the terms of this Consent Decree.

XVIII. MODIFICATION

62. The terms of this Consent Decree may be modified only by a subsequent written agreement signed by all the Parties. Where the modification constitutes a material change to any term of this Consent Decree, it shall be effective only upon approval by the Court.

XIX. TERMINATION

63. After Defendant has complied with the requirements of the Clean Water Act, NPDES Permit Number NE0049018, and this Consent Decree for a period of thirty-six (36) months after the Effective Date of this Consent Decree, provided that Defendant has paid the civil penalties, and any accrued Stipulated Penalties as required by this Consent Decree, Defendant may serve upon the United States and the State a Request for Termination, stating that Defendant has satisfied those requirements, together with all necessary supporting documentation.

64. Following receipt by the United States and the State of Defendant's Request for Termination, the Parties shall confer informally concerning the Request and any disagreement that the Parties may have as to whether Defendant has complied with the requirements for termination of this Consent Decree. If the United States, after consultation with the State, agrees that the Consent Decree may be terminated, the Parties shall submit, for the Court's approval, a joint stipulation terminating the Consent Decree.

65. If the United States, after consultation with the State, does not agree that the Consent Decree may be terminated, Defendant may invoke Dispute Resolution under Section XI of this Consent Decree. However, Defendant shall not seek Dispute Resolution of any dispute, under Paragraph 39 of Section XI, until ten (10) days after service of its Request for Termination.

XX. PUBLIC PARTICIPATION

66. This Consent Decree shall be lodged with the Court for a period of not less than thirty (30) days for public notice and comment in accordance with 28 C.F.R. § 50.7. The United States reserves the right to withdraw or withhold its consent if the comments regarding the Consent Decree disclose facts or considerations indicating that the Consent Decree is inappropriate, improper, or inadequate. Defendant consents to entry of this Consent Decree without further notice.

XXI. SIGNATORIES/SERVICE

67. The undersigned representatives of the City of Wakefield certify that they are authorized to enter into this Decree and to execute and legally bind the City of Wakefield to the terms and conditions of this Decree and meet the requirements for authorized signatory found in 40 C.F.R. § 122.22.

68. This Consent Decree may be signed in counterparts, and its validity shall not be challenged on that basis.

69. Defendant agrees not to oppose entry of this Consent Decree by the Court or to challenge any provision of the Consent Decree, unless the United States has notified Defendant in writing that it no longer supports entry of the Consent Decree.

70. Defendant agrees to accept service of process by mail with respect to all matters arising under or relating to this Consent Decree and to waive the formal service requirements set forth in Rule 4 of the Federal Rules of Civil Procedure and any applicable Local Rules of this Court including, but not limited to, service of a summons.

XXII. INTEGRATION

71. This Consent Decree constitutes the final, complete, and exclusive agreement and understanding among the Parties with respect to the settlement embodied in the Consent Decree and supersedes all prior agreements and understandings, whether oral or written, concerning the settlement embodied herein. No other document, nor any representation, inducement, agreement, understanding, or promise, constitutes any part of this Consent Decree or the settlement it represents, nor shall it be used in construing the terms of this Consent Decree.

XXIII. FINAL JUDGMENT

72. Upon approval and entry of this Consent Decree by the Court, this Consent Decree shall constitute a final judgment of the Court as to the United States, the State, and Defendant.

Upon execution of this document, the original Consent Decree shall be returned to the United States Attorney's Office and a copy of the Consent Decree shall be maintained in the Clerk's Office.

SO ORDERED THIS _____ DAY OF _____, 2006.

_____
UNITED STATES DISTRICT JUDGE

FOR PLAINTIFF UNITED STATES OF AMERICA:

Date: _____

ELLEN M. MAHAN
Deputy Chief
Environmental Enforcement Section
Environmental and Natural Resources Division
United States Department of Justice
Box 7611 Ben Franklin Station
Washington, D.C. 20044

Date: 1-5-07

ERIKA M. ZIMMERMAN
Trial Attorney, Oregon Bar No. 05500
Environmental Enforcement Section
Environmental and Natural Resources Division
United States Department of Justice
Box 7611 Ben Franklin Station
Washington, D.C. 20044
Telephone: (202) 514-5270
Fax: (202) 514-4180
erika.zimmerman@usdoj.gov

