



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 8

1595 Wynkoop Street
DENVER, CO 80202-1129
Phone 800-227-8917
<http://www.epa.gov/region08>

SEP 20 2010

Ref: 8ENF-W-NP

CERTIFIED MAIL#:
RETURN RECEIPT REQUESTED

Randy Mossberg
Ash Lane Dairy (formerly Mossberg Dairy)
4320 65th Avenue
Greeley, CO 80634

Re: Mossberg Dairy Inspection Report
Findings of Violation and Administrative
Order for Compliance
Docket No. **CWA-08-2010-0031**

Dear Mr. Mossberg:

On May 20, 2009, the United States Environmental Protection Agency (EPA) inspected Ash Lane Dairy in Greeley, Colorado. The inspection determined that Ash Lane Dairy has violated numerous conditions of the Clean Water Act (CWA). A copy of the report from the inspection (report) is enclosed. Please pay special attention to the Summary of Findings section of the report. Please note that EPA inspector discussed his observations and concerns during the exit interview.

Also enclosed is an EPA Region 8 administrative order (Order) that finds that Ash Lane Dairy (the Company) has violated the Clean Water Act (the CWA) by discharging pollutants without a permit. The Order also directs the Company to come into compliance with the CWA. EPA's authority for such action is provided under §309(a) of the CWA, 33 U.S.C. §1319(a), which authorizes the Administrator of the EPA to issue an order to any person found to be in violation of § 301 of the CWA, among others, or in violation of any condition or limitation implementing such sections in a National Pollutant Discharge Elimination System (NPDES) permit issued by EPA or an authorized State. The enclosed order is also issued pursuant to § 308(a) of the CWA, 33 U.S.C. § 1318(a), which authorizes the EPA to require, among other things, reports and information to carry out the objectives of the CWA.

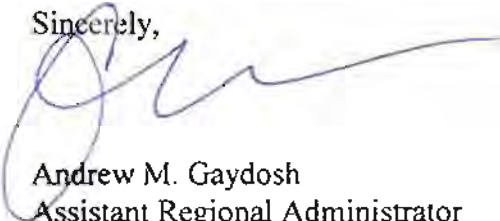
The CWA requires the EPA to take all appropriate enforcement action necessary to secure prompt compliance with the CWA and any order issued thereunder. Section 309 of the CWA, 33 U.S.C. § 1319, authorizes civil judicial penalties for violating an order issued under § 309(a) of the CWA. The CWA authorizes a variety of possible enforcement actions for noncompliance with the CWA, including civil or criminal actions, administrative penalty actions, and, in some cases following a criminal conviction, debarment from Federal contracts and/or loans. Additionally, EPA may take an enforcement action if this Order is violated. Please also be advised that the issuance of this Order does

not preclude any civil lawsuit, criminal prosecution, or administrative penalty assessment for the violations cited in the Order or for any other violations of the CWA.

If the Company is a small entity, you may find the enclosed Small Business Regulatory Enforcement and Fairness Act (SBREFA) information sheet useful. It contains information on compliance assistance resources and tools available to small entities. SBREFA does not eliminate the responsibility to comply with the Order or the CWA.

Please review the report and the order carefully and ensure that all of the requirements in these documents are fully and timely completed. If you have any questions, the most knowledgeable people on my staff are David Janik, Senior Enforcement Attorney, at 303-312-6917 and Seth Draper, Environmental Scientist, at 303-312-6763. We urge your prompt attention to this matter.

Sincerely,



Andrew M. Gaydosh
Assistant Regional Administrator
Office of Enforcement, Compliance
and Environmental Justice

Enclosures: 1) Administrative Order for Compliance
2) Inspection Report, Photo Log, 3560 Form, Summary of Findings
4) Addendum: Mossberg Drainage Evaluation
3) SBREFA Information Sheet

cc: Phyllis Woodford, CDPHE



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 8

2010 SEP 20 AM 10:25

IN THE MATTER OF:)
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)
Randy Mossberg)
(Ash Lane Dairy, formerly Mossberg Dairy),)
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)
)
Respondent.)
_____)

