

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 7  
11201 RENNER BLVD.  
LENEXA, KANSAS 66219

BEFORE THE ADMINISTRATOR

IN THE MATTER OF	)	
	)	Docket No. CWA-07-2018-0190
Smithfield Fresh Meats Corp.,	)	
Crete, Nebraska	)	
	)	COMPLAINT AND
Respondent	)	CONSENT AGREEMENT/
	)	FINAL ORDER
Proceedings under Section 309(g)	)	
of the Clean Water Act,	)	
33 U.S.C. § 1319(g)	)	
_____	)	

**COMPLAINT**

**Jurisdiction**

1. This is an administrative action for the assessment of civil penalties instituted pursuant to Section 309(g) of the Federal Water Pollution Control Act, commonly referred to as the Clean Water Act ("CWA"), 33 U.S.C. § 1319(g), and in accordance with the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits ("Consolidated Rules"), 40 C.F.R. Part 22.

2. Complainant, the U.S. Environmental Protection Agency, Region 7 ("EPA") and Smithfield Fresh Meats Corp. ("Respondent") have agreed to a settlement of this action before the filing of a complaint, and thus this action is simultaneously commenced and concluded pursuant to Rules 22.13(b) and 22.18(b)(2) and (3) of the Consolidated Rules, 40 C.F.R. §§ 22.13(b) and 22.18(b)(2) and (3).

3. This Complaint and Consent Agreement/Final Order serves as notice that the EPA has reason to believe that the Respondent has violated Sections 301 and 402 of the CWA, 33 U.S.C. §§ 1311 and 1342, and regulations promulgated thereunder.

**Parties**

4. The authority to take action under Section 309(g) of the CWA, 33 U.S.C. § 1319(g), is vested in the Administrator of the EPA. The Administrator has delegated these authorities to the Regional Administrator, EPA, Region 7, who in turn has delegated the authority under Section 309(g) to the Director of the Water, Wetlands and Pesticides Division of EPA, Region 7 ("Complainant").

5. Respondent is a Delaware corporation authorized to conduct business under the laws of Nebraska. Respondent is a person within the meaning of Section 502(5) of the CWA, 33 U.S.C. § 1362(5).

### **Statutory and Regulatory Framework**

6. Section 301(a) of the CWA, 33 U.S.C. § 1311(a), prohibits the discharge of pollutants except in compliance with, *inter alia*, Section 402 of the CWA, 33 U.S.C. § 1342. Section 402 of the CWA provides that pollutants may be discharged in accordance with the terms of a National Pollutant Discharge Elimination System (“NPDES”) permit issued pursuant to that Section.

7. The CWA prohibits the “discharge” of “pollutants” from a “point source” into a “navigable water” of the United States, as these terms are defined by Section 502 of the CWA, 33 U.S.C. § 1362.

8. Section 402(a) of the CWA, 33 U.S.C. § 1342(a), sets forth requirements for the issuance of individual NPDES permits for the discharge of pollutants from a point source into a navigable water.

9. The Nebraska Department of Environmental Quality (“NDEQ”) is the state agency with the authority to administer the NPDES program in Nebraska pursuant to Section 402 of the CWA. The EPA maintains concurrent enforcement authority with authorized states for violations of the CWA.

10. Section 309(g) of the CWA, 33 U.S.C. § 1319(g), authorizes the EPA to commence an action for civil administrative penalties against any person the EPA finds has violated, *inter alia*, Section 301 of the CWA, 33 U.S.C. § 1311, or a permit issued under Section 402 of the CWA, 33 U.S.C. § 1342

### ***Stormwater***

11. Section 402(p) of the CWA, 33 U.S.C. § 1342(p), sets forth requirements for the issuance of NPDES permits for the discharge of stormwater. Section 402(p) of the CWA requires, in part, that a discharge of stormwater associated with an industrial activity must conform with the requirements of a NPDES permit issued pursuant to Sections 301 and 402 of the CWA.

12. Pursuant to Section 402(p) of the CWA, the EPA promulgated regulations setting forth the NPDES permit requirements for stormwater discharges at 40 C.F.R. § 122.26.