FOR THE UNITED STATES ATTORNEY'S OFFICE, DISTRICT OF NEBRASKA:

JOE W. STECHER
United States Attorney
District of Nebraska

Date: 1/8/07

LAURIE A. KELLY
Assistant United States Attorney, Mass. Bar No. 557575
District of Nebraska
1620 Dodge Street
Suite 1400
Omaha, Nebraska 68102-1506
Telephone: (402) 661-3700
Fax: (402) 661-3081
laurie.kelley@usdoj.gov

FOR PLAINTIFF U.S. ENVIRONMENTAL PROTECTION AGENCY, REGION VII:

Date: 10/31/2006

JOHN B. ASKEW
Regional Administrator
U.S. Environmental Protection Agency, Region VII
901 N. 5th Street
Kansas City, Kansas 66101

Date: 10/25/2006

ELIZABETH HUSTON
Assistant Regional Counsel
U.S. Environmental Protection Agency, Region VII
901 N. 5th Street
Kansas City, Kansas 66101

FOR THE U.S. ENVIRONMENTAL PROTECTION AGENCY:

Date: 11/7/06

MARK POLLINS
Director, Water Enforcement Division (2243A)
Office of Civil Enforcement
Office of Enforcement and Compliance Assurance
U.S. Environmental Protection Agency
1200 Pennsylvania Ave., N.W.
Washington, D.C. 20460

FOR PLAINTIFF STATE OF NEBRASKA:

JON BRUNING
Attorney General of Nebraska

Date: October 26, 2006

JODI M. FENNER
NE Bar No. 22038
Assistant Attorney General
Chief, Agriculture, Environment, and
Natural Resources Division
2115 State Capitol Building
Lincoln, Nebraska 68509-8920
Telephone: (402) 471-2682
Fax: (402) 471-2957

NATALEE J. HART
NE Bar No. 22716
Assistant Attorney General
Agriculture, Environment, and
Natural Resources Division
2115 State Capitol
Lincoln, NE 68509

FOR DEFENDANT THE CITY OF WAKEFIELD, NEBRASKA:

Date: 11-2-06

Mayor
City of Wakefield

Agent Authorized to Accept Service on Behalf of the City of Wakefield, Nebraska , Relating to this Consent Decree:

Name: CITY CLERK
Address: P.O. BOX 178, WAKEFIELD, NE 68784
Phone Number: 402-287-2080
Email: WAKECLERK @ HUNTELNET

Attachment A

AGREEMENT FOR OPERATION AND USE OF THE INDUSTRIAL WASTEWATER LAGOON SYSTEM WAKEFIELD, NEBRASKA

This Agreement, dated as of _____, 2005, is made between the CITY OF WAKEFIELD, NEBRASKA ("the City") and M. G. WALDBAUM COMPANY, a Nebraska corporation ("the Company").

WHEREAS, the Company's industrial-process wastewater is currently treated at a City-owned, Company-funded facility that is comprised of nine separate lagoon cells, along with associated force mains and industrial lift station ("Industrial Lagoon System");

WHEREAS, all other wastewater generated in the city (everything but the Company's industrial-process wastewater) is treated at a City-owned system comprised of five separate lagoon cells ("Municipal Lagoon System");

WHEREAS, the City plans to issue bonds, payable solely from payments made by the Company to the City, to construct a new mechanical wastewater treatment facility that will be operated by the Company and used to treat the Company's industrial-process wastewater ("New Industrial Facility");

WHEREAS, the Company has applied to the Nebraska Department of Environmental Quality ("NDEQ") for, and expects to receive, a National Pollutant Discharge Elimination System permit to discharge treated wastewater from the New Industrial Facility under final discharge permit limits, and, prior to completion of the New Industrial Facility, to discharge treated wastewater from the Industrial Lagoon System under interim discharge limits ("Company's New NPDES Permit");

WHEREAS, after the New Industrial Facility is constructed and operating, the Company desires to continue to use the Industrial Lagoon System to carry out its obligations to treat wastewater by providing temporary storage of the Company's partially treated wastewater, and the City desires to use cell I-7 of the Industrial Lagoon System and incorporate it into the Municipal Lagoon System, thereby allowing for expansion of the City's system.

