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Appendices:

Appendix A:

Seaboard Foods' Farms Subject to Certain Construction Stormwater Provisions of this  
Consent Decree

Appendix B:

Seaboard Foods' Farms Subject to Certain CERCLA and EPCRA Provisions of this  
Consent Decree

Appendix C:

Construction Storm Water Remedies and Requirements

Appendix D:

Buffer Zone Requirements

Appendix E:

Agri-Waste Technologies Maps

Whereas the United States of America (the “United States”), on behalf of the Administrator of the United States Environmental Protection Agency (“EPA”), has filed a complaint alleging that the Defendant Seaboard Foods LP (“Defendant” or “Seaboard Foods”) violated the reporting requirements of the Comprehensive Environmental Response Compensation and Liability Act, 42 U.S.C. § 9601 et seq., the construction storm water and other discharge requirements of the Clean Water Act, 33 U.S.C. §§ 1251-1331, and certain requirements of the Clean Air Act, 42 U.S.C. § § 7401 et seq., including by failing to comply with an administrative monitoring request issued by EPA under section 114 of the Clean Air Act, 42 U.S.C. § 7414, in the construction and/or operation of a number of its animal feeding operations, including a number of such operations found in the Western District of Oklahoma;

Whereas Defendant has certified to EPA that it has complied with the potentially applicable requirements set forth in section 103(a) of CERCLA, 42 U.S.C. § 9603(a) and section 304 of EPCRA, 42 U.S.C. § 11004, to report continuous releases of air emissions from the Seaboard Foods facilities listed in Appendix B to this Consent Decree;

Whereas Defendant does not admit any liability to the United States arising out of the actions, inactions, transactions or occurrences alleged in the Complaint;

Whereas Defendant contests the factual and legal basis for these allegations, as well as the existence of any contamination resulting from Defendant’s activities;

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 and will avoid litigation between the Parties, and that this Consent Decree is fair, reasonable, and in the public interest;

NOW THEREFORE, it is hereby ORDERED, ADJUDGED, and DECREED as follows:

## I. JURISDICTION AND VENUE

1. This Court has jurisdiction over the subject matter of this action, pursuant to, *inter alia*, 28 U.S.C. §§ 1331, 1345, and 1355 and also has personal jurisdiction over the Parties.

Venue lies in this District pursuant to 28 U.S.C. §§ 1391(b) and (c) and 1395(a) because Defendant has conducted business in this judicial district and some of the violations alleged in the Complaint are alleged to have occurred in this judicial district. For purposes of this Decree, or any action to enforce this Decree, Defendant consents to the Court's jurisdiction over this Decree or such action and over Defendant, and consents to venue in this judicial district.

2. Only for purposes of this Consent Decree, Defendant agrees that the Complaint states claims upon which relief may be granted.

3. Notice of the commencement of this action has been given, in writing, to the State of Oklahoma.

## II. APPLICABILITY

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

5. No transfer of ownership or operation of any Seaboard Foods facility subject to this Decree, whether in compliance with this Paragraph or otherwise, shall relieve Defendant of its obligation to ensure that the terms of the Decree are implemented, unless (1) the transferee agrees to undertake the obligations of this Decree and to be substituted for the Defendant as a Party under the Decree and be thus bound by the terms thereof, and (2) the United States consents to relieve Defendant of its obligations. On or before such transfer, Defendant Seaboard Foods shall provide a copy of this Consent Decree to the proposed transferee and shall simultaneously provide written notice of the prospective transfer to EPA Region 6 and the United States Department of Justice, in accordance with Section XIII of this Decree (Notices and

Submittals). Any attempt to transfer ownership or operation of any Seaboard Foods facility subject to this Decree without complying with this Paragraph constitutes a violation of this Decree.

6. Defendant shall provide a copy of this Consent Decree to all officers and supervisory employees of the Defendant or its agents whose duties might reasonably include compliance with any provision of this 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, 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 Air Act, the Clean Water Act, the Comprehensive Environmental Response Compensation and Liability Act, or in regulations promulgated pursuant to these Acts, shall have the meanings assigned to them in the Act or in associated regulations, unless otherwise provided in this Decree. Whenever the terms set forth below are used in this Consent Decree, the following definitions shall apply:

a. "AFO Air Compliance Agreement" shall mean the Animal Feeding Operation Air Quality Compliance Agreement announced by EPA on January 31, 2005 at 70 Fed. Reg. 4958 (Jan. 31, 2005);

b. "Complaint" shall mean the complaint filed by the United States in this action;

c. "Consent Decree" or "Decree" shall mean this Decree and all Appendices attached hereto (listed in Section XXI (Integration / Appendices)), and any and all work plans required by the Decree and approved by EPA in conformance with the Decree;

d. "Construction General Permit" shall mean the permit issued by EPA and published at 68 Fed. Reg. 39087-39091 (July 1, 2003), and any amendments thereto, or any permit governing stormwater discharges from construction activities issued by a state authorized pursuant to 33 U.S.C. § 1342(b) and the regulations implementing that provision.

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

f. "Defendant" shall mean Seaboard Foods LP;

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

h. "Facility" and "Facilities" shall mean Defendant's farms, as identified in this Consent Decree, including the Appendices attached hereto;

i. "Farm" and "Farms" shall have the same meaning as "Facility" and "Facilities";

j. "Monitoring Request" shall mean the Clean Air Act administrative monitoring request issued by EPA to Defendant on April 2, 2002, directing Defendant to undertake, complete, and report upon the monitoring, measuring, and estimating of air pollutants identified by the Monitoring Request, in the manner directed by that Request;

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

l. "Parties" shall mean the United States and the Defendant;

m. "Point Intercept Method" shall mean the method described in Sampling Vegetation Attributes: A Technical Reference, Tech. Ref. No. 1734-4 (DOI Bureau of Land Management, 1999), pages 78-85.

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

o. "Seed" shall refer to the process of seeding to encourage germination and plant growth in an area that has little or no vegetative cover. The term "overseed" shall refer to the process of seeding in an area that already has vegetative cover, but has not reached 70 percent perennial vegetative coverage relative to native background coverage. The term "reseed" shall refer to the process of seeding in an area which Seaboard Foods has previously tried to seed, but failed to establish 70 percent vegetative cover.

p. "United States" shall mean the United States of America, acting on behalf of the U.S. Environmental Protection Agency.

#### IV. CIVIL PENALTY

9. Within 30 days after the Effective Date of this Consent Decree, Defendant shall pay the sum of \$205,000 as a civil penalty, of which \$100,000 may be satisfied by proof of payment under the AFO Air Compliance Agreement. Payment shall be made by FedWire Electronic Funds Transfer ("EFT") to the U.S. Department of Justice in accordance with instructions to be timely provided to Defendant following lodging of the Consent Decree by the Financial Litigation Unit of the U.S. Attorney's Office for the Western District of Oklahoma. 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 90-5-1-1-07570 and the civil action number of this case) to the United States in accordance with Section XIII of this Decree (Notices and Submittals).

10. Failure to timely pay the civil penalty shall subject Defendant to interest accruing from the date payment is due until the date payment is made, or until the 15<sup>th</sup> day after payment is due, whichever occurs first, at the rate prescribed by 28 U.S.C. § 1961, and shall render Defendant liable for all charges, costs, fees, and penalties established by law for the benefit of a



creditor or of the United States in securing payment. Failure to pay the civil penalty for more than fourteen days after it is due shall subject Defendant to the stipulated penalty set forth in Paragraph 16(a).

11. Payments made pursuant to this Section are penalties within the meaning of Section 162(f) of the Internal Revenue Code, 26 U.S.C. § 162(f), and are not tax-deductible expenditures for purposes of federal law.

#### V. PERFORMANCE REQUIREMENTS

12. Storm Water Requirements. Defendant must timely undertake and complete all requirements specified in Appendix C, entitled “Construction Storm Water Remedies and Requirements.”

13. Buffer Zone Requirements. Defendant must timely undertake and complete all actions specified in Appendix D, entitled “Buffer Zone Requirements.”

#### VI. REPORTING REQUIREMENTS

14. No later than ninety (90) days after entry of this Decree, and continuing on an annual basis on or before January 31 of each year thereafter regarding the previous calendar year, Defendant shall submit a report to the United States that shall include:

- a. a listing of each Decree requirement that Defendant was to commence, complete, or undertake during the reporting period, including a citation to the relevant Consent Decree provision;
- b. a brief summary of the activities Defendant has undertaken pursuant to each such requirement; and
- c. the deadline for completion of each such requirement and the date Defendant claims to have satisfied such requirement, if applicable.

15. In addition to the report required pursuant to Paragraph 14, Defendant shall

submit a written report to the United States of any violation of the requirements of this Consent Decree within ten (10) business days of when Defendant knew of any such violation. In this report, Defendant shall explain the cause or causes of the violation and all measures taken or to be taken by the Defendant to prevent such violations in the future.

**VII. STIPULATED PENALTIES**

16. Defendant shall be liable for Stipulated Penalties to the United States for violations of this Consent Decree as specified below, unless excused under Section VIII (Force Majeure). A violation includes Defendant’s failing to comply with any requirement, term, standard, or schedule established by or covered by Sections IV, V, VI, or X of this Decree.

<b><u>Consent Decree Violation</u></b>	<b><u>Stipulated Penalty (per day, per violation, unless otherwise noted)</u></b>
(a) Failure to pay the civil penalty as specified in Section IV (Civil Penalty) of this Consent Decree for more than 14 days after the due date	\$5,000 per day beginning the 15 <sup>th</sup> day after the due date
(b) Failure to timely apply for coverage under the Construction General Permit, as required by Appendix C, Section I	\$500
(c) Failure to timely complete any of the tasks specified in Appendix C, Section II	\$500 per day per violation for the first 30 days; \$1000 per day per violation thereafter
(d) Failure to timely comply with any requirement (except for buffer zone maintenance) set forth in Appendix D	\$500 per day per violation for the first 30 days; \$1000 per day per violation thereafter
(e) Failure to take reasonable steps to maintain a buffer zone, as required by Appendix D	\$250 per day per buffer zone for the first 30 days; \$500 per day per buffer zone for the next 30 days; \$1,000 per day per buffer zone thereafter
(f) Failure to timely submit any report or other submittal required by this Consent Decree	\$250 per day per violation for the first 14 days; 500 per day per violation for the next 14 days; 1,000 per day per violation thereafter
(g) Failure to provide splits of samples upon EPA’s request, as required by Paragraph 35	\$250 per sample

(h) Failure to provide access to EPA or its authorized representatives to any facility covered by this Decree, as required by Section X	\$500 per day (until the day on which Defendant notifies EPA that access is granted)
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17. Except as otherwise specified above, 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 separate violations of this Consent Decree. Defendant shall pay any Stipulated Penalty within 30 days of receiving the United States' written demand, subject to the provisions of Section IX (Dispute Resolution).