13. 40 C.F.R. §§ 122.26(a)(1)(ii) and 122.26(c) require dischargers of stormwater associated with industrial activity to apply for an individual permit or to seek coverage under a promulgated stormwater general permit.

14. 40 C.F.R. § 122.26(b)(14)(ii) and (xi) define “stormwater discharge associated with industrial activity,” in part, as discharges from facilities classified as Standard Industrial Classification (“SIC”) Code 2011, Meat Packing Plants.

15. The NDEQ issued and implemented a general permit for stormwater discharges associated with industrial activity to waters of the State of Nebraska (hereafter, “General Permit”) under the authority of Section 402(p) of the CWA, 33 U.S.C. § 1342(p), and applicable state law. The current permit, General NPDES Permit No. NER910000, has an effective date of July 18, 2016, and an expiration date of June 30, 2021. The previous industrial stormwater permit, General Permit No. NER900000, was issued and implemented by NDEQ, effective July 1, 2011, through June 30, 2016. The provisions of General NPDES Permit No. NER910000 and General Permit No. NER900000 are substantially the same.

16. Any individual seeking coverage under the General Permit is required to submit a Notice of Intent (“NOI”) to the NDEQ in accordance with the requirements of Part 1.3.1 of the permit. The applicant must also develop a Stormwater Pollution Prevention Plan (“SWPPP”) according to the requirements of Part 5 of the permit and select, design, install and implement control measures in accordance with Part 2.1 of the permit to meet non-numeric effluent limits.

17. Part 2 of the General Permit requires that the permittee select, design, and implement control measures, also known as best management practices (“BMPs”), to address the selection and design consideration of the permit, meet non-numeric effluent limits, and where applicable, meet effluent limitation guidelines.

18. Part 5 of the General Permit requires that the permittee must prepare a SWPPP for its facility before submitting the NOI; the SWPPP is intended to document the selection, design and installation of control measures which will be used to meet the permit’s limitations.

19. Part 5.1.1 of the General Permit requires the SWPPP to contain the following elements: stormwater pollution prevention team; site description; summary of potential pollution sources; description of control measures; schedules and procedures for implementing control measures and conducting monitoring and inspections; documentation to support eligibility consideration regarding endangered species and historic properties; and signature requirements. Part 5 of the General Permit provides additional details regarding each of these elements.

20. Part 8 of the General Permit includes sector-specific requirements for industrial activity, including requirements for Sector U: Food and Kindred Products. SIC Code 2011 is covered by Sector U of the General Permit.

### **General Allegations**

21. Respondent is and was at all times relevant to this action the owner and/or operator of a pork processing and packaging facility (“Facility”), located at 2223 County Road 1, Crete, Saline County, Nebraska 68333-0067, and operating under SIC Code 2011. Respondent’s

Facility previously operated under the names Smithfield Farmland Corp. and Farmland Foods, Inc.

22. Stormwater, snow melt, surface drainage and runoff water leave Respondent's Facility, flow overland, and discharge through four identified outfalls through either roadside drainage ditches along a county road, then to an unnamed tributary that discharges to the Blue River, or through a drainage culvert which flows to Otoe Creek, which then discharges to the Blue River.

23. Otoe Creek, the Big Blue River and their unnamed tributaries, as identified in Paragraph 22, above, are each a "navigable water" as defined by Section 502(7) of the CWA, 33 U.S.C § 1362(7).

24. The runoff and drainage from Respondent's Facility is "stormwater" as defined by 40 C.F.R. § 122.26(b)(13).

25. Stormwater from the Facility contains "pollutants" as defined by Section 502(6) of the CWA, 33 U.S.C. § 1362(6).

26. The Facility has "stormwater discharges associated with industrial activity" as defined by 40 C.F.R. § 122.26(b)(14)(x), and is a "point source" as defined by Section 502(14) of the CWA, 33 U.S.C. § 1362(14).

27. Stormwater runoff from Respondent's industrial activity results in the addition of pollutants from a point source to navigable waters, and thus is the "discharge of a pollutant" as defined by 40 C.F.R. § 122.2 and CWA Section 502(12), 33 U.S.C. § 1362(12).