**FINDINGS OF VIOLATION AND
ORDER FOR COMPLIANCE**

Proceeding under Sections 308(a) and
309(a) of the Clean Water Act, 33 U.S.C.
§§ 1318(a) and §§ 1319(a)

Docket No. **CWA-08-2010-0031**

I. PRELIMINARY STATEMENT

1. The following Findings of Violation are made and Order for Compliance (Order) is issued pursuant to § 309(a) of the Clean Water Act (Act), 33 U.S.C. § 1319(a), which authorizes the Administrator of the U.S. Environmental Protection Agency (EPA) to issue an order requiring compliance by a person found to be in violation of §§ 301, 308, or 402 of the Act, among others, or in violation of any permit condition or limitation implementing such sections of the Act. This order is also issued pursuant to § 308(a) of the Act, 33 U.S.C. § 1318(a), which authorizes the Administrator of EPA to require reports necessary to determine compliance. These authorities have been delegated to the undersigned official.
2. Respondent Randy Mossberg (respondent) is an individual residing and doing business in Colorado and having an address of 4603 83rd Avenue, Greeley CO, 80634.
3. Respondent owns and/or operates an animal feeding operation located at 4320 65th Avenue, Greeley, Colorado (the facility).

II. STATUTORY AND REGULATORY AUTHORITY

4. Section 301 of the Act, 33 U.S.C. § 1311(a), prohibits, among other things, the discharge of pollutants by any person into waters of the United States except as in compliance with § 402 of the Act, 33 U.S.C. § 1342.
5. Section 402 of the Act, 33 U.S.C. § 1342, establishes a National Pollutant Discharge Elimination System (NPDES) program, administered by EPA and, under certain circumstances, the State, to permit discharges of pollutants into navigable waters, subject to specific terms and conditions.

6. EPA has approved the State of Colorado's NPDES program pursuant to § 402(b) of the Act, 42 U.S.C. § 1342(b).
7. Section 502(12) of the Act, 33 U.S.C. § 1362(12), defines the term "discharge of a pollutant" to include "any addition of any pollutant to navigable waters from any point source."
8. "Pollutant" is defined by section 502(6) of the Act, 33 U.S.C. § 1362(6), to include biological material and agricultural waste discharged into water.
9. "Point source" is defined by section 502(14) of the Act, 33 U.S.C. § 1362(14), to include "any discernible, confined and discrete conveyance, including but not limited to any pipe, ditch, channel, tunnel, well, discrete fissure, container, rolling stock, concentrated animal feeding operation . . . from which pollutants are or may be discharged."
10. To implement § 402 of the Act, EPA promulgated regulations codified at 40 C.F.R. part 122. 40 C.F.R. § 122.23(d) requires the owner or operator of a CAFO to seek coverage under an NPDES permit if the CAFO discharges or proposes to discharge. A CAFO proposes to discharge if it is designed, constructed, or maintained such that a discharge will occur. *Id.*
11. "Animal feeding operation" or "AFO" is defined by 40 C.F.R. § 122.23(b)(1) as a lot or facility where animals have been, are, or will be stabled or confined and fed or maintained for a total of forty-five (45) days or more in any twelve month period, and where crops, vegetation, forage growth, or post-harvest residues are not sustained in the normal growing season over any portion of the lot or facility.
12. "Concentrated animal feeding operation" or "CAFO" is defined in 40 C.F.R. 122.23(b)(2) as an animal feeding operation that is defined as a Large CAFO or a Medium CAFO in accordance with 40 C.F.R. § 122.23(b), or that is designated as a CAFO in accordance with 40 C.F.R. § 122.23(c).
13. "Medium CAFO" is defined at 40 C.F.R. § 122.23(b)(6) as an animal feeding operation that stable or confines 200 to 699 dairy cattle and either of the following conditions is met:
 - a. Pollutants are discharged into waters of the United States through a man-made ditch, flushing system, or other similar man-made device; or
 - b. Pollutants are discharged directly into waters of the United States which originate outside of and pass over, across, or through the facility or otherwise come into direct contact with the animals confined in the operation.
14. "Waters of the United States" are defined in 40 C.F.R. § 122.2 to include interstate waters and tributaries thereto.