18. Unless otherwise provided in this Consent Decree, stipulated penalties shall continue to accrue as provided in Paragraph 16 during any dispute, with interest on accrued stipulated 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 pursuant to Section IX (Dispute Resolution) of this Consent Decree that is not appealed to the Court, accrued stipulated penalties agreed or determined to be owing, together with accrued interest, shall be paid within thirty (30) days of the effective date of the agreement or of the receipt of EPA's decision;
- b. If the dispute is appealed to the Court and EPA prevails in whole or in part, Defendant shall, within sixty (60) days of receipt of the Court's decision or order, pay all accrued stipulated penalties determined by the Court to be owing, together with accrued interest, except as provided in Subparagraph 18(c);

c. If the Court's decision is appealed by any Party, Defendant shall, within fifteen (15) days of receipt of the final appellate court decision, pay all accrued stipulated penalties determined to be owing, together with accrued interest.

19. All stipulated penalties shall be paid in the manner set forth in Section IV (Civil Penalty) of this Consent Decree.

20. If Defendant fails to pay stipulated penalties in compliance with 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.

21. The United States may, in the unreviewable exercise of its discretion, reduce or waive Stipulated Penalties otherwise due it under this Consent Decree.

22. The stipulated penalties provided for in this Consent Decree shall be in addition to any other rights, remedies, or sanctions available to EPA by reason of Defendant's failure to comply with any requirement of this Consent Decree or applicable law. Where a violation of this Consent Decree is also a violation of statutory or regulatory requirements, Defendant shall be allowed a credit, for any Stipulated Penalties paid, against any statutory penalties imposed for such violation.

#### VIII. FORCE MAJEURE

23. A "force majeure event" is any event beyond the control of Defendant, its contractors, 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 using best efforts to anticipate any potential force majeure event and to address 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. "Force Majeure" does not include Defendant's financial inability to perform any obligation under this Consent Decree.

24. Defendant shall provide notice to EPA orally or by electronic or facsimile transmission as soon as possible, but not later than five (5) days after the time Defendant first knew, or should have known, of a claimed force majeure event. Defendant shall also provide written notice, as provided in Section XIII of this Consent Decree (Notices and Submittals), within twenty-one (21) days of the time Defendant first knew, or should have known, of the event. The written 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.

25. If the United States agrees that a force majeure event has occurred, the time for the performance of the obligations under this Consent Decree that are affected by the force majeure event will be extended by the United States for such time as is 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 can be made only pursuant to Section XVI of this Consent Decree (Modification).

26. 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 IX of this Consent Decree. In any such dispute, Defendant bears the burden of proving, by a preponderance of the evidence, that each claimed force majeure event is a force majeure event; that Defendant gave the notice required by Paragraph 24; 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.

#### IX. DISPUTE RESOLUTION

27. The dispute resolution procedure provided by this Section shall be available to resolve all disputes arising under this Consent Decree, provided that the Party invoking such procedure has first made a good faith attempt to resolve the matter with the other Party.

28. The dispute resolution procedure required herein shall be invoked by one Party giving written notice to the other Party advising of a dispute pursuant to this Section. The notice shall describe the nature of the dispute and shall state the noticing Party's position with regard to such dispute. The Party receiving such a notice shall acknowledge receipt of the notice, and the Parties in dispute shall expeditiously schedule a meeting to discuss the dispute informally not later than fourteen (14) days following receipt of such notice, or at a later time by mutual agreement of the Parties.

29. Disputes submitted to dispute resolution under this Section shall, in the first instance, be the subject of informal negotiations among the disputing Parties. Such period of informal negotiations shall not extend beyond thirty (30) calendar days from the date of the first meeting among the disputing Parties' representatives, provided that the Parties may agree in writing to shorten or extend this period.

30. If the disputing Parties are unable to reach agreement during the informal negotiation period, the United States shall provide Seaboard Foods with a written summary of its position regarding the dispute. The written position provided by the United States shall be considered binding unless, within forty-five (45) calendar days thereafter, Seaboard Foods seeks judicial resolution of the dispute by filing a petition with the Court. The United States may respond to the petition within forty-five (45) calendar days of filing.

31. Where the nature of the dispute is such that a more timely resolution of the issue

is required, the time periods set out in this Section may be shortened upon motion of one of the Parties to the dispute.

32. 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 that is not directly in dispute. 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 18, above. If Defendant does not prevail on the disputed issue, Stipulated Penalties shall be assessed and paid as provided in Section VII (Stipulated Penalties).

33. After the resolution of any dispute under this Section, nothing prohibits either Party from seeking Court approval to modify this Consent Decree, in appropriate circumstances, so as to extend the schedule or deadlines for the completion of required activities that were the subject of dispute resolution. Where this Court enters such an extension or schedule modification, Defendant shall be liable for stipulated penalties for their failure thereafter to complete the work in accordance with the extended or modified schedule, provided that they shall not be precluded from asserting that a Force Majeure Event has caused or may cause a delay in complying with the extended or modified schedule.

34. In any dispute under this Section, Defendant shall bear the burden of demonstrating that its position complies with this Consent Decree and that Defendant is entitled to relief. The Parties reserve their rights to argue their respective positions as to the standard of review applicable to the particular dispute at issue.

#### X. INFORMATION COLLECTION AND RETENTION

35. During the pendency of this Decree, the United States and its 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 and in conformance with any reasonable biosecurity requirements of the Facility, to:

- a. monitor the progress of activities required under this Consent Decree;
- b. verify any data or information submitted to the United States in accordance with the terms of this Consent Decree;
- c. independently obtain samples and conduct such tests as the United States deems necessary to assess Defendant's performance under this Decree and, upon request, splits of any samples taken pursuant to this Decree by Defendant or its representative, contractors, or consultants;
- d. obtain documentary evidence relevant to performance under this Decree, including photographs and similar data using a camera, video camcorder, sound recorder, or other similar documentary type equipment;
- e. interview site personnel and contractors; inspect records, operating logs, and contracts related to the Defendant's performance under this Decree; and
- f. otherwise assess Defendant's compliance with this Consent Decree.

If Defendant denies access to any farm or facility on the basis of biosecurity requirements, EPA may request a written justification of such denial from Seaboard Foods' Director of Environmental Affairs or, if such person cannot be reached, from Seaboard Foods' Director of Environmental, Maintenance and Construction, and Seaboard Foods shall provide such justification by electronic mail and, if requested by EPA, also by facsimile (electronic mail address and facsimile number to be provided by EPA at the time of the request) within 12 hours of receipt of EPA's request.

36. Upon request, Defendant shall provide EPA or its authorized representatives



splits of any samples taken by Defendant pursuant to this Decree. Upon request, EPA shall provide Defendant splits of any samples taken by EPA pursuant to this Decree.

37. 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, documents, or other information (including documents, records or other information 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 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 may request copies of any documents or records required to be maintained under this Paragraph.

38. 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 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.

#### XI. COVENANT NOT TO SUE / RESERVATION OF RIGHTS

39. In consideration of the actions that will be performed and the payments that will be made by the Defendant under the terms of this Consent Decree, and except as specifically provided below, the United States covenants not to sue or take administrative action against Seaboard Foods concerning:

- a. the violations the United States specifically alleged in the Complaint filed in this action, through the date of lodging of this Consent Decree;

- b. the civil claims of the United States under section 309(b) and (d) of the Clean Water Act, 33 U.S.C. § 1319(b) and (d), against Defendant Seaboard for the discharge of pollutants without first obtaining coverage pursuant to the Construction General Permit, in violation of section 301 of the Clean Water Act, 33 U.S.C. § 1311, at the farms listed in Appendix A, through the date of lodging;
- c. the civil claims of the United States under section 309(b) and (d) of the Clean Water Act, 33 U.S.C. § 1319(b) and (d), against Defendant Seaboard for discharging pollutants in the course of the land application of effluent without a permit in violation of section 301 of the Clean Water Act, 33 U.S.C. § 1311, at the following farms, through the date of lodging:
- Choate (Farms 65, 154, and 439)
  - Stewart Nurseries (Farms 150 and 151)
  - Payne/Stewart Finishers (Farms 420-423)
  - Bryan Sow and Norris (Farms 62 and 436)
  - Best Nurseries 1 & 2 (Farms 152 & 153)
  - Watson Finisher (Farm 424)
  - Grimes Finisher (Farm 425)
  - Barr Finisher (Farm 435)
  - Brown Sow (Farm 61)
- d. the civil claims of the United States under section 109(c) of CERCLA, 42 U.S.C. § 9609(c), and section 325 of EPCRA, 42 U.S.C. § 11045, through the date of lodging, for Defendant Seaboard's failure to notify the National Response Center of certain releases of a hazardous substance, in violation of Section 103 of CERCLA, 42 U.S.C. § 9603, and for Seaboard's failure to notify the state emergency response commissions and local emergency planning committees, in violation of Section 304 of EPCRA, 42 U.S.C. § 11004, at each of the facilities listed in Appendix B; and

e. the civil claims of the United States under section 113(b) of the CAA, 42 U.S.C. § 7413(b), for violating section 113(a)(3) of the CAA, 42 U.S.C. § 7413(a)(3), by failing to comply with the CAA § 114 Air Monitoring Request EPA issued to Seaboard on April 2, 2002.

40. Entry of this Consent Decree also withdraws the CAA § 114 Air Monitoring Request EPA issued to Seaboard Farms, Inc. (now Seaboard Foods LP) and Mission Funding, LLC on April 2, 2002.

41. This Consent Decree shall not be construed to prevent or limit the rights of the United States to obtain penalties or injunctive relief under federal or state laws, regulations, or permit conditions, except as expressly specified herein.

42. Defendant is responsible for achieving and maintaining 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 law or regulation. 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 the law.

43. This Consent Decree does not limit or affect the rights of the Defendant or of the United States 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.

44. 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.

45. The United States reserves all legal and equitable remedies available to enforce

the provisions of this Consent Decree, except as expressly stated herein.

## XII. COSTS / FEES

46. All Parties shall bear their own costs and fees of this action, including attorneys' fees, except that the United States shall be entitled to collect the costs (including attorneys' fees) incurred in any enforcement necessary to collect any portion of the Civil Penalty or, any Stipulated Penalties due but not paid by Defendant.