28. Respondent's discharge of pollutants associated with an industrial activity, as defined by 40 C.F.R. § 122.26(b)(14)(xi), requires a permit issued pursuant to Section 402 of the CWA, 33 U.S.C. § 1342.

29. Upon receipt of an NOI, NDEQ issued coverage under the General Permit, Program ID NER900138, to Farmland Foods, Inc., on December 22, 2011, effective until a new permit was issued. By letter dated May 14, 2014, NDEQ was notified that the name of the Facility had been changed to Smithfield Farmland Corp.

30. Upon receipt of an NOI, NDEQ issued coverage under the General Permit, Program ID NER910470, to Smithfield Farmland Corp., effective December 29, 2016. By letter dated December 19, 2017, NDEQ was notified that the name of the Facility had been changed to Smithfield Fresh Meats Corp.

31. Respondent's 2011 and 2016 General Permits, which are substantially the same, govern stormwater discharges at the Facility associated with industrial activity, including facilities with the SIC Code of 2011.

32. Respondent has operated under the General Permit at all times relevant to this action.

33. On or about April 12 and 13, 2017, the EPA performed an Industrial Stormwater Inspection of Respondent's Facility relating to the General Permit ("Inspection"). The inspection was performed under the authority of Section 308(a) of the CWA, 33 U.S.C. § 1318(a), to evaluate Respondent's compliance with its permit and the CWA.

34. During the Inspection, the EPA inspector reviewed Respondent's records relating to the General Permit and observed the Facility and the locations from which stormwater is discharged.

35. At the time of the Inspection, the EPA inspector issued to Respondent a Notice of Potential Violation ("NOPV") identifying issues that may be violations of Respondent's General Permit, including, but not limited to: an observed discharge from an unpermitted bypass from a sump that collects wastewater from the animal unloading area; poor stormwater control implementation for housekeeping practices, resulting in solidified dextrose on the ground below the dextrose tank; and an incomplete SWPPP that did not include the bypass outfall or bypass procedures for the animal unloading area or procedures for handling contaminated stormwater in the rail car loading area.

36. By letter dated April 21, 2017, Respondent provided a response to the EPA indicating steps it had taken to correct deficiencies identified in the NOPV.

37. By letter dated June 26, 2017, the EPA provided Respondent a copy of the Inspection report.

### **Specific Allegations of Violation**

#### **COUNT I**

#### **Unauthorized Discharge of a Pollutant**

38. The allegations stated above are re-alleged and incorporated herein by reference.

39. During the Inspection on or about April 12, 2017, the EPA inspector observed a discharge that originated from operations at the animal unloading area of Respondent's Facility, traveled across a parking lot, flowed into a sump connected to the wastewater treatment plant, and exited the sump through a flood control bypass valve that was not properly seated and into a line that discharged through a roadside ditch to an unnamed tributary of the Big Blue River.

40. Part 8.U.2.1 of the General Permit prohibits non-stormwater discharges from facilities under Sector U of the permit, which includes facilities with SIC Code 2011, including, but not limited to, discharges from operations at the animal unloading area. Respondent has no other permit authorizing discharges from the sump through the flood control bypass line.

41. Respondent's discharge, as described above, is a violation of Respondent's General Permit and Sections 301(a) and 402 of the CWA, 33 U.S.C. §§ 1311(a) and 1342, and implementing regulations.

**COUNT II  
Failure to Develop an Adequate SWPPP**

42. The allegations stated above are re-alleged and incorporated herein by reference.

43. Based on observations and information collected during the Inspection and review of Respondent's SWPPP and other relevant information, Respondent's SWPPP failed to meet the following conditions of Part 5 of the General Permit:

- a. the SWPPP failed to describe the operations at the animal unloading area and the steam condensate from the railcar and tanker truck loading area as non-stormwater discharges or potential pollutant sources, as required by Part 5.1.3 of the General Permit;
- b. the SWPPP failed to document the location and type of control measures for the catch basin or wet well referenced in Appendix 2 of the SWPPP, for securing and operating the bypass line at the wastewater sump located near the animal unloading and vehicle washing and clean-out area, for examining and disposing of contaminated stormwater or wastewater at the railcar and tanker truck loading area, for the application and storage of pest control products, and for the current practices for disposal of bedding materials, as required by Part 5.1.4 of the General Permit;
- c. the SWPPP failed to document procedures for benchmark stormwater monitoring at outfall 002 and for impaired water monitoring for selenium in stormwater discharges to the Big Blue River, as required by Part 5.1.5.2 of the General Permit, which references Part 6.2.2, requiring monitoring for any pollutant for which a waterbody is impaired when that pollutant does not have an approved Total Maximum Daily Load ("TMDL"); and
- d. the SWPPP failed to include any documentation supporting a determination regarding the presence or absence of endangered or threatened species, as required by Part 5.1.6 of the General Permit.

44. Respondent's failure to develop an adequate SWPPP, as described above, is a violation of the terms and conditions of the General Permit issued pursuant to Section 402(p) of the CWA, 33 U.S.C. § 1342(p).

### **COUNT III**

#### **Failure to Implement SWPPP Good Housekeeping Control Measures**

45. The allegations stated above are re-alleged and incorporated herein by reference.

46. Part 2.1.2.2 of General Permit requires implementation of good housekeeping control measures to “keep clean all exposed areas that are potential sources of pollutants, using such measures as sweeping at regular intervals, keeping materials orderly and labeled, and storing materials in appropriate containers.”

47. Respondent’s SWPPP describes Good Housekeeping control measures for the Facility, including procedures for removing and disposing of trash and other debris, inspecting the drum storage area and ensuring no leaks or spills occur, cleaning up blood spills and cleaning the employee parking lot.

48. Based on observations and information collected during the Inspection and review of Respondent’s SWPPP and other relevant information, the Facility had failed to implement good housekeeping control measures, including the following:

- a. spilled dextrose was on the ground below the loading valve of the dextrose tank because the drip bucket was full;
- b. animal hair-balls on the ground and in the stormwater drainage ditches in the railcar loading area near the unused rendering conveyor;
- c. grease was on the ground in the railcar area, especially at the north collection trench where the grate was partially clogged with a grease/dirt mixture; and
- d. solids on the ground near the area of the scum pit.

49. Respondent’s failure to implement good housekeeping control measures at its Facility, as described above, is a violation of the terms and conditions of the General Permit issued pursuant to Section 402(p) of the CWA, 33 U.S.C. § 1342(p).

### **COUNT IV**

#### **Failure to Perform Required Monitoring**

50. The allegations stated above are re-alleged and incorporated herein by reference.

51. Part 6.2.2 of the General Permit requires monitoring of discharges to impaired waters. The Facility must monitor once per year at each outfall for all pollutants for which the water body is impaired and for which there was no EPA approved or established TMDL. Respondent’s General Permit issued in 2011 required impaired waters monitoring to begin in the first full quarter following July 1, 2012. Respondent’s General Permit issued in 2016 continues the impaired waters monitoring requirement.



52. The Facility discharges to segment BB-1 20000 of the Big Blue River, which was designated as impaired for atrazine, selenium and e. coli in December 2013. An EPA approved TMDL is in place for atrazine and e coli; but not for selenium.

53. Based on observations and information collected during the Inspection and review of Respondent's SWPPP and other relevant information, Respondent failed to conduct impaired waters monitoring for selenium at the Facility's outfalls from 2014 thru the date of the Inspection in April 2017.

54. Respondent's failure to perform annual impaired waters monitoring for selenium at the Facility's outfalls from 2014 until the date of the Inspection is a violation of the terms and conditions of the General Permit issued under the authority of Section 402(p) of the CWA, 33 U.S.C. § 1342(p).

**COUNT V**  
**Failure to Take Corrective Action and Submit Reports for**  
**Benchmark Monitoring Exceedances**

55. The allegations stated above are re-alleged and incorporated herein by reference.

56. Part 6.2.1 of the General Permit requires permittees to conduct benchmark monitoring of pollutants, as identified for specific industry sectors in Part 8 of the permit, to determine the overall effectiveness of a facility's control measures and to determine if additional corrective actions may be necessary to comply with effluent limits. Part 8.U.6 of the General Permit, applicable to Respondent, sets a pollutant benchmark for Nitrogen (Nitrate plus Nitrite) at 0.68 mg/L.