THEREFORE, in consideration of the Company's financing of the New Industrial Facility and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree to the following terms:

A. Transfer of a Portion of Industrial Lagoon System to Company

1. Purchase by Company. On or before the effective date of the Company's New NPDES Permit, the Company shall purchase and the City shall sell and transfer all right, title and interest in the Property. The purchase price for the Property shall be One Dollar ($1.00), due and payable at Closing.

a. "Property" defined. For purposes of this Agreement, "Property" shall mean the Industrial Lagoon System without the Excluded Property.

b. "Excluded Property" Defined. For purposes of this Agreement, "Excluded Property" shall mean cell I-7 in the Industrial Lagoon System, such right-of-way within the Industrial Lagoon System deemed necessary by the City to incorporate cell I-7 into the Municipal Lagoon System, the existing discharge sampling building and the discharge flow meter housed in the discharge sampling building.

2. Company Use of I-7 and Discharge Sampling Building. The parties agree that until such time as the New Industrial Facility is operating, the Company will be allowed to use, at no charge, cell I-7 and the discharge sampling building (along with the discharge flow meter housed therein) in its interim operation of the Industrial Lagoon System pursuant to the terms of the Company's New NPDES Permit.

3. Survey. Prior to Closing, the City and the Company shall cause the Industrial Lagoon System, the Property and the Excluded Property to be surveyed by a licensed surveyor at the Company's expense. Such survey shall, at a minimum, accurately delineate the respective boundaries of the Property and Excluded Property as agreed upon by the City and Company, and provide a legal description and acreage measurement for each. The survey shall be incorporated into this Agreement as if set forth herein.

4. Closing. The closing shall be on or before the effective date of the Company's New NPDES Permit (the "Closing"), at a place and time to be mutually determined and agreed-upon.

5. Title; Delivery of Deed. At Closing, the City shall convey its right, title and interest in the Property by a quit claim deed to the Company.

6. Real Estate Taxes and Assessments. The Company shall be fully responsible for and pay all real estate taxes and other taxes and assessments levied and assessed against the Property after Closing. However, commencing on the effective date of the Company's New NPDES Permit, the City will cease invoicing the Company for monthly charges for industrial sewer usage or industrial wastewater treatment (the total of such charges currently being $4,400 per month).

7. Expenses. The Company shall be responsible for all documentary transfer taxes, survey costs, closing costs, attorneys fees and other costs and fees incurred by either party arising out of the transfer of the Property to the Company.

8. Representations and Warranties. The City will make no representations or warranties with respect to the Property, and the Property will be sold "as is."

9. Indemnification by the Company. The Company agrees to release, indemnify, defend and hold the City, its elected and appointed officials, and employees harmless from and against any liability, damage, claim, penalty, fine, judgment or settlement of any nature or kind, including, but not limited to, the payment of all reasonable costs and attorneys' fees, whether made, instituted, or asserted by any other person or governmental agency, relating to or arising

out of the acts or omissions of the City, its elected and appointed official, and employees in connection with the Property on or after the Closing. In any matter where the Company is required to defend the City pursuant to this paragraph, the City agrees to cooperate with the Company in such defense.

B. Company's Operation of Industrial Lagoon System After Transfer

The Company shall be responsible for obtaining all permits and approvals necessary to operate the Property, either as a wastewater treatment facility or as a wastewater storage facility. It is expressly agreed that after Closing, the Company will be solely responsible for any violations of such permits, approvals or other legal requirements of operating the Industrial Lagoon System.

C. Potential Odor Issues

The parties acknowledge that the Industrial Lagoon System has been a source of odor over the years. However, it is the expectation of the parties that the Industrial Lagoon System will cease to be a significant source of odor after the New Industrial Facility is constructed, after the Industrial Lagoon System is no longer used for treatment of industrial wastewater, and after sludge from the treatment of industrial wastewater breaks down, likely in the spring following completion of the New Industrial Facility. The parties wish to work together and cooperate with each other to address any odor conditions attributable to the Industrial Lagoon System or the Property, understanding that the Industrial Lagoon System needs some time to adjust after years of use as a wastewater treatment system, and also understanding that complete odor elimination may not be possible.