## XIII. NOTICES AND SUBMITTALS

47. 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:

As to the United States:

Chief, Environmental Enforcement Section  
Environment and Natural Resources Division  
U.S. Department of Justice  
Box 7611 Ben Franklin Station  
Washington, D.C. 20044-7611  
Re: DOJ No. 90-5-1-1-07570

Regional Counsel  
Office of Regional Counsel  
United States Environmental Protection Agency  
Region 6  
1445 Ross Avenue, Suite 1200  
Dallas, Texas 75202-2733

and

Director, Compliance Assurance and Enforcement Division  
United States Environmental Protection Agency  
Region 6  
1445 Ross Avenue, Suite 900  
Dallas, Texas 75202-2733

As to Defendant:

Jennifer Charno Nelson  
Director of Environmental Affairs

Seaboard Foods LP  
9000 W. 67<sup>th</sup> Street, Suite 200  
Shawnee Mission, Kansas 66202

David Becker  
Vice President and General Counsel  
Seaboard Corporation  
9000 W. 67<sup>th</sup> Street, Suite 300  
Shawnee Mission, Kansas 66202

Richard Schwartz  
Crowell & Moring, LLP  
1001 Pennsylvania Ave., NW  
Washington, DC 20004-2595

48. All reports, notifications, communications or submissions made pursuant to this Section shall be sent either by: (a) overnight mail or delivery service; or (b) certified or registered mail, return receipt requested. Such reports, notifications, communications or submissions may also be sent by electronic mail. All reports, notifications, communications and submissions (a) sent by overnight, certified or registered mail shall be deemed submitted on the date they are postmarked; or (b) sent by overnight delivery service shall be deemed submitted on the date they are delivered to the delivery service.

49. Any Party may change either the notice recipient or the address for providing notices to it by serving the other Parties with a notice setting forth such new notice recipient or address.

50. Defendant shall submit each plan, report, or other submission to EPA whenever such a document is required to be submitted for review or approval pursuant to this Consent Decree. The United States may approve the submittal or decline to approve it and provide written comments. Unless otherwise provided, within sixty (60) days of receiving written comments from the United States, Defendant shall either: (a) revise the submittal consistent with the written comments and provide the revised submittal for final approval to the United States,

or (b) submit the matter for dispute resolution, including the period of informal negotiations, under Section IX (Dispute Resolution) of this Consent Decree.

51. Upon receipt of the United States' final approval of the submittal, or upon completion of the submittal pursuant to dispute resolution, Defendant shall implement the approved submittal in accordance with the schedule specified therein.

52. In all instances wherein this Decree requires written submissions to EPA, each submission shall be signed and certified as follows by a duly authorized representative of the Defendant; provided that annual reports, requests for termination of any Appendix or this Consent Decree, and the 21-day written notice of a force majeure event required by Paragraph 24 shall be signed and certified as follows by an official of the Defendant:

To the best of my knowledge, after thorough investigation, I certify that the information contained in or accompanying this submission 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.

Any submissions made pursuant to Section IX (Dispute Resolution) may be signed by an attorney representing the Defendant, and, if so signed, need not be certified.

#### XIV. EFFECTIVE DATE

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

#### XV. RETENTION OF JURISDICTION

54. The Court shall retain jurisdiction of this case after entry of this Consent Decree to enforce compliance with the terms and conditions of this Consent Decree and to take any action necessary or appropriate for its interpretation, construction, execution, modification or adjudication of disputes. During the term of this Consent Decree, either Party to this Consent

Decree may apply to the Court for any relief necessary to construe or effectuate this Consent Decree.

#### XVI. MODIFICATION

55. 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.

56. Once approved by EPA, any work plans required to be submitted pursuant to this Decree, including its Appendices, shall be incorporated by reference into this Decree.

#### XVII. GENERAL PROVISIONS

57. In any subsequent administrative or judicial proceeding initiated by the United States for injunctive relief, civil penalties, other appropriate relief relating to the Defendant's Facilities or Defendant's violations, Defendant shall not assert or maintain any defense or claim based upon the principles of waiver, res judicata, collateral estoppel, issue preclusion, claim-splitting, or other defenses based upon any contention that the claims raised by the United States in the subsequent proceeding were brought or should have been brought, in the instant case, provided, however, that nothing in this Paragraph is intended to affect the enforceability of Section XI (Effect of Settlement).

58. This Consent Decree does not apply to any claim(s) of alleged criminal liability.

59. Each limit and/or other requirement established by or under this Consent Decree is a separate, independent requirement.

#### XVIII. TERMINATION

60. After Defendant has completed performance of all of its obligations under this Consent Decree, or all of its obligations under any single Appendix to this Consent Decree, and has paid the civil penalty and any accrued Stipulated Penalties as required by this Consent

Decree, Defendant may serve upon the United States a Request for Termination, stating that Defendant has completed performance of all those requirements, together with all necessary supporting documentation.

61. Following receipt by the United States 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. If the United States agrees that the entire Decree (save any provisions of the Decree that survive termination) or a specified Appendix thereof, may be terminated, the Parties shall submit, for the Court's approval, a joint stipulation terminating the Consent Decree in full (save any provisions of the Decree that survive termination), or a specified Appendix thereof.

62. If the United States does not agree that the Decree or the specified Appendix may be terminated, Defendant may move the Court for an Order terminating the full Decree or a specified Appendix thereof.

#### XIX. PUBLIC PARTICIPATION

63. The Parties agree and acknowledge that final approval by the United States and entry of this Consent Decree is subject to the procedures of 28 C.F.R. § 50.7, which provides for notice of the lodging of this Consent Decree in the Federal Register, an opportunity for public comment, and the right of the United States to withdraw or withhold consent if the comments disclose facts or considerations which indicate that the Consent Decree is inappropriate, improper or inadequate. Defendant shall not oppose entry of this Consent Decree by this Court or challenge any provision of this Consent Decree unless the United States has notified Defendant, in writing, that the United States no longer supports entry of the Consent Decree. Defendant consents to entry of this Consent Decree without further notice.



## XX. SIGNATORIES / SERVICE

64. The Order of the Environmental Appeals Board, Consent Agreement and Proposed Final Order for Animal Feeding Operations – Seaboard Foods LP (Aug. 21, 2006), provides, inter alia, that “the [Consent Agreement and Proposed Final Order] shall be null and void in its entirety on September 16, 2006, unless, prior to that date, the United States lodges in federal district court one or more proposed Consent Decrees that alone, or in combination, resolve alleged violations of RCRA, the Clean Air Act, the Clean Water Act, CERCLA and EPCRA, at Respondent’s Farms.” In light of this Order, the signatures of the authorized representative of the Defendant affixed hereto, and Defendant’s consent to be bound by this Consent Decree, are valid if and only if this Consent Decree is lodged in this Court no later than September 15, 2006.

65. Each undersigned representative of the Parties certifies that he or she is 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.

66. This Consent Decree may be signed in counterparts, and such counterpart signature pages shall be given full force and effect.

67. 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.

## XXI. INTEGRATION / APPENDICES

68. This Consent Decree and its Appendices constitute the final, complete, and exclusive agreement and understanding among the Parties with respect to the settlement embodied in the Decree and supersede all prior agreements and understandings, whether oral or

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

69. The following appendices are attached to and incorporated into this Consent Decree:

- a. "Appendix A" is entitled "Seaboard Foods' Farms Subject to Certain Construction Stormwater Provisions of this Consent Decree";
- b. "Appendix B" is entitled "Seaboard Foods' Farms Subject to Certain CERCLA and EPCRA Provisions of this Consent Decree";
- c. "Appendix C" is entitled "Construction Storm Water Remedies and Requirements";
- d. "Appendix D" is entitled "Buffer Zone Requirements";
- e. "Appendix E" is entitled "Agri-Waste Technologies Maps."

## XXII. FINAL JUDGMENT

70. Upon approval and entry of this Consent Decree by the Court, this Consent Decree shall constitute the final judgment in the above-captioned matter between the United States and the Defendant.

Dated and entered this \_\_ day of \_\_\_\_\_, 2006.

\_\_\_\_\_  
UNITED STATES DISTRICT JUDGE

THE UNDERSIGNED PARTIES enter into this Consent Decree in the matter of United States v. Seaboard Foods LP, (W.D. Okla.).

FOR THE DEFENDANT, Seaboard Foods LP:

\_\_\_\_\_  
Date

\_\_\_\_\_  
Rod K. Brenneman, President  
Seaboard Foods LP

\_\_\_\_\_  
Date

\_\_\_\_\_  
Richard Schwartz  
Attorney for Seaboard Foods LP  
Crowell & Moring, LLP  
1001 Pennsylvania Ave., NW  
Washington, DC 20004

THE UNDERSIGNED PARTIES enter into this Consent Decree in the matter of United States v. Seaboard Foods LP, (W.D. Okla.).

FOR THE UNITED STATES OF AMERICA:

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SUE ELLEN WOOLDRIDGE  
Assistant Attorney General  
Environmental and Natural Resources Division  
United States Department of Justice  
Washington, DC 20530

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NICOLE VEILLEUX  
Trial Attorney  
Environmental Enforcement Section  
United States Department of Justice  
P.O. Box 7611  
Washington, D.C. 20044-7611

THE UNDERSIGNED PARTIES enter into this Consent Decree in the matter of United States v. Seaboard Foods LP, (W.D. Okla.).

FOR THE UNITED STATES OF AMERICA (continued):

JOHN C. RICHTER  
United States Attorney for Western District of Oklahoma

/s/ Steven K. Mullins

---

STEVEN K. MULLINS, OBA #6504  
Assistant United States Attorney  
210 Park Avenue, Suite 400  
Oklahoma City, OK 73102  
405/553-8804  
Steve.mullins@usdoj.gov

THE UNDERSIGNED PARTIES enter into this Consent Decree in the matter of United States v. Seaboard Foods LP, (W.D. Okla.).

FOR THE UNITED STATES OF AMERICA (continued):

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GRANTA Y. NAKAYAMA  
Assistant Administrator  
Office of Enforcement and Compliance Assurance  
U.S. Environmental Protection Agency

THE UNDERSIGNED PARTIES enter into this Consent Decree in the matter of United States v. Seaboard Foods LP, (W.D. Okla.).

