

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY - REGION VII (EPA)
NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM (NPDES) PERMIT**

STATEMENT OF BASIS

September xx, 2024

Permittee: Sebade Land and Cattle, LLC
1698 B Ave.
Emerson, NE 68733

NPDES Permit No.: NE0135712

Facility Location: NE ¼, Section 3, Township 26N, Range 6E
Latitude: 42.263913°
Longitude: -96.706624°
In Thurston, County, Nebraska

Facility Contact: Brent Sebade
Sebade Land and Cattle, LLC
1698 B Ave.
Emerson, NE 68733
Phone (712) 389-6397

A. Status of Permit

This Statement of Basis supports EPA's proposed NPDES Permit No. NE0135712 for the livestock feeding facility owned by Brent Sebade located within the Winnebago Indian Reservation, about 1 mile southeast of Emerson in Thurston County, Nebraska. The facility's Standard Industrial Code is 0211 – Beef Cattle Feedlots.

This is a reissue of an NPDES permit for this facility by the EPA. A permit application for the facility was submitted to the EPA on March 29, 2024.

B. Background

Sebade Land and Cattle, LLC is located within the exterior boundaries of the Winnebago Tribal Reservation. EPA has sole authority to issue NPDES permits under Section 402 of the Clean Water Act, 33 U.S.C. §1342, to Concentrated Animal Feeding Operations (CAFOs) located within the exterior boundaries of the Winnebago Tribal Reservation.

The EPA has prepared this Statement of Basis and the permit for Sebade Land and Cattle, LLC, using information in the permit application submitted March 29, 2024, and information from other sources, all identified within this Statement of Basis and included in the Administrative Record.

C. Description of Facility

Sebade Land and Cattle, LLC is a Concentrated Animal Feeding Operation consisting of an open-lot that covers 75.2 acres. The facility has a maximum capacity of 8,500 head of beef cattle weighing an average of 850 pounds. Runoff is directed to 3 holding ponds and 9 settling basins.

The north holding pond has a total capacity of approximately 24.4 acre feet and 4 contributing settling basins (#1, #2, #3, and #5). The south holding pond has a total capacity of approximately 30.1 acre feet and 2 contributing settling basins (#4 and #6). The east holding pond (#3) has a total capacity of approximately 29.8 acre feet and 3 contributing settling basins (#3a, #3b, and #3c). Manure scraped from pens, sediment removed from the basins, the contents of the holding ponds are to be stockpiled or applied to the land application areas in accordance with the CAFO's Nutrient Management Plan ("NMP") submitted March 29, 2024. Sebade Land and Cattle, LLC has 1,862 acres available for manure application, but may also transfer manure to other recipients in any given year.

D. Discharge Prohibition

Discharge is prohibited except when extreme rainfall events cause an overflow from a properly designed, constructed, operated, and maintained runoff control system. Proper design, construction, operation, and maintenance are specified in the permit and the required nutrient management plan. These requirements are based on the NPDES permit program regulations found at 40 CFR Part 122 and the Effluent Limitations Guidelines and Standards for Concentrated Animal Feeding Operations found at 40 CFR Part 412.

E. Receiving Waters

If an overflow were to occur from the production area, the overflow would either flow generally southwest over crop land towards Middle Creek (a waters of the US) or would gather in and flow westerly in a grass swale toward Middle Creek. In this area Middle Creek (segment EL2-20300) runs South-Southeast through the Winnebago Indian Reservation, about ¼ of a mile west of the CAFO.

F. Proposed Effluent Limits

The permit contains technology-based permit limitations that prohibit discharges except overflows caused by extreme rainfall events; and then, only if the other requirements of the permit have been followed. Compliance with the limitations for the production and land application areas, and the special conditions include: 1) best management practices, and 2) the development and implementation of a nutrient management plan] will assure that the CAFO achieves the basic "no discharge" requirement. The technology-based limitations of "no discharge" are protective of water quality in the receiving stream if the holding pond is designed and operated as required by the permit and will seldom, if ever, discharge

Technology-based Effluent Limitations:

This CAFO is subject to the provisions of 40 CFR Part 412 - Subpart C, Concentrated Animal Feeding Operations (CAFO) Point Source Category – Dairy Cows and Cattle Other than Veal Calves, Effluent Limitations Guidelines (ELG). This subpart of the ELG applies to CAFOs with at least 1000 cattle.

Production Area

The ELG does not allow discharges of manure, litter, or process wastewater pollutants from the production area to waters of the United States, except when precipitation causes an overflow from a facility where the production area is:

- Designed, constructed, operated, and maintained to contain all manure, litter, and process wastewater including the runoff and direct precipitation from a 25-year, 24-hour rainfall event [40 CFR § 412.31(a) (1) (i)], and
- Operated in accordance with the additional measures (visual inspections, depth marker, corrective actions, mortality handling, and record keeping requirements) for the production area required by 40 CFR § 412.37(a) and (b). [40 CFR § 412.31 (a) (1) (ii)].

Land Application Area

In accordance the NPDES regulations and ELGs, the permit incorporates the approved site-specific nutrient management plan submitted March 29, 2024.