15. "Process wastewater" is defined in 40 C.F.R. § 122.23(b)(7) as water "directly or indirectly used in the operation of the AFO for any of the following: spillage or overflow from animal or poultry watering systems; washing, cleaning, or flushing pens, barns, manure pits, or other AFO facilities; direct contact swimming, washing, or spray cooling of animals; or dust control. Process wastewater also includes any water which comes into contact with any raw materials, products, or byproducts including manure, litter, feed, milk, eggs or bedding."

16. The Colorado Department of Public Health and Environment (CDPHE) is the agency within the state of Colorado that is authorized to administer the federal NPDES program. EPA maintains concurrent enforcement authority with authorized state NPDES programs to address violations of the Act.

III. FACTUAL BACKGROUND AND FINDINGS OF VIOLATION

17. On May 20, 2009, inspectors from EPA conducted an inspection of the facility. And as of that date:

- a. The facility had two drainages south of the facility, along 49th Street, that could transfer process wastewater off of the facility. The first drainage is 250 feet directly south of the wastewater lagoon and the second drainage is 150 feet directly south of the tail-water pond. Each of the two drainages flow 400 feet south and collect at Rehmer Lake. The outfall from Rehmer Lake flows approximately 2,200 feet to the Evans Town Ditch,
- b. The Evans Town Ditch flows to the South Platte River, which is located approximately 1-2 river miles away from the discharge point,
- c. Flood irrigation water flows from the southeastern corner of the wastewater lagoon and into the tail-water pond,
- d. The diversion berm is designed to direct the flood irrigation to the tail-water pond along the south portion of the facility had a breach in the berm structure,
- e. The facility installed tail-water pond on the south border of the facility accepts lagoon water via overland flow during flood irrigation events,
- f. Randy Mossberg stated that the tail-water pond had overtopped during a March 2009 rainstorm,
- g. Flood irrigation water from the wastewater lagoon will flow south, through the breached designed diversion berm, and into the drainage to the south of 49th Street, and;

- h. Water from the facility installed tail-water pond will flow south and into the drainage to the south of 49th Street when the tail-water pond overtops.
- 18. The facility confined and fed approximately 640 head of dairy cattle at the time of the EPA inspection.
- 19. Evans Town Ditch has been defined as a Relatively Permanent Water (RPW) that flow directly to a Traditional Navigable Water (TNW) by the Army Corps of Engineers on September 11, 2007. Evans Town Ditch and the South Platte River are waters of the United States, as defined in 40 C.F.R. § 122.2.
- 20. The facility confines and feeds or maintains dairy cattle for a total of forty-five (45) days or more in any twelve month period.
- 21. Crops, vegetation, forage growth, and post harvest residues are not sustained in the normal growing season over any portion of the facility's feeding areas.
- 22. The facility is an AFO as defined by 40 C.F.R. § 122.23(b)(1).
- 23. The number of cattle confined at the facility is between 200 and 699 and the facility is designed, constructed, operated, or maintained such that a discharge of storm water containing pollutants will flow from the facility through the unnamed drainage and discharge into the Evans Town Ditch, a water of the United States. Therefore, the facility is a CAFO as defined in 40 C.F.R. § 122.23(b)(2) and section 502(14) of the Act, 33 U.S.C. § 1562(14), and a Medium CAFO as that term is defined in 40 C.F.R. § 122.23(b)(6).
- 24. Respondent is a "person" within the meaning of § 502(5) of the Act, 33 U.S.C. § 1362(5).
- 25. Respondent has not applied for or received coverage under an NPDES § 402 permit as required under §§ 301 and 402 of the Act, 33 U.S.C. §§ 1311 and 1342, and 40 C.F.R. § 122.23.

IV. ORDER

Based on the foregoing findings of violation, and pursuant to the authority vested in the Administrator of EPA pursuant to §§ 308 and 309(a) of the Act, 33 U.S.C. §§ 1318 and 1319(a), as properly delegated to the undersigned official. Respondent is hereby ordered:

26. Immediately cease and desist the discharge of pollutants into waters of the United States unless such discharges are in accordance with a NPDES permit issued pursuant to § 402 of the Act, 33 U.S.C. § 1342.