FOR THE UNITED STATES OF AMERICA (continued):

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RICHARD E. GREENE  
Regional Administrator  
U.S. Environmental Protection Agency - Region 6

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF OKLAHOMA

UNITED STATES OF AMERICA            )  
  )  
          Plaintiff                            )  
  )  
                  v.                            )  
  )  
SEABOARD FOODS LP                    )  
  )  
  )  
  )  
                                  Defendant.    )  
\_\_\_\_\_                                  )

**APPENDICES TO CONSENT DECREE**



**APPENDIX A**

<b>SEABOARD FOODS' FARMS SUBJECT TO CERTAIN CONSTRUCTION STORMWATER PROVISIONS OF THIS CONSENT DECREE</b>				
<b>STATE</b>	<b>FARM#</b>	<b>FACILITY</b>	<b>LEGAL DESCRIPTION</b>	<b>COUNTY</b>
OK	284	ALVIE FINISHER	9-T5N-R13E	TEXAS
OK	317	ANDERSON FINISHER	21-T2N-R15E	TEXAS
OK	254	AGUIRRE FINISHER	27-T4N-R17E	TEXAS
OK	230	BALZER FINISHER	6-T3N-R17E	TEXAS
OK	435	BARR FINISHER	NW/4 17-T18N-R7W	KINGFISHER
OK	278	BECKER BEELMAN FINISHER	9-T1N-R17E	TEXAS
OK	211	BEE / JOHNSON FINISHER	20-T6N-R12E	TEXAS
OK	212	BEE / JOHNSON FINISHER	28-T6N-R12E	TEXAS
OK	213	BEE / JOHNSON FINISHER	29-T6N-R12E	TEXAS
OK	152	BEST NURSERY 1	NE/4 21-T19N-R8W	KINGFISHER
OK	153	BEST NURSERY 2	NE/4 21-T19N-R8W	KINGFISHER
OK	289	BORG FINISHER	4-T5N-R13E	TEXAS
OK	330	BRENNEMAN FINISHER	13-T4N-R12E	TEXAS
OK	323	BRIAN DEPUY FINISHER	28-T3N-R18E	TEXAS
OK	61	BROWN SOW	SE/4 12-T19N-R9W	KINGFISHER
OK	62	BRYAN SOW	NW/4 18-T19N-R8W	KINGFISHER
OK	65, 154 & 439	CHOATE SOW	SE/4 3-T19N-R8W	KINGFISHER
OK	43	CLIFF SOW	NE/4 5-T4N-R10E	TEXAS
OK	298	COPPOCK FINISHER	21-T5N-R13E	TEXAS
OK	326	DEPUY TRUST FINISHER	27-T3N-R18E	TEXAS
OK	124	DIXON NURSERY	NE/4 22-T2N-R14E	TEXAS
OK	48	DORMAN SOUTH SOW	SW/4 1-T4N-R21E	BEAVER
OK	49	DORMAN NORTH SOW	NE/4 1-T4N-R21E	BEAVER
OK	63	FAIRVIEW SOW 1	NE/4 34-T21N-R17W	WOODWARD
OK	64	FAIRVIEW SOW 2	SW/4 19-T20N-R13W	MAJOR
OK	155	FAIRVIEW NURSERY 1	E/2, SW/4 30-T20N-R14W	MAJOR
OK	156	FAIRVIEW NURSERY 2	SE/4, NW/4 30-T20N-R14W	MAJOR
OK	157	FAIRVIEW NURSERY 3	NE/4 30-T20N-R14W	MAJOR
OK	158	FAIRVIEW NURSERY 4	NE/4, NW/4 30-T20N-R14W	MAJOR
OK	427	FAIRVIEW FINISHER 1	SW/4 23-T20N-R15W	MAJOR
OK	428	FAIRVIEW FINISHER 2	S/2, NW/4 17-T20N-R15W	MAJOR
OK	429	FAIRVIEW FINISHER 3	N/2 20-T20N-R15W	MAJOR
OK	430	FAIRVIEW FINISHER 4	SW/4, SE/4 17-T22N-R15W	MAJOR
OK	431	FAIRVIEW FINISHER 5	S/2, NW/4 19-T20N-R15W	MAJOR
OK	432	FAIRVIEW FINISHER 6	S/2 19-T20N-R15W	MAJOR
OK	433	FAIRVIEW FINISHER 7	SW/4 20-T20N-R15W	MAJOR
OK	434	FAIRVIEW FINISHER 8	SE/4 20-T20N-R15W	MAJOR
OK	290	FERN FINISHER	3-T5N-R13E	TEXAS
OK	215	FISHER FINISHER	15-T5N-R12E	TEXAS
OK	324	FRIESEN FINISHER	27-T3N-R18E	TEXAS

OK	279	FRIZZEL FINISHER	10-T1N-R17E	TEXAS
OK	125	GALLOWAY NURSERY	SE/4 7-T4N-R12E	TEXAS
OK	123	GARRISON NURSERY	NW/4 5-T1N-R14E	TEXAS
OK	295	GERBER FINISHER	22-T6N-R13E	TEXAS
OK	293	GLORIETA FINISHER	3-T5N-R13E	TEXAS
OK	316	GREEN FINISHER	33-T6N-R13E	TEXAS
OK	425	GRIMES FINISHER	NW/4 T18N-R8W	KINGFISHER
OK	302	GROUNDS FINISHER	14-T5N-R18E	TEXAS
OK	241	HAAR 1 FINISHER	18-T6N-R13E	TEXAS
OK	242	HAAR 2 FINISHER	24-T6N-R12E	TEXAS
OK	245	HAAR 3 FINISHER	20-T6N-R13E	TEXAS
OK	246	HAAR 4 FINISHER	20-T6N-R13E	TEXAS
OK	247	HAAR 5 FINISHER	20-T6N-R13E	TEXAS
OK	248	HAAR 6 FINISHER	25-T6N-R12E	TEXAS
OK	249	HAAR 7 FINISHER	30-T6N-R13E	TEXAS
OK	250	HAAR 8 FINISHER	30-T6N-R13E	TEXAS
OK	251	HAAR 9 FINISHER	31-T6N-R13E	TEXAS
OK	310	HARMON FINISHER	17-T4N-R11E	TEXAS
OK	252	HICKS FINISHER	18-T6N-R13E	TEXAS
OK	122	HILL NURSERY	NW/4 34-T2N-R14E	TEXAS
OK	325	HULL FINISHER	22-T3N-R18E	TEXAS
OK	286	JARVIS FINISHER	9-T5N-R13E	TEXAS
OK	285	JULIAN FINISHER	3-T5N-R13E	TEXAS
OK	44	KENDRA EAST SOW	NE/4 11-T5N-R10E	TEXAS
OK	45	KENDRA WEST SOW	NW/4 11-T5N-R10E	TEXAS
OK	355	LINDSAY FINISHER	2-T3N-R15E	TEXAS
OK	296	LOPEZ FINISHER	3-T5N-R13E	TEXAS
OK	344	LUNDSFORD 1 FINISHER	24-T5N-R18E	TEXAS
OK	345	LUNDSFORD 2 FINISHER	24-T5N-R18E	TEXAS
OK	287	MAGNOLIA FINISHER	22-T6N-R13E	TEXAS
OK	291	MAJOR FINISHER	34-T6N-R13E	TEXAS
OK	342	MCBRIDE FINISHER	36-T5N-R15E	TEXAS
OK	240	MCCRIGHT FINISHER	13-T6N-R12E	TEXAS
OK	426	MILLER FINISHER	NE/4 19-T18N-R7W	KINGFISHER
OK	327	MITCHELL 1 FINISHER	25-T5N-R18E	TEXAS
OK	328	MITCHELL 2 FINISHER	25-T5N-R18E	TEXAS
OK	217	MOUSER 1 FINISHER	15-T6N-R16E	TEXAS
OK	218	MOUSER 2 FINISHER	36-T4N-R16E	TEXAS
OK	329	MULLINS FINISHER	8-T3N-R19E	TEXAS
OK	131	NICHOLS NW NURSERY	SE/4 19-T6N-R24E	BEAVER
OK	132	NICHOLS NE NURSERY	SW/4 19-T6N-R24E	BEAVER
OK	133	NICHOLS WEST NURSERY	SW/4 30-T6N-R24E	BEAVER
OK	134	NICHOLS SW NURSERY	NE/4 36-T6N-R24E	BEAVER
OK	136	NICHOLS EAST CENTRAL	NE/4 30-T6N-R24E	BEAVER
OK	137	NICHOLS SE NURSERY	SE/4 30-T6N-R24E	BEAVER
OK	436	NORRIS GILT	NE/4 18-T19N-R8W	KINGFISHER

OK	297	OPAL FINISHER	3-T5N-R13E	TEXAS
OK	422	PAINE 3 FINISHER	SW/4 11-T18N-R8W	KINGFISHER
OK	423	PAINE 4 FINISHER	NW/4 11-T18N-R8W	KINGFISHER
OK	135	RADCLIFF NURSERY	SE/4 30-T6N-R24E	BEAVER
OK	292	REPUBLIC FINISHER	3-T5N-R13E	TEXAS
OK	299	REUST 3 FINISHER	SE/4 20-T1N-R15E	TEXAS
OK	300	REUST 1 FINISHER	SE/4 19-T1N-R15E	TEXAS
OK	301	REUST 2 FINISHER	NW/4 20-T1N-R15E	TEXAS
OK	338	ROBERTS NORTH FINISHER	29-T6N-R17E	TEXAS
OK	358	RUCKERT FINISHER	28-T5N-R13E	TEXAS
OK	129	SARCHET NURSERY	NW/4 26-T4N-R18E	TEXAS
OK	229	SLATER 1 FINISHER	SE/46-T3N-R17E	TEXAS
OK	231	SLATER 2 FINISHER	SW/4 5-T3N-R17E	TEXAS
OK	233	SLATER 3 FINISHER	NE/4 7-T3N-R17E	TEXAS
OK	255	SLATER 4 FINISHER	NW/4 8-T3N-R17E	TEXAS
OK	256	SLATER 5 FINISHER	SW/4 8-T3N-R17E	TEXAS
OK	257	SLATER 6 FINISHER	NE/4 8-T3N-R17E	TEXAS
OK	313	STEINKOGLER FINISHER	SW/416-T4N-R17E	TEXAS
OK	150	STEWART 1 NURSERY	SW/4 22-T19N-R8W	KINGFISHER
OK	151	STEWART 2 NURSERY	SW/4 22-T19N-R8W	KINGFISHER
OK	420	STEWART1 FINISHER	NE/4 11-T18N-R8W	KINGFISHER
OK	421	STEWART 2 FINISHER	SE/4 11-T18N-R8W	KINGFISHER
OK	353	TUCKER 1 FINISHER	NE/4 24-T6N-R11E	TEXAS
OK	354	TUCKER 2 FINISHER	NE/4 24-T6N-R11E	TEXAS
OK	47	WAKEFIELD NORTH SOW	NE/4 23-T6N-R21E	BEAVER
OK	46	WAKEFIELD SOUTH SOW	SE/4 26-T6N-R21E	BEAVER
OK	126	WATKINS/METCALF NURSERY	NE/4 10-T5N-R15E	TEXAS
OK	424	WATSON FINISHER	SE/4 27-T19N-R8W	KINGFISHER
OK	28	WIEBE SOW	NW/4 3-T5N-R19E	TEXAS
OK	209	WEIBE FINISHER	13-T5N-R18E	TEXAS
OK	346	WRIGHT 1 FINISHER	SW/4 31-T4N-R16E	TEXAS
OK	347	WRIGHT 2 FINISHER	NW/4 36-T4N-R15E	TEXAS
OK	348	WRIGHT 3 FINISHER	SE/4 36-T4N-R15E	TEXAS
OK	349	WRIGHT 4 FINISHER	NW, NE/4 35-T4N-R15E	TEXAS
OK	350	WRIGHT 5 FINISHER	SE, NE/4 35-T4N-R15E	TEXAS
OK	288	ZEIGLER FINISHER	4-T5N-R13E	TEXAS