1. From the effective date of this Agreement and continuing for one year after the New Industrial Facility begins operating, if the City receives any complaints about odor from the Industrial Lagoon System or the Property, the City will forward such complaints, in writing, to the Company's plant manager in Wakefield. The Company shall investigate the cause of the odor, submit a response to the City, and exercise reasonable efforts to resolve the complaint in a timely manner.

2. After the New Industrial Facility has been operating for one year, if the City receives any complaints about odor from the Property, the City may, at its option, commence the following process:

a. The City, at its own expense, shall confirm that the Company's use of the Property is the source of the odor.

b. If the City confirms that the Company's use of the Property is the source of the odor, then two professional engineers experienced and knowledgeable as to lagoon systems, one selected by the City and one selected by the Company, will confer and determine whether there is a reasonable, cost-effective measure that can be taken to appreciably reduce the odor. The Company will pay for half of the cost of the City's professional engineer.

c. The Company will, at its sole expense, implement the measure identified by the parties' engineers.

D. City Reacquisition of All or Portions of the Property

Nothing herein shall limit or otherwise hinder the City's right of eminent domain under Nebraska law with respect to the Property.

E. Other Provisions

1. Notwithstanding any other provision of this Agreement, the Company will continue to make payments to retire the debt incurred by the City to finance the Industrial Lagoon System expansion pursuant to that certain Memorandum of Understanding, dated April 26, 2001, by and between the City and Michael Foods, as the parent of the Company.

2. Notwithstanding any other provision of this Agreement, the agreement between the City and the Company effective June 23, 2004, relating to the Industrial Lagoon System shall remain in full force and effect.

3. All Company-purchased equipment now used in connection with the Industrial Lagoon System, including but not limited to meters, analytical devices, aerators and anaerobic covers, is, and will continue to be, property of the Company, and the Company may use or remove such equipment in its sole discretion.

4. It is expressly agreed that any costs or approvals associated with connecting or integrating cell I-7 with the Municipal Lagoon System, including costs associated with design and construction of piping modifications, shall be the sole responsibility of the City, and that any costs or approvals associated with closing or otherwise disconnecting cell I-9 from cell I-7 as of the Closing shall be the sole responsibility of the Company.

5. This Agreement shall benefit and bind the legal representatives, assignees, and successors of the respective parties. This Agreement may be assigned by the Company to any successor in ownership of the Company's stock or assets upon prior written consent of the City, which consent shall not be unreasonably withheld.

6. In the event that any provision contained in this Agreement is breached by either party and thereafter waived by the other party, such waiver shall be limited to the particular breach so waived and shall not be deemed to waive any other breach hereunder.

7. In the event that any provision of this Agreement shall be held invalid or unenforceable by any court of competent jurisdiction, such holding shall not invalidate or render invalid or unenforceable any other provisions hereof.

8. This instrument embodies the whole agreement of the parties with respect to the subject matter hereof. No promises, terms, statements, conditions, inducements or obligations made by either party or agent of either party with respect to the subject matter of this Agreement that are not contained in this Agreement shall be valid or binding.

9. Should any portion of this Agreement be renegotiated resulting in additions, deletions, and/or modifications, the remainder of this Agreement shall be binding and effective to the extent that it is not specifically inconsistent with renegotiated terms of this Agreement.

CITY OF WAKEFIELD, NEBRASKA

By: Jim Clark
Its: MAYOR

STATE OF NEBRASKA)
) ss.
COUNTY OF DIXON)

The foregoing instrument was acknowledged before me this 11TH day of August, 2005, by Mayor Jim Clark, on behalf of the City of Wakefield.

(SEAL) GENERAL NOTARY - State of Nebraska KATHY BKONNER My Comm. Exp. 12-21-2007

Notary Public

M.G. WALDBAUM COMPANY

By: John Reedy
Its: CFO

STATE OF ~~NEBRASKA~~ MINNESOTA CAR
COUNTY OF ~~DIXON~~ HENNEPIN) ss. CAR

The foregoing instrument was acknowledged before me this 29th day of ~~August~~ September, 2005, CAR by John Reedy, on behalf of the M.G. Waldbaum Company.

(SEAL) CAROLE A LEONARD NOTARY PUBLIC - MINNESOTA My Commission Expires Jan. 31, 2010

Carole A. Leonard
Notary Public