57. Part 6.2.1 of the General Permit, requires the permittee to initiate at least one year of quarterly benchmark monitoring and, if the average of first set of 4 quarterly samples exceeds any benchmark or if the exceedance of the four quarter average benchmark is mathematically certain prior to conducting four full quarters of monitoring, the permittee must take further action, as described in Part 3 of the permit, and continue quarterly monitoring until benchmarks are not exceeded. This provision was applicable to the Respondent effective July 1, 2012, pursuant to the General Permit issued in 2011, and continues under Respondent's General Permit issued in 2016.

58. Part 3 of the General Permit identifies conditions that trigger review of the selection, design, installation, and implementation of control measures identified in the facility's SWPPP, and corrective actions that must be taken. Part 3.5 of the General Permit states that failing to take corrective action to correct a permit violation is an additional permit violation.

59. Part 3.2 of the General Permit specifies that if certain conditions occur, including exceeding the quarterly benchmark monitoring parameters identified in Part 6.2.1 of the permit, the permittee must review the selection, design, installation and implementation of control measures to determine if modifications are necessary to meet the effluent limits in the permit.



60. Parts 3.3 and 3.4 of the General Permit require the permittee to document any conditions requiring review pursuant to Part 3.2 of the permit and any corrective actions taken to address such conditions on a Corrective Action Form provided by NDEQ. Part 3.4 of the General Permit also requires the permittee to submit the Corrective Action Form to NDEQ within 30 days of the initial discovery of the condition and to retain a copy of the documentation on site.

61. The average value of four quarters of benchmark monitoring results for Respondent's stormwater outfall 001 exceeded the benchmark for nitrogen for each year from 2014 through 2016. In addition, the result of benchmark monitoring for nitrogen in the first quarter of 2017 was high enough to mathematically be certain to exceed the annual average.

62. Based on observations and information collected during the Inspection, and review of Respondent's SWPPP and other relevant information, from January 2014 through the first quarter of 2017, Respondent failed to:

- a. review the selection, design, installation and implementation of control measures to determine if modifications are necessary to meet the effluent limits in the permit, as required by Part 3.2 of the General Permit and/or document conditions requiring review and any corrective actions taken to address such conditions, as required by Part 3.3 and 3.4 of the General Permit; and
- b. submit corrective action reports to NDEQ within 30 days of the initial discovery of the condition and retain a copy of the documentation on site, as required by Part 3.4 of the General Permit.

63. Respondent's failure to take corrective action to address nitrate benchmark exceedances and/or failure to document corrective action measures and Respondent's failure to submit corrective action reports to NDEQ for each such exceedance are violations of the terms and conditions of the General Permit issued under the authority of Section 402(p) of the CWA, 33 U.S.C. § 1342(p).

### **CONSENT AGREEMENT**

64. Respondent and the EPA agree to the terms of this Consent Agreement/Final Order.

65. Respondent admits the jurisdictional allegations of this Complaint and Consent Agreement/Final Order and agrees not to contest the EPA's jurisdiction in this proceeding or any subsequent proceeding to enforce the terms of this Consent Agreement/Final Order.

66. Respondent neither admits nor denies the factual allegations and legal conclusions asserted by the EPA in this Complaint and Consent Agreement/Final Order.

67. Respondent waives its right to contest any issue of fact or law set forth above, and its right to appeal this Consent Agreement/Final Order.

68. Respondent and Complainant agree to conciliate the matters set forth in this Consent Agreement/Final Order without the necessity of a formal hearing and agree to bear their own costs and attorney's fees incurred as a result of this action.

69. The undersigned representative(s) of Respondent certifies that he or she is fully authorized to enter the terms and conditions of this Consent Agreement/Final Order and to execute and legally bind Respondent to it.

70. Respondent understands and agrees that this Consent Agreement/Final Order shall apply to and be binding upon Respondent and Respondent's agents, successors and/or assigns. Respondent shall ensure that all contractors, employees, consultants, firms or other persons or entities acting for Respondent with respect to matters included herein comply with the terms of this Consent Agreement/Final Order.