**APPENDIX B**

<b>SEABOARD FOODS' FARMS SUBJECT TO CERTAIN CERCLA AND EPCRA PROVISIONS OF THIS CONSENT DECREE</b>				
<b>STATE</b>	<b>FARM #</b>	<b>FACILITY</b>	<b>LEGAL DESCRIPTION</b>	<b>COUNTY</b>
CO	26	AI COMPLEX	NE/4, NE/4 13-T9N-R44W	SEDGWICK
CO	27	AI STUD	SW/4, NW/4 5-T4N-R44W	YUMA
CO	118	CARLSON NURSERY	SE/4 35-T10N-R45W	SEDGWICK
CO	100	COOK NURSERY	4-T27N-R41W	PROWERS
CO	201	COOK FINISHER	4-T27N-R41W	PROWERS
CO	116	DEDEN NURSERY	NE/4 13-T9N-R44W	SEDGWICK
CO	55	FARM 55 SOW	SE 21-T6N-R43W	PHILLIPS
CO	56	FARM 56 SOW	SW/4, SE/4 33-T6N-R45W	PHILLIPS
CO	57	FARM 57 SOW	SW/4, SE/4 22-T5N-R45W	YUMA
CO	58	FARM 58 SOW	NW/4, NW/4 23-T5N-R45W	YUMA
CO	59	FARM 59 SOW	NW/4, NW/4 27-T5N-R45W	YUMA
CO	60	FARM 60 SOW	NW/4, NW/4 27-T5N-R45W	YUMA
CO	160	FARM 160 NURSERY	NW/4, NW/4 32-T6N-R43W	PHILLIPS
CO	161	FARM 161 NURSERY	SE/4, NE/4 22-T6N-R45W	PHILLIPS
CO	162	FARM 162 NURSERY	NE/4, SE/4 30-T6N-R44W	PHILLIPS
CO	163	FARM 163 NURSERY	SW/4 25-T5N-R44W	YUMA
CO	164	FARM 164 NURSERY	SE/4, SW/4 5-T4N-R44W	YUMA
CO	165	FARM 165 NURSERY	SE/4, NE/4 8-T4N-R44W	YUMA
CO	166	FARM 166 NURSERY	NE/4, SW/4 4-T4N-R44W	YUMA
CO	167	FARM 167 NURSERY	NW/4, SE/4 32-T5N-R44W	YUMA
CO	440	FARM 440 FINISHER	NW/4, NW/4 20-T6N-R43W	PHILLIPS
CO	441	FARM 441 FINISHER	NE/4, NE/4 9-T6N-R45W	PHILLIPS
CO	442	FARM 442 FINISHER	SW/4, NW/4 19-T6N-R44W	PHILLIPS
CO	443	FARM 443 FINISHER	SW/4, SE/4 13-T5N-R44W	YUMA
CO	444	FARM 444 FINISHER	MW/4, NW/4 2&1-T4N- R45W	YUMA
CO	445	FARM 445 FINISHER	SE/4, SW/4 1-T4N-R45W	YUMA
CO	446	FARM 446 FINISHER	SW/4, SW/4 34-T5N-R45W	YUMA
CO	447	FARM 447 FINISHER	NE/4, NW/4 6-T4N-R44W	YUMA
CO	448	FARM 448 FINISHER	SE/4, NW/4 35-T5N-R45W	YUMA
CO	24	FLAHARTY SOW	S/2 19-T10N-R44W	SEDGWICK
CO	449	GILT ISOLATION	SE/4, SW/4 27-T5N-R45W	YUMA
CO	23	KINNIE SOW	SE/4 32-T10N-R43W	SEDGWICK

<b>STATE</b>	<b>FARM #</b>	<b>FACILITY</b>	<b>LEGAL DESCRIPTION</b>	<b>COUNTY</b>
CO	117	KINNIE NURSERY	SE1/4 17-T10N-R45W	SEDGWICK
CO	277	KINNIE FINISHER	W/2 17-T10N-R45W	SEDGWICK
CO	276	LIND FINISHER	NE/2 12-T9N-R46W	SEDGWICK
CO	25	RICKER SOW	E/2 1-T9N-R45W	SEDGWICK
CO	21	SCHULER SOW	SW/4 32-T10N-R43W	SEDGWICK
CO	20	STRASSER SOW	SE/4 1-T9N-R44W	SEDGWICK
CO	22	STRETESKY SOW	NE/4 28-T10N-R44W	SEDGWICK
KS	67	BEACHNER BOAR STUD	14-T33S-R43W	MORTON
KS	3	BREEDING SOW	SW/4 29-T31S-R40W	MORTON
KS	4	BREEDING SOW	W/2 21-T31S-R40W	MORTON
KS	5	BREEDING SOW	SW/4 28-T31S-R40W	MORTON
KS	6	BREEDING SOW	NE/4 33-T31S-R40W	MORTON
KS	7	BREEDING SOW	NW/4 27-T31S-R40W	MORTON
KS	214	CALVIN NORTH FINISHER	33-T34S-R40W	MORTON
KS	216	CALVIN SOUTH FINISHER	33-T34S-R40W	MORTON
KS	227	COEN 1 FINISHER	W/2 18-T34S-R40W	MORTON
KS	228	COEN 2 FINISHER	W/2 18-T34S-R40W	MORTON
KS	1	COOK SOW	8-T27S-R43W	STANTON
KS	200	COOK FINISHER	9-T27S-R43W	STANTON
KS	127	DUNN NURSERY	SE/4 6-T32S-R40W	MORTON
KS	221	FETERITA FINISHER	36-T33S-R39W	STEVENS
KS	223	FETERITA FINISHER	SE 25-T33S-R39W	STEVENS
KS	225	FETERITA FINISHER	30-T33S-R38W	STEVENS
KS	258	HOLCOMB FINISHER	9-T34S-R38W	STEVENS
KS	210	IVAN SOUTH	SE/4 28-T34S-R40W	MORTON
KS	259	JAMES FINISHER	24-T33S-R39W	STEVENS
KS	101	LIGHT NURSERY 1	SW/4 11-T32S-R40W	MORTON
KS	102	LIGHT NURSERY 2	SW/4 11-T32S-R40W	MORTON
KS	103	LIGHT NURSERY 3	NW/4 11-T32S-R40W	MORTON
KS	104	LIGHT NURSERY 4	NW/4 14-T32S-R40W	MORTON
KS	105	LIGHT NURSERY 5	SE/4 15-T32S-R40W	MORTON
KS	106	LIGHT NURSERY 6	NW/4 15-T32S-R40W	MORTON
KS	107	LIGHT NURSERY 7	NW/4 14-T32S-R40W	MORTON
KS	208	PERKINS	NE/4 28-T34S-R40W	MORTON
KS	12	SCHMIDT SOW	NW/4 33-T31S-R39W	MORTON

<b>STATE</b>	<b>FARM #</b>	<b>FACILITY</b>	<b>LEGAL DESCRIPTION</b>	<b>COUNTY</b>
KS	13	SCHMIDT SOW	NE/4 34-T31S-R39W	STEVENS
KS	14	SCHMIDT SOW	NE/4 33-T31S-R39W	MORTON
KS	15	SCHMIDT SOW	NW/4 25-T31S-R39W	STEVENS
KS	16	SCHMIDT SOW	W/2 30-T31S-R38W	STEVENS
KS	2	SHORE AI	NW/4 5-T31S-R40W	MORTON
KS	9	SHORE AI	SE/4 2-T31S-R40W	MORTON
KS	10	SHORE SOW	NE/4 12-T30S-R40W	STANTON
KS	108	SHORE NURSERY	21-T30S-R40W	STANTON
KS	238	SHORE FINISHER	8-T30S-R40W	STANTON
KS	239	SHORE FINISHER	8-T30S-R40W	STANTON
KS	202	THOMASON FINISHER	23-T34S-R41W	MORTON
KS	203	THOMASON FINISHER	26-T34S-R41W	MORTON
KS	204	THOMASON FINISHER	26-T34S-R41W	MORTON
KS	205	THOMASON FINISHER	26-T34S-R41W	MORTON
KS	206	THOMASON FINISHER	26-T34S-R41W	MORTON
KS	207	THOMASON FINISHER	26-T34S-R41W	MORTON
KS	109	TUTTLE NURSERY	S/2 9-T30S-R37W	GRANT
KS	110	TUTTLE NURSERY	S/2 16-T30S-R37W	GRANT
KS	111	TUTTLE NURSERY	SE/4-22-T30S-R37W	GRANT
KS	112	TUTTLE NURSERY	SW/4 22-T30S-R37W	GRANT
KS	113	TUTTLE NURSERY	NE/4 33-T30S-R38W	GRANT
KS	114	TUTTLE NURSERY	NE/4 3-T31S-R38W	GRANT
KS	115	TUTTLE NURSERY	NW/4 15-T30S-R37W	GRANT
KS	128	TUTTLE NURSERY	SE/4 15-T30S-R37W	GRANT
KS	8	WALKER ISOLATION	SW/4 7-T28S-R42W	STANTON
KS	68	WILLIAMS ISOLATION UNIT	1-T32S-R42W	MORTON
OK	284	ALVIE FINISHER	9-T5N-R13E	TEXAS
OK	317	ANDERSON FINISHER	21-T2N-R15E	TEXAS
OK	254	AGUIRRE FINISHER	27-T4N-R17E	TEXAS
OK	230	BALZER FINISHER	6-T3N-R17E	TEXAS
OK	435	BARR FINISHER	NW/4 17-T18N-R7W	KINGFISHER
OK	119	BECKER NURSERY	NW/4 17-T1N-R17E	TEXAS
OK	212	BEE / JOHNSON FINISHER	28-T6N-R12E	TEXAS
OK	213	BEE / JOHNSON FINISHER	29-T6N-R12E	TEXAS