27. Within ten (10) calendar days of receipt of this Order, Respondent shall submit to EPA and the CDPHE a written notice of its intent to comply with the requirements of this Order.

28. Respondent shall immediately conduct daily visual monitoring of all potential sources of discharges containing manure, waste silage, and/or feed to waters of the United States from the facility. Monitoring locations shall include but are not limited to: the drainage area south of the wastewater lagoon, the tail-water ponds, areas of potential or actual discharges from fields subject to land application of wastes, confinement areas, silage piles, and waste storage lagoons.

29. Respondent shall immediately develop and maintain a written monitoring log containing the following information for each area monitored as required by the preceding paragraph: the date and time of the visual observation, an indication of whether or not a discharge was observed, and the initials of the person making the observation. Respondent shall maintain the monitoring records at the facility for at least three (3) years after the date of this Order and make them available for inspection or copying upon request by any authorized representatives of EPA and the CDPHE.

30. Respondent shall immediately conduct daily monitoring of precipitation at the facility, using a rain gauge. Respondent shall record and maintain records of precipitation amounts with the monitoring records required by this Order.

31. Respondent shall immediately perform a holding capacity analysis of the wastewater lagoon and the tail-water pond. This analysis should determine the total volume of the ponds, the volume needed to contain and 25-year/24-hour event, the volume needed to contain all wastewater for 120 days, and determine the weather event needed to overtop the ponds.

32. Respondent shall immediately submit to EPA and the CDPHE any and all soil and manure analysis taken for the Dairy for the last 5 years.

33. For each observed discharge of any agricultural waste or other pollutant(s) from the facility that may enter any water of the United States, Respondent shall:

- a. Within two (2) hours of the discharge, sample the discharge in accordance with the methods specified in 40 C.F.R. part 136, and submit the sample to a laboratory to be analyzed in accordance with the sample holding times and methods of analysis specified in 40 C.F.R. part 136 for fecal coliform, 5-day Biochemical Oxygen Demand (BOD₅), Ammonia, Nitrate-Nitrite, and Total Suspended Solids;
- b. Submit to EPA and CDPHE with fifteen (15) calendar days of the discharge a

written report containing:

- 1) date and time of the discharge;
- 2) location of the discharge;
- 3) origin of the discharge;
- 4) estimated volume of the discharge;
- 5) daily rainfall measurements for the 30 days prior to the discharge event;
- 6) sample analysis results of the discharge; and,
- 7) steps taken to prevent reoccurrence of the discharge.

Timely reporting of an unpermitted discharge does not authorize any such discharge or excuse the Respondent from the requirement in paragraph 36 to apply for an NPDES permit. Also, any reporting of a discharge does not alleviate any further EPA or CDPHE enforcement action.

34. Within fourteen (14) calendar days of receipt of this Order, Respondent shall:

- a. ensure the structures diverting lagoon water to the tail-water pond are functioning so that all water is captured within the tail-water pond,
- b. ensure that no water from the tail-water pond can leave the facility through the drainage along 49th Street, and;
- c. remove any manure, waste silage and/or feed from the 49th Street roadside ditch.

35. Within thirty (30) calendar days of receipt of this Order, Respondent shall provide to EPA and CDPHE a Best Management Practice (BMP) Implementation Plan (Plan) for review and approval. The Plan shall set forth measures that respondent will take to prevent the discharge of pollutants from the facility to waters of the United States. The measures must include, but need not be limited to; the installation of BMPs to ensure that flood irrigation water from the lagoon and water from the tail-water pond does not leave the facility and discharge to waters of the United States. The Plan shall also include a schedule for completing implementation of the measures within sixty (60) days of approval of the Plan and schedule by EPA. Respondent shall respond to any EPA comments on the Plan and schedule within fifteen (15) days of receipt of the comments. Upon approval by the EPA, the schedule will be incorporated into this Order as an enforceable requirement.