71. Respondent certifies by the signing of this Consent Agreement/Final Order that to the best of its knowledge, Respondent's Facility is in current compliance with the applicable requirements of the CWA, General NPDES Permit No. NER910470, and Sections 301 and 402 of the CWA, 33 U.S.C. §§ 1311 and 1342, and applicable regulations.

#### **Civil Penalty**

72. Pursuant to Section 309(g)(2)(B), 33 U.S.C. § 309(g)(2)(B), the EPA proposes assessing a civil penalty against Respondent for the violations of the CWA identified above, the amount of which is set forth below.

73. Respondent agrees that, in settlement of the claims alleged in this Consent Agreement/Final Order, Respondent shall pay a civil penalty of **Fifty-Eight Thousand Thirty Dollars (\$58,030)**, within thirty (30) days after the effective date of this Consent Agreement/Final Order.

74. Respondent's payment of penalties shall reference docket number "CWA-07-2018-0190" and be remitted using one of the payment methods specified in Appendix A to this Consent Agreement/Final Order.

75. A copy of the check or verification of another payment method for the penalty payments remitted as directed by above, shall be submitted to:

Regional Hearing Clerk  
U.S. Environmental Protection Agency - Region 7  
11201 Renner Boulevard  
Lenexa, Kansas 66219

and

*miller.patriciag@epa.gov*  
Patricia Gillispie Miller  
Office of Regional Counsel  
U.S. Environmental Protection Agency – Region 7  
11201 Renner Boulevard  
Lenexa, Kansas 66219.

76. Respondent agrees that no portion of the civil penalty or interest paid by Respondent pursuant to the requirements of this Consent Agreement/Final Order shall be claimed by Respondent as a deduction for federal, state, or local income tax purposes.

77. Respondent understands that, pursuant to 40 C.F.R. § 13.18, interest on any late payment will be assessed at the annual interest rate established by the Secretary of the Treasury pursuant to 31 U.S.C. § 3717. The interest will be assessed on any overdue amount from the due date through the date of payment. Failure to pay the civil penalty when due may result in the commencement of a civil action in Federal District Court to collect said penalty, together with costs or interest.

#### **Effect of Settlement and Reservation of Rights**

78. Respondent's payment of the entire civil penalty pursuant to this Consent Agreement/Final Order resolves all civil and administrative claims pursuant to Section 309(g) of the CWA, 33 U.S.C. § 1319(g), for alleged violations identified in this Complaint and Consent Agreement/Final Order. Complainant reserves the right to take any enforcement action with respect to any other violations of the CWA or any other applicable law.

79. The effect of settlement described above is conditional upon the accuracy of the Respondent's representations to the EPA, as memorialized in Paragraph 71 of this Consent Agreement/Final Order.

80. Nothing contained in this Consent Agreement/Final Order shall alter or otherwise affect Respondent's obligation to comply with all applicable federal, state and local environmental statutes and regulations and applicable permits.

81. Notwithstanding any other provision of this Consent Agreement/Final Order, the EPA reserves the right to enforce the terms of this Consent Agreement/Final Order by initiating a judicial or administrative action pursuant to Section 309 of the CWA, 33 U.S.C. § 1319, and to seek penalties against Respondent or to seek any other remedy allowed by law.

82. With respect to matters not addressed in this Consent Agreement/Final Order, the EPA reserves the right to take any enforcement action pursuant to the CWA and its implementing regulations, or any other available legal authority, including without limitation, the right to seek injunctive relief, penalties and damages.

**General Provisions**

83. The Parties acknowledge that this Consent Agreement/Final Order is subject to the public notice and comment required pursuant to Section 309(g)(4) of the CWA, 33 U.S.C. § 1319(g)(4), and 40 C.F.R. § 22.45.

84. Pursuant to 40 C.F.R. § 22.31(b), this Consent Agreement/Final Order shall be effective after entry by the authorized Regional official and upon filing with the Regional Hearing Clerk U.S. Environmental Protection Agency, 11201 Renner Boulevard, Lenexa, Kansas 66219. All time periods herein shall be calculated therefrom in calendar days unless otherwise provided in this Consent Agreement/Final Order.