- The nutrient management plan (NMP) contains the maximum amount of nitrogen and/or phosphorus, based on the field-specific phosphorus risk assessment, soil test results, nutrient credits, manure and wastewater analysis, and crop need and sequence [40 CFR § 412.4 (c)].
- The NMP addresses best management practices (BMPs) such as land application setback requirements, development of a field-specific assessment that determines the form, source, amount, timing, and method of application of nutrients on each field to achieve realistic production goals, while minimizing nitrogen and phosphorus movement to surface waters. [40 CFR § 412.4 (c) (2)]
- The NMP meets the 9 minimum measures that are specified in 40 CFR § 122.42 (e)(1).
- The NMP is also in compliance with the NE NRCS 590 technical standards for nutrient management. [40 CFR § 412.4 (c) (2)].

Best Management Practices

The NPDES permit regulations authorize best management practices (BMPs) to be included in permits when BMPs are reasonably necessary to meet technology-based effluent limitations [40 CFR § 122.44 (k)]. Part II, A. of the permit contains BMPs that are necessary in order to achieve the basic “no discharge” requirement for the production area. These BMPs address: 1) adequate storage capacity for the holding pond and manure storage pond, 2) adequate pumping system capacity for the irrigation system, and 3) dewatering of the holding pond and manure storage pond. Dewatering of the ponds, with an adequately sized pump, is necessary in order to operate and maintain the system to contain the runoff and direct precipitation from the 25-year, 24-hour storm event as required by the ELGs at 40 CFR § 412.31.

G. Anti-degradation Statement

The CAFO is an existing operation. Due to the no discharge technology-based requirements in this permit, the limitations and conditions in the permit are protective of the Clean Water Act §101(a)(2) goals. The existing quality of water in the receiving stream should not be lowered because compliance with the permit limits and best management practices will prevent most discharges except those from a 25-year, 24-hour rainfall event. A specific study of the existing uses and quality of the receiving stream was not necessary and was not conducted based on other information available to EPA that included a May 10, 2012 Point Source Stream Evaluation conducted by the EPA Region 7’s Environmental Service Division. The results of the evaluation indicate that Middle Creek, the receiving stream for the discharge addressed by this permit, likely has habitat for aquatic life due to normal flow. At the time of the evaluation there was no known

swimming or fishing occurring in the stream. The information indicates the receiving water body is not likely impaired.

H. Inspection and Record Keeping Requirements

The permit requires that the permittee perform visual inspections of the production area on a regular basis and keep records that document those inspections. The as-built design of the holding pond and any overflows from the pond must also be kept. [40 CFR § 412.37 (a) and (b)]

Records that document land application practices are required to be kept. They include such items as test methods and test results for manure, process wastewater, and soil; the amount of nitrogen and phosphorus applied to each field and the date of application; and the results of a phosphorus risk assessment for each field. [40 CFR § 412.37 (c)]

I. Endangered Species Act

EPA and the U.S. Fish and Wildlife Service (Service) have signed a Memorandum of Agreement to work together to improve the implementation of the Endangered Species Act (ESA) and the CWA as they relate to NPDES permit actions.

The Service has a website which shows listed species by county. For Thurston County, the threatened and endangered species are the piping plover, pallid sturgeon, and western prairie-fringed orchid, and the northern long-eared bat. Of the listed species, the pallid sturgeon is known to occur in the Missouri River.

The NDEQ has designated the Missouri River, Segment MT1-10000, with the following key species: the pallid sturgeon and sturgeon chub as endangered species; the lake sturgeon as a threatened species; and the paddlefish, blue catfish, channel catfish, and flathead catfish as recreationally-important species.

The permit is for an existing CAFO and will authorize permitted activities. There will be no new construction or disturbance of land, and thus there will be no negative impact on the environment, aquatic life, or wildlife species.

J. Certification of CWA §401 Compliance

The Division Director of the EPA, Region 7 Water, Wetlands, and Pesticides Division will have the opportunity to address any comments received during the public comment period prior to signing the Water Quality Certification statement for this facility.

K. Permit Duration

The permit will be issued for a period of five years with the permit expiration date being determined at the time of permit issuance.

L. Procedures for Final Decision Making on the Proposed Permit

The comment period for the Public Notice (PN) of this permit starts with the date noted on the PN and ends 30 calendar days later. The PN requests comments from interested individuals or agencies. A written request for a public hearing on the permit may also be submitted. Any request for a hearing must state the nature of the issues that the requestor proposes to raise at the

hearing. In accordance with 40 CFR § 124.17, EPA will respond to all significant comments that are submitted before the end of the 30-day public comment period. If there is a significant amount of interest expressed during the 30-day public comment period, a public hearing will be held on the contents of the permit. The final permit will be issued in accordance with the provisions of 40 CFR § 124.15. (Regulations pertaining to the public notice and issuance of NPDES permits are included in the Administrative Record.)

M. EPA Contact for Additional Information

For additional information regarding this permit and the administrative process for making a final determination regarding issuance of the permit, please contact:

U.S. Environmental Protection Agency, Region 7
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