<b>STATE</b>	<b>FARM #</b>	<b>FACILITY</b>	<b>LEGAL DESCRIPTION</b>	<b>COUNTY</b>
OK	152	BEST NURSERY 1	NE/4 21-T19N-R8W	KINGFISHER
OK	153	BEST NURSERY 2	NE/4 21-T19N-R8W	KINGFISHER
OK	66	BOAR STUD	SE/4 10-T19N-R8EW	KINGFISHER
OK	289	BORG FINISHER	4-T5N-R13E	TEXAS
OK	330	BRENNEMAN FINISHER	13-T4N-R12E	TEXAS
OK	323	BRIAN DEPUY FINISHER	28-T3N-R18E	TEXAS
OK	61	BROWN SOW	SE/4 12-T19N-R9W	KINGFISHER
OK	62	BRYAN SOW	NW/4 18-T19N-R8W	KINGFISHER
OK	159-1	BULLIS NURSERY	30-T20N-R7W	BULLIS
OK	65	CHOATE SOW	SE/4 3-T19N-R8W	KINGFISHER
OK	43	CLIFF SOW	NE/4 5-T4N-R10E	TEXAS
OK	298	COPPOCK FINISHER	21-T5N-R13E	TEXAS
OK	326	DEPUY TRUST FINISHER	27-T3N-R18E	TEXAS
OK	38	DIXON SOW	SE/4 22-T2N-R15E	TEXAS
OK	124	DIXON NURSERY	NE/4 22-T2N-R14E	TEXAS
OK	48	DORMAN SOUTH SOW	SE/4 1-T4N-R21E	BEAVER
OK	49	DORMAN NORTH SOW	NW/4 2-T4N-R21E	BEAVER
OK	63	FAIRVIEW SOW 1	NE/4 34-T21N-R17W	WOODWARD
OK	64	FAIRVIEW SOW 2	SW/4 19-T20N-R13W	MAJOR
OK	155	FAIRVIEW NURSERY 1	E/2, SW/4 30-T20N-R14W	MAJOR
OK	156	FAIRVIEW NURSERY 2	SE/4, NW/4 30-T20N-R14W	MAJOR
OK	157	FAIRVIEW NURSERY 3	NE/4 30-T20N-R14W	MAJOR
OK	158	FAIRVIEW NURSERY 4	NE/4, NW/4 30-T20N-R14W	MAJOR
OK	427	FAIRVIEW FINISHER 1	SW/4 23-T20N-R15W	MAJOR
OK	428	FAIRVIEW FINISHER 2	S/2, NW/4 17-T20N-R15W	MAJOR
OK	429	FAIRVIEW FINISHER 3	N/2 20-T20N-R15W	MAJOR
OK	430	FAIRVIEW FINISHER 4	SW/4, SE/4 17-T22N-R15W	MAJOR
OK	431	FAIRVIEW FINISHER 5	S/2, NW/4 19-T20N-R15W	MAJOR
OK	432	FAIRVIEW FINISHER 6	S/2 19-T20N-R15W	MAJOR
OK	433	FAIRVIEW FINISHER 7	SW/4 20-T20N-R15W	MAJOR
OK	434	FAIRVIEW FINISHER 8	SE/4 20-T20N-R15W	MAJOR
OK	290	FERN FINISHER	3-T5N-R13E	TEXAS
OK	215	FISHER FINISHER	15-T5N-R12E	TEXAS
OK	41	FLANAGAN SOW	NW/4 31-T1N-R13E	TEXAS
OK	324	FRIESEN FINISHER	21-T3N-R18E	TEXAS

<b>STATE</b>	<b>FARM #</b>	<b>FACILITY</b>	<b>LEGAL DESCRIPTION</b>	<b>COUNTY</b>
OK	279	FRIZZEL FINISHER	10-T1N-R17E	TEXAS
OK	125	GALLOWAY NURSERY	SE/4 7-T4N-R12E	TEXAS
OK	123	GARRISON NURSERY	NW/4 5-T1N-R14E	TEXAS
OK	295	GERBER FINISHER	22-T6N-R13E	TEXAS
OK	293	GLORIETA FINISHER	3-T5N-R13E	TEXAS
OK	316	GREEN FINISHER	33-T6N-R13E	TEXAS
OK	425	GRIMES FINISHER	NW/4 T18N-R8W	KINGFISHER
OK	302	GROUNDS FINISHER	14-T5N-R18E	TEXAS
OK	241	HAAR 1 FINISHER	18-T6N-R13E	TEXAS
OK	242	HAAR 2 FINISHER	24-T6N-R12E	TEXAS
OK	245	HAAR 3 FINISHER	20-T6N-R13E	TEXAS
OK	246	HAAR 4 FINISHER	20-T6N-R13E	TEXAS
OK	247	HAAR 5 FINISHER	20-T6N-R13E	TEXAS
OK	248	HAAR 6 FINISHER	25-T6N-R12E	TEXAS
OK	249	HAAR 7 FINISHER	30-T6N-R13E	TEXAS
OK	250	HAAR 8 FINISHER	30-T6N-R13E	TEXAS
OK	251	HAAR 9 FINISHER	31-T6N-R13E	TEXAS
OK	310	HARMON FINISHER	17-T4N-R11E	TEXAS
OK	252	HICKS FINISHER	18-T6N-R13E	TEXAS
OK	122	HILL NURSERY	NW/4 34-T2N-R14E	TEXAS
OK	42	HIXON SOW	NE/4 11-T4N-R10E	TEXAS
OK	325	HULL FINISHER	22-T3N-R18E	TEXAS
OK	286	JARVIS FINISHER	9-T5N-R13E	TEXAS
OK	37	JEFFUS SOW	NW/4 23-T2N-R15E	TEXAS
OK	159-2	JULES NURSERY	34-T19N-R7W	KINGFISHER
OK	285	JULIAN FINISHER	3-T5N-R13E	TEXAS
OK	33	KAUFFMAN SOW	NW/4 1-T2N-R16E	TEXAS
OK	44	KENDRA EAST SOW	NE/4 11-T5N-R10E	TEXAS
OK	45	KENDRA WEST SOW	NW/4 11-T5N-R10E	TEXAS
OK	355	LINDSAY FINISHER	2-T3N-R15E	TEXAS
OK	356	LINDSAY FINISHER	2-T3N-R15E	TEXAS
OK	40	LONG SOW	NW/4 27-T4N-R11E	TEXAS
OK	296	LOPEZ FINISHER	3-T5N-R13E	TEXAS
OK	344	LUNDSFORD FINISHER	24-T5N-R18E	TEXAS
OK	345	LUNDSFORD FINISHER	24-T5N-R18E	TEXAS



<b>STATE</b>	<b>FARM #</b>	<b>FACILITY</b>	<b>LEGAL DESCRIPTION</b>	<b>COUNTY</b>
OK	287	MAGNOLIA FINISHER	22-T6N-R13E	TEXAS
OK	291	MAJOR FINISHER	34-T6N-R13E	TEXAS
OK	159-3	MATOUSEK NURSERY	26-T20N-R8W	GARFIELD
OK	342	MCBRIDE FINISHER	36-T5N-R15E	TEXAS
OK	240	MCCRIGHT FINISHER	13-T6N-R12E	TEXAS
OK	34	MCGARROUGH 1 SOW	NW/4 11-T5N-R15E	TEXAS
OK	35	MCGARROUGH 2 SOW	NE/4 11-T5N-R15E	TEXAS
OK	426	MILLER FINISHER	NE/4 19-T18N-R7W	KINGFISHER
OK	327	MITCHELL 1 FINISHER	25-T5N-R18E	TEXAS
OK	328	MITCHELL 2 FINISHER	25-T5N-R18E	TEXAS
OK	121	MORRIS NURSERY	SE/4 9-T4N-R12E	TEXAS
OK	217	MOUSER 1 FINISHER	15-T6N-R16E	TEXAS
OK	218	MOUSER 2 FINISHER	36-T4N-R16E	TEXAS
OK	329	MULLINS FINISHER	8-T3N-R19E	TEXAS
OK	131	NICHOLS NW NURSERY	SE/4 19-T6N-R24E	BEAVER
OK	132	NICHOLS NE NURSERY	NW/4 19-T6N-R24E	BEAVER
OK	133	NICHOLS WEST NURSERY	SW/4 30-T6N-R24E	BEAVER
OK	134	NICHOLS SW NURSERY	NE/4 30-T6N-R24E	BEAVER
OK	136	NICHOLS EAST CENTRAL	NE/4 30-T6N-R24E	BEAVER
OK	137	NICHOLS SE NURSERY	SE/4 30-T6N-R24E	BEAVER
OK	436	NORRIS FINISHER	NE/4 18-T19N-R8W	KINGFISHER
OK	30	OAKES GENETIC SOW	NE/4 17-T2N-R13E	TEXAS
OK	297	OPAL FINISHER	3-T5N-R13E	TEXAS
OK	437	P&K OKEENE (Pavlu leased site)	SE/4 5-T18N-R10W	BLAINE
OK	422	PAINE 3 FINISHER	SW/4 11-T18N-R8W	KINGFISHER
OK	423	PAINE 4 FINISHER	NW/4 11-T18N-R8W	KINGFISHER
OK	135	RADCLIFF NURSERY	SE/4 30-T6N-R24E	BEAVER
OK	292	REPUBLIC FINISHER	3-T5N-R13E	TEXAS
OK	299	REUST 3 FINISHER	SE/4 20-T1N-R15E	TEXAS
OK	300	REUST 1 FINISHER	SE/4 19-T1N-R15E	TEXAS
OK	301	REUST 2 FINISHER	NW/4 20-T1N-R15E	TEXAS
OK	337	ROBERTS SOUTH FINISHER	7-T5N-R17E	TEXAS
OK	338	ROBERTS NORTH FINISHER	29-T6N-R17E	TEXAS
OK	358	RUCKERT FINISHER	28-T5N-R13E	TEXAS
OK	129	SARCHET NURSERY	NW/4 26-T4N-R18E	TEXAS

<b>STATE</b>	<b>FARM #</b>	<b>FACILITY</b>	<b>LEGAL DESCRIPTION</b>	<b>COUNTY</b>
OK	36	SCHNACKENBERG SOW	NE/4 29-T4N-R17E	TEXAS
OK	229	SLATER 1 FINISHER	6-T3N-R17E	TEXAS
OK	231	SLATER 2 FINISHER	SW/4 5-T3N-R17E	TEXAS
OK	233	SLATER 3 FINISHER	NW/4 7-T3N-R17E	TEXAS
OK	255	SLATER 4 FINISHER	NE/4 8-T3N-R17E	TEXAS
OK	256	SLATER 5 FINISHER	SW/4 8-T3N-R17E	TEXAS
OK	257	SLATER 6 FINISHER	NE/4 8-T3N-R17E	TEXAS
OK	313	STEINKOGLER FINISHER	16-T4N-R17E	TEXAS
OK	150	STEWART 1 NURSERY	SW/4 22-T19N-R8W	KINGFISHER
OK	151	STEWART 2 NURSERY	SW/4 21-T19N-R8W	KINGFISHER
OK	420	STEWART1 FINISHER	NE/4 11-T18N-R8W	KINGFISHER
OK	421	STEWART 2 FINISHER	SE/4 11-T18N-R8W	KINGFISHER
OK	353	TUCKER 1 FINISHER	19-T6N-R11E	TEXAS
OK	354	TUCKER 2 FINISHER	24-T6N-R11E	TEXAS
OK	46	WAKEFIELD NORTH SOW	SE/4 23-T6N-R21E	BEAVER
OK	47	WAKEFIELD SOUTH SOW	NE/4 23-T6N-R21E	BEAVER
OK	126	WATKINS/METCALF NURSERY	NE/4 10-T5N-R15E	TEXAS
OK	424	WATSON FINISHER	SE/4 27-T19N-R8W	KINGFISHER
OK	120	WATSON NURSERY	SW/4 9-T5N-R16E	TEXAS
OK	28	WIEBE SOW	NW/4 3-T5N-R19E	TEXAS
OK	209	WEIBE FINISHER	13-T5N-R18E	TEXAS
OK	346	WRIGHT 1 FINISHER	SW/4 31-T4N-R16E	TEXAS
OK	347	WRIGHT 2 FINISHER	NW/4 36-T4N-R15E	TEXAS
OK	348	WRIGHT 3 FINISHER	SE/4 36-T4N-R15E	TEXAS
OK	349	WRIGHT 4 FINISHER	NW, NE/4 35-T4N-R15E	TEXAS
OK	350	WRIGHT 5 FINISHER	NE/4 35-T4N-R15E	TEXAS
OK	288	ZEIGLER FINISHER	4-T5N-R13E	TEXAS
TX	305	ABERNATHY FINISHER	7-T2-PFSL	HANSFORD
TX	306	BATEMAN FINISHER	7-T2-PFSL	HANSFORD
TX	308	FREELAND FINISHER	14-T2-SA&MGRR	HANSFORD
TX	307	MULL FINISHER	14-T2-SA&MGRR	HANSFORD
TX	304	WHEELOCK FINISHER	6-T2-PFSL	HANSFORD
TX	303	WHITAKER FINISHER	7-T2-PFSL	HANSFORD