85. The state of Nebraska has been provided an opportunity to consult with Complainant regarding this matter in accordance with the requirements of 40 C.F.R. § 22.38(b) and Section 309(g)(1) of the CWA, 33 U.S.C. § 1319(g)(1).

86. The headings in this Consent Agreement/Final Order are for convenience of reference only and shall not affect interpretation of this Consent Agreement/Final Order.

87. Respondent and Complainant agree that this Consent Agreement/Final Order may be signed in part and counterpart.

**For the Complainant, United States Environmental Protection Agency, Region 7:**

\_\_\_\_\_  
Date

\_\_\_\_\_  
Jeffery Robichaud  
Director  
Water, Wetlands and Pesticides Division

\_\_\_\_\_  
Patricia Gillispie Miller  
Office of Regional Counsel

**For the Respondent, Smithfield Fresh Meats Corp.:**

  
Signature

6-05-18  
Date

Paul G. Doremus  
Plant Manager  
Smithfield Fresh Meats Corp.

**FINAL ORDER**

Pursuant to Section 309(g) of the CWA, 33 U.S.C. § 1319(g), and the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits, 40 C.F.R. Part 22, the foregoing Consent Agreement resolving this matter is hereby ratified and incorporated by reference into this Final Order.

The Respondent is ORDERED to comply with all of the terms of the Consent Agreement. In accordance with 40 C.F.R. § 22.31(b), the effective date of the foregoing Consent Agreement and this Final Order is the date on which this Final Order is filed with the Regional Hearing Clerk.

IT IS SO ORDERED.

\_\_\_\_\_  
Date

\_\_\_\_\_  
Regional Judicial Officer



CERTIFICATE OF SERVICE

I certify a true and correct copy of the Complaint and Consent Agreement/Final Order was sent this day in the following manner to the addressees:

Copy by First Class Mail to Respondent:

Paul G. Doremus  
Plant Manager  
Smithfield Fresh Meats Corp.  
2223 County Road 1  
Crete, Nebraska 68333-0067

Copy emailed to Attorney for Respondent:

Kevin Finto  
Hutton Andrews Kurth  
*kfinto@hutton.com*

Copy emailed to Attorney for Complainant:

Patricia Gillispie Miller  
*miller.patriciag@epa.gov*

Copy by First Class Mail to:

Mr. Steven Goans, Deputy Director  
Water Management Division  
Nebraska Department of Environmental Quality  
1200 N Street, Suite 400  
P.O. Box 98922  
Lincoln, Nebraska 68509-8922

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Date

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Lisa Haugen  
Hearing Clerk, Region 7

**APPENDIX A**  
**PENALTY PAYMENT INFORMATION**

**CHECK PAYMENTS:**

US Environmental Protection Agency  
Fines and Penalties - CFC  
PO Box 979077  
St. Louis, MO 63197-9000

**WIRE TRANSFERS:**

Wire transfers should be directed to the Federal Reserve Bank of New York

Federal Reserve Bank of New York  
ABA = 021030004  
Account = 68010727  
SWIFT address = FRNYUS33  
33 Liberty Street  
New York NY 10045  
Field Tag 4200 of the Fedwire message should read "D 68010727 Environmental Protection Agency"

**OVERNIGHT MAIL:**

U.S. Bank  
1005 Convention Plaza  
Mail Station SL-MO-C2GL  
ATTN Box 979077  
St. Louis, MO 63101  
Contact: Natalie Pearson 314-418-4087

**ACH (also known as REX or remittance express):**

Automated Clearinghouse (ACH) for receiving US currency

PNC Bank  
808 17<sup>th</sup> Street, NW  
Washington, DC 20074  
Contact: Jesse White 301-887-6548  
ABA = 051036706  
Transaction Code 22 - checking  
Environmental Protection Agency  
Account 310006  
CTX Format

**ON LINE PAYMENT:**

There is now an On Line Payment Option, available through the Dept. of Treasury.  
This payment option can be accessed from the information below:

WWW.PAY.GOV  
Enter "SFO 1.1" in the search field

Open form and complete required fields.