36. Unless Respondent can completely demonstrate that no further discharges will occur from the facility to waters of the United States, Respondent shall within ninety (90) days of receipt of this Order, submit a complete application for an NPDES permit to CDPHE. However, if the facility discharges any agricultural waste or other pollutant(s) to any water of the United States, Respondent shall submit this application to CDPHE no later than thirty (30) days after such discharge. The application must include a site-specific Nutrient Management Plan (NMP) that meets the requirement of 40 C.F.R. § 122.42(e).

37. All related correspondence, plans, schedules, and reports, shall be sent to the following addresses:

Seth Draper
U.S. Environmental Protection Agency, Region 8
1595 Wynkoop Street
Denver, CO 80202-1129

and

Phyllis Woodford
Office of Environmental Integration and Sustainability
Environmental Agriculture Program
Colorado Department of Public Health and Environment
4300 Cherry Creek Drive South
Denver, CO 80246-1530

38. Respondent shall submit to EPA and CDPHE monthly reports of its efforts to achieve compliance with this Order, postmarked by the 10th day of every month, until EPA or CDPHE notifies the Respondent, in writing, that it no longer requires such reports. Each report shall include an update of the progress of the Plan required by Par. 35 of this Order and local rainfall amounts for the previous month, as well as copies of all monitoring logs and records required by this Order.

39. Respondent shall allow access by any authorized representatives of EPA and the CDPHE, or any of the agencies' contractors, upon proper presentation of credentials, to the facility and records relevant to this Order for the following purposes:

- a. To inspect and monitor progress of the activities required by this Order;
- b. To inspect and monitor compliance with this Order; and
- c. To verify and evaluate data and other information submitted to EPA.

40. This Order shall in no way limit or otherwise affect EPA's authority, or the authority of any other governmental agency, to enter the facility, conduct inspections, have access to records, issue notices and orders for enforcement, compliance, or abatement purposes, or monitor compliance pursuant to any statute, regulation, permit, or court order.


41. Compliance with the terms and conditions of this Order shall not be construed to relieve Respondent of its obligation to comply with any applicable Federal, state, or local law or regulation.

42. Please be advised that § 309(d) of the Act, 33 U.S.C. § 1319(d), authorizes civil penalties of up to \$32,500 per day for each violation which occurred from March 15, 2004, through January 12, 2009, and \$37,500 per day for each violation thereafter of § 301 of the Act, 33 U.S.C. § 1311. Section 309(d) of the Act, 33 U.S.C. § 1319(d) further authorizes such penalties for each violation of a permit condition in a permit issued by a state under § 402 of the Act, 33 U.S.C. § 1342, and for each violation of an order issued by the Administrator of EPA under § 309(a) of the Act, 33 U.S.C. § 1319(a), including this Order. Additionally, § 309(g) of the Act, 33 U.S.C. § 1319(g), authorizes EPA to impose administrative penalties for violations of the Act. Further, § 309(c) of the Act, 33 U.S.C. § 1319(c), authorizes fines and imprisonment for willful or negligent violations of the Act.

43. Issuance of this Order shall not be deemed an election by the United States to forego any civil or criminal action to seek penalties, fines, or other appropriate relief under the Act for violations giving rise to this Order.

44. This Order shall be effective upon receipt by Respondent.

DATED this 16th day of Sept., 2010.



Andrew M. Gaydosh
Assistant Regional Administrator
Office of Enforcement, Compliance, and Environmental Justice

ANIMAL FEEDING OPERATION INSPECTION REPORT

Lead Inspector: Daren Vanlerberghe
Additional EPA Inspectors: Christine Alvarez-Partin and Seth Draper
Date: 5/20/09
Arrival Time: 0915 hours
Departure Time: 1224 hours
Weather conditions: 80 degrees, sunny, warm and windy
Lat/Long information: N 40° 27.220' W 100° 47.046'

I. GENERAL INFORMATION

Facility Info:

Name: Mossberg Dairy, currently known as
 Ash Lane Dairy
 Address: 4320 65th Ave., Greeley, CO 80634
 Phone: 970-352-7611
 Fax:

Owner Info (possibly parent corporation):

Name: Ash Lane Dairy, LLC
 