## APPENDIX C:

### CONSTRUCTION STORM WATER REMEDIES AND REQUIREMENTS

In compliance with and in addition to the requirements in the Consent Decree in United States v. Seaboard Foods LP, Defendant Seaboard Foods LP (“Seaboard”) shall comply with the requirements of this Appendix to control stormwater runoff from its construction activities and stabilize the areas identified at the Farms specifically named herein, as provided below.

#### I. FUTURE CONSTRUCTION

1. At any new or existing Seaboard Farm or Facility (including, but not limited to, those listed in Appendix A), for five years after entry of this Consent Decree, Seaboard shall apply for and comply with the terms of the Construction General Permit for any construction that disturbs an area greater than one acre, regardless of whether the construction is likely to result in a discharge to a water of the United States.

#### II. INDIVIDUAL REQUIREMENTS FOR SPECIFIC SEABOARD FARMS

1. At each of the farms listed below, Seaboard shall perform the site-specific tasks set forth herein.
2. Seaboard shall complete all tasks specified, including tasks involving seeding (but excluding the tasks described in Paragraph 4, below), for each listed farm by no later than November 1, 2006.
3. Where the specific requirements or tasks listed below require Seaboard to “seed,” “re-seed” or “overseed” an area, Seaboard shall take all reasonable steps necessary to establish 70 percent perennial vegetative coverage relative to native background coverage, and measure the percent coverage as described in Paragraph 4 below. Reasonable steps shall include, but not be limited to, seeding and initial irrigation to encourage germination and plant growth.
4. Where the specific requirements or tasks listed below require Seaboard to “seed,” “re-seed” or “overseed” an area, Seaboard shall measure the percent coverage, using the Point Intercept Method, no later than November 1, 2008, and report results to EPA. If the desired 70 percent perennial vegetative coverage has not been established at that time, Seaboard shall undertake additional steps to establish cover, if appropriate, and conduct a follow-up coverage measurement (using the same method) between six and eight months thereafter to determine coverage, and report results to EPA. At least 21 days prior to each such measurement, Seaboard shall provide notice to EPA of its intent to take such measurement to afford EPA an opportunity to be present.

#### Dorman Sow South (Farm 48). Seaboard shall:

1. Seed the areas surrounding the old waste treatment system that were disturbed during the closure process and the northeast corner of the old secondary lagoon.
2. Install silt fencing around the downgradient perimeter of any newly seeded areas and maintain it until 70 percent perennial vegetative coverage relative to native

background coverage has been established, or until three years after entry of this Decree, whichever is earlier.

3. Redirect drainage from the southeast corner of the site to the former primary treatment lagoon that will be converted to a sediment basin.
4. Gravel the area on west end of the breeding and gestation barns.

**Dorman Sow North (Farm 49).** Seaboard shall:

1. Over-seed the area east of buildings between the building pad and the storm water catchment basin.
2. Install silt fencing around the downgradient perimeter of newly seeded areas, if any.

**Wakefield Sow South (Farm 46).** Seaboard shall:

1. Install sufficient 6” to 8” rock material (“rip rap”) at the entrance to the stormwater catchment basin to prevent erosion of the basin’s berm.
2. Install sufficient rip rap where pipes enter the constructed drainage way that leads to the stormwater catchment basin to protect against erosion.

**Wakefield Sow North (Farm 47).** Seaboard shall:

1. Over-seed the areas around all lagoons and the soil stockpile (after use of stockpile ceases).
2. Install silt fencing around the downgradient perimeter of any newly seeded areas and maintain it until 70 percent perennial vegetative coverage relative to native background coverage has been established, or until three years after entry of this Decree, whichever is earlier.
3. Install at the north end of the barn complex: silt fencing, rip-rap, or hay bales (or any combination thereof) sufficient to minimize soil runoff by reducing the velocity of water flowing to the west.

**Nichols Southeast Nursery (Farm 137).** Seaboard shall:

1. Re-seed the original construction cut area on the west side of the farm, the tops of the lagoon berms, and a strip running the length of the south end of the lagoon and north end of the barn. Overseed the southeast corner of the farm, between the driveway and the south and east property boundaries.
2. Install silt fencing around the downgradient perimeter of any newly seeded areas, and along the southeast property boundary, from the driveway to the southeast corner of the property, and approximately 100' north along the fenceline. Maintain such fencing until 70 percent perennial vegetative coverage relative to native

background coverage has been established in this area, or until three years after entry of this Decree, whichever is earlier.

**Nichols East Central Nursery (Farm 136).** Seaboard shall:

1. Over-seed the west side of the driveway at the farm entrance, around the tops of the lagoon berms, and the slope of the north end of the lagoon toward the fence.
2. Install silt fencing around the downgradient perimeter of any newly seeded areas, and maintain it until 70 percent perennial vegetative coverage relative to native background coverage has been established, or until three years after entry of this Decree, whichever is earlier.
3. Replace the drainage culvert located in the southeast of the farm and install sufficient rip rap around the culvert to protect against erosion.

**Galloway Nursery (Farm 125).** Seaboard shall:

1. Over-seed the lagoon berms and areas around and in between the barns.
2. Install silt fencing around the downgradient perimeter of any newly seeded areas, and maintain it until 70 percent perennial vegetative coverage relative to native background coverage has been established, or until three years after entry of this Decree, whichever is earlier.
3. Install sufficient rip rap around the drainage culvert located on the south end of the farm to protect against erosion between the lagoon and barns.
4. Create gravel driveway on east end of the building pad and re-seed the area east of that driveway area. In creating new gravel driveway, reduce the width of the driveway to the maximum extent practical, consistent with the operational needs of the farm.
5. Create sediment pond on southeast corner of site between the building pad, the driveway, and the road.

**Brenneman Finisher (Farm 330).** Seaboard shall:

1. Over-seed the areas around and in between the barns and on the lagoon berms.
2. Install silt fencing around the downgradient perimeter of any newly seeded areas, and maintain it until 70 percent perennial vegetative coverage relative to native background coverage has been established, or until three years after entry of this Decree, whichever is earlier.
3. Install a new drainage culvert on the north end of the farm between the lagoon and the barns and install sufficient rip rap around the new culvert and around the existing culvert to protect against erosion.
4. Reduce the width of the driveway to the maximum extent practical, consistent with the operational needs of the farm.

**Ruckert Finisher (Farm 358).** Seaboard shall:

1. Over-seed the areas around and in between the barns and on the lagoon berms.
2. Install silt fencing around the downgradient perimeter of any newly seeded areas and maintain it until 70 percent perennial vegetative coverage relative to native background coverage has been established, or until three years after entry of this Decree, whichever is earlier.
3. Install a new drainage culvert on the south end of the farm between the lagoon and the barns and install sufficient rip rap around the new culvert to protect against erosion.
4. Reduce the width of the driveway to the maximum extent practical, consistent with the operational needs of the farm.
5. Install sufficient rip rap at the south edge of the driveway to reduce to appropriate rates the overland flow velocity from the parking lot and barns.

**Mitchell I Finisher (Farm 327).** Seaboard shall:

1. Re-seed the areas around and in between the barns and on the tops of the lagoon berms.
2. Install silt fencing around the downgradient perimeter of any newly seeded areas and maintain it until 70 percent perennial vegetative coverage relative to native background coverage has been established, or until three years after entry of this Decree, whichever is earlier.
3. Install sufficient rip rap around drainage areas located to the north and south between the lagoon and the barns to protect against erosion.

**Mitchell II Finisher (Farm 328).** Seaboard shall:

1. Re-seed the areas around and in between the barns and on the tops of the lagoon berms.
2. Install silt fencing around the downgradient perimeter of any newly seeded areas and maintain it until 70 percent perennial vegetative coverage relative to native background coverage has been established, or until three years after entry of this Decree, whichever is earlier.
3. Install sufficient rip rap around the drainage area located to the south, between the lagoon and barns, to protect against erosion.

**Grounds Finisher (Farm 302).** Seaboard shall:

1. Re-seed the areas around and in between the barns and on the tops of the lagoon berms.

2. Install silt fencing around the downgradient perimeter of any newly seeded areas and maintain it until 70 percent perennial vegetative coverage relative to native background coverage has been established, or until three years after entry of this Decree, whichever is earlier.
3. Install sufficient rip-rap around the drainage area located to the south between the lagoon and barns to protect against erosion.

**Lundsford I Finisher (Farm 344).** Seaboard shall:

1. Re-seed the tops of the lagoon berms and over-seed in between the barns.
2. Install silt fencing around the downgradient perimeter of any newly seeded areas and maintain it until 70 percent perennial vegetative coverage relative to native background coverage has been established, or until three years after entry of this Decree, whichever is earlier.
3. Install sufficient rip rap around drainage areas, in between the lagoon and the barns, to protect against erosion.

**Lundsford II Finisher (Farm 345).** Seaboard shall:

1. Re-seed the tops of the lagoon berms and over-seed in between the barns.
2. Install silt fencing around the downgradient perimeter of any newly seeded areas and maintain it until 70 percent perennial vegetative coverage relative to native background coverage has been established, or until three years after entry of this Decree, whichever is earlier.
3. Install sufficient rip rap around drainage areas and in between the lagoon and the barns to protect against erosion.

**Wiebe Finisher (Farm 209).** Seaboard shall:

1. Over-seed the outside edge of the farm driveway, between the barns, and on the tops of the lagoon berms.
2. Install silt fencing around the downgradient perimeter of any newly seeded areas and maintain it until 70 percent perennial vegetative coverage relative to native background coverage has been established, or until three years after entry of this Decree, whichever is earlier.

**McBride Finisher (Farm 342).** Seaboard shall:

1. Over-seed the lagoon berms, in between the barns, and the south end of the barn complex.
2. Install silt fencing around the downgradient perimeter of any newly seeded areas and maintain it until 70 percent perennial vegetative coverage relative to native background coverage has been established, or until three years after entry of this Decree, whichever is earlier.

3. Install sufficient rip rap around drainage area located to the south between the lagoon and the barns to protect against erosion.
4. Install sufficient rip rap on the southeast edge of the parking area to reduce water velocity flow from the southeast parking area.
5. Reduce the width of the driveway consistent with the operational need of the farm.



## **APPENDIX D: BUFFER ZONE REQUIREMENTS**

In compliance with and in addition to the requirements in the Consent Decree in United States v. Seaboard Foods LP, Defendant Seaboard Foods LP (“Seaboard”) shall comply with the requirements of this Appendix, for five years from the effective date of this Consent Decree, to ensure that vegetative buffer zones are established and maintained at each of the specifically named farms below.

### **I. VEGETATIVE BUFFER ZONES AT SPECIFIC SEABOARD FARMS**

1. Seaboard shall establish and maintain a 35-foot perennial vegetative buffer zone around each of the wet depressional areas<sup>1</sup> that is identified in the Agri-Waste Technologies (“AWT”) maps in Appendix E for the following farms:
  - a) Choate (Farms 65, 154, and 439); SE/4 Section 3 and E/2 Section 10-T19N-R8W in Kingfisher County, Oklahoma;
  - b) Stewart Nurseries (Farms 150 and 151); SW/4 Section 22-T19N-R8W in Kingfisher County, Oklahoma;
  - c) Payne/Stewart Finishers (Farms 420-423); Section 11-T18N-R8W in Kingfisher County, Oklahoma;
  - d) Bryan Sow and Norris (Farms 62 and 436); N/2 Section 18-T19N-R8W in Kingfisher County, Oklahoma;
  - e) Best Nurseries 1 & 2 (Farms 152 & 153); NE/4 Section 21-T19N-R8W in Kingfisher County, Oklahoma;
  - f) Watson Finisher (Farm 424); SE/4 Section 27-T19N-R8W in Kingfisher County, Oklahoma;
  - g) Grimes Finisher (Farm 425); NW/4 Section 2-T18N-R8W in Kingfisher County, Oklahoma and
  - h) Barr Finisher (Farm 435); NW/4 Section 17-T18N-R7W in Kingfisher County, Oklahoma.

### **II. GENERAL REQUIREMENTS FOR EACH VEGETATIVE BUFFER ZONE**

For each wet depressional area around which Seaboard is required to establish and maintain a thirty-five foot (35') vegetative buffer zone, Seaboard shall:

1. No later than 30 days after entry, replace all wooden stakes that were initially placed to mark the 35' buffer zones (during the March, 2005 inspection conducted by Carl Wills, hereinafter referred to as the “March 2005 field delineations”) at twenty-foot intervals with more permanent steel T-posts.
2. Unless 70 percent perennial vegetative cover relative to native background coverage is already established, utilize a no-till seeder to seed the area between the perimeter of the wet depressional area and the buffer stakes with a native grass mixture (designed for buffer strips around wet depressional areas) so as to establish and maintain perennial

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<sup>1</sup> Defendant Seaboard contends that the areas described in this Appendix are not jurisdictional wetlands. For purposes of this Consent Decree, EPA takes no position on whether the areas described below are jurisdictional wetlands under the Clean Water Act. Accordingly, this Appendix refers to such areas as “wet depressional areas.”

vegetative coverage of no less than 70 percent, relative to native background vegetative cover.

3. For each required buffer zone, Seaboard shall measure the percent coverage annually, using the Point Intercept Method, beginning one year after entry of the Consent Decree, and report results to EPA. If the required 70 percent perennial vegetative coverage has not been established, Seaboard shall undertake additional reasonable steps to establish cover (including but not limited to watering, tending and re-seeding), and conduct a follow-up coverage measurement at least annually, and report results to EPA.
4. Seaboard shall take reasonable steps to establish the required coverage by April 30, 2007, and to maintain such coverage thereafter, for five years from the effective date of this Decree or until the surrounding areas permanently cease receiving effluent or other material by any form of land application, whichever is sooner.
5. Seaboard shall not land apply effluent on the designated wet depressional areas or on the buffer strips at any of the above-named farms or, with respect to the Brown Sow facility (Farm 61) (SE/4 of Section 12-T19N-R9W in Kingfisher County, Oklahoma), on the wet depressional areas indicated on the AWT map of this facility included in Appendix E.

### **III. USE OF IRRIGATION & OTHER IMPLEMENTS IN WET DEPRESSIONAL AREAS**

1. Seaboard shall not permit any irrigation pivot wheel or other irrigation implement or other heavy equipment to travel through the wet depressional areas depicted in the maps provided in Appendix E, unless:
  - (a) Such wet depressional area is surrounded by a 35' vegetative buffer zone, and
  - (b) For each wet depressional area at issue, Seaboard has:
    1. installed a permeable underlayment in the wet depressional area and in the area of the 35' buffer strip where the pivot wheels or other irrigation implement would track through the wet depressional area and buffer, and covered such underlayment with clean, large diameter rocks (large enough to allow the flow of water back and forth). Such underlayment shall be wide enough to support a rock pile approximately three feet wide (or wider if warranted by the irrigation implement). The rock depth shall be high enough to keep the pivot wheels or other irrigation implement out of the water in the wet depressional area; and
    2. verified that there are ball valves on the pivot drops that travel over the wet depressional areas and the 35' buffer strips around them so as to prevent application of effluent or other land application material upon the wet depressional area and its buffer zone.

## **APPENDIX E:**

### **AGRI-WASTE TECHNOLOGIES MAPS**

Agri-Waste Technologies Maps for the following farms:

- a) Choate (Farms 65, 154, and 439) in Kingfisher County, Oklahoma;
- b) Stewart Nurseries (Farms 150 and 151) in Kingfisher County, Oklahoma;
- c) Payne/Stewart Finishers (Farms 420-423) in Kingfisher County, Oklahoma;
- d) Bryan Sow and Norris (Farms 62 and 436) in Kingfisher County, Oklahoma;
- e) Best Nurseries 1 & 2 (Farms 152 & 153) in Kingfisher County, Oklahoma;
- f) Watson Finisher (Farm 424) in Kingfisher County, Oklahoma;
- g) Grimes Finisher (Farm 425) in Kingfisher County, Oklahoma
- h) Barr Finisher (Farm 435) in Kingfisher County, Oklahoma; and
- i) Brown Sow facility (Farm 61) in Kingfisher County, Oklahoma.



Agri-Waste Technology, Inc.  
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www.agriwaste.com

### Wetlands Map

65 Choate Sow  
Kingfisher Co., OK



Wetlands delineation was not performed by AWT. AWT used GPS points taken by SBF of the delineated wetlands to produce this map.

#### Legend

 Wetlands

Drawn By:  
Enrique Cachofern  
Reviewed By:  
Hal Langensack  
Date:  
05/16/2008



500 0 500 1000 Feet

Scale: 1:6000



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### Wetlands Map

150-151 Stewart  
Nurseries Wetlands  
Kingfisher Co., OK



Wetlands delineation  
was not performed  
by AWT. AWT used  
GPS points taken  
by SBF of the delineated  
wetlands to produce  
this map.

#### Legend

 Wetlands

Drawn By:  
Erinjoy Calhoun  
Reviewed By:  
Hal Langensack  
Date:  
05/16/2008



500 0 500 1000 Feet

Scale: 1:6000





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### Wetlands Map

422 Stewart/Payne  
Finishers

Kingfisher Co., OK



Wetlands delineation  
was not performed  
by AWT. AWT used  
GPS points taken  
by SBF of the delineated  
wetlands to produce  
this map.

#### Legend

 Wetlands

Drawn By:  
Enrique Cachofern  
Reviewed By:  
Hal Langensack  
Date:  
05/16/2008



500 0 500 1000 1500 Feet

Scale: 1:8000



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### Wetlands Map

62 Bryan Sow &  
436 Norris Finisher  
Kingfisher Co., OK



Wetlands delineation  
was not performed  
by AWT. AWT used  
GPS points taken  
by SBF of the delineated  
wetlands to produce  
this map.

#### Legend

 Wetlands

Drawn By:  
Estoyan C. Chalfins  
Reviewed By:  
HM Langenbach  
Date:  
05/16/2008



500 0 500 1000 Feet

Scale: 1:8000



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### Wetlands Map


152-153 Best Nurseries Wetlands

Kingfisher Co., OK



Wetlands delineation was not performed by AWT. AWT used GPS points taken by SBF of the delineated wetlands to produce this map.

#### Legend

 Wetlands

Drawn By: Enrique Caraballo  
Reviewed By: Hal Langensack  
Date: 05/16/2008



500 0 500 1000 Feet

Scale: 1:6000





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### Wetlands Map

424 Watson  
Kingfisher Co., OK



Wetlands delineation was not performed by AWT. AWT used GPS points taken by SEF of the delineated wetlands to produce this map.

#### Legend

 Wetlands

Drawn By: Enrique Calafate  
Reviewed By: Hal Langensack  
Date: 05/16/2008



500 0 500 1000 Feet

Scale: 1:6000



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### Wetlands Map

425 Grimes Finisher  
Kingfisher Co., OK



Wetlands delineation was not performed by AWT. AWT used GPS points taken by SBF of the delineated wetlands to produce this map.

#### Legend

 Wetlands

Drawn By  
Enrique Cachafere  
Reviewed By  
Hal Langensack  
Date  
05/16/2008



500 0 500 1000 Feet

Scale: 1:6000



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### Wetlands Map

435 Barr Finisher  
Kingfisher Co., OK



Wetlands delineation was not performed by AWT. AWT used GPS points taken by SGP of the delineated wetlands to produce this map.

#### Legend

Wetlands

Drawn By:  
Enrique Caceres  
Reviewed By:  
Hal Langensack  
Date:  
05/16/2008



500 0 500 1000 Feet

Scale: 1:6000





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### Wetlands Map

61 Brown Sow  
Kingfisher Co., OK



Wetlands delineation was not performed by AWT. AWT used GPS points taken by SBF of the delineated wetlands to produce this map.

#### Legend

 Wetlands

Drawn By  
Enrique Caraballo  
Reviewed By  
Hal Langensack  
Date  
05/16/2008



500 0 500 1000 Feet

Scale: 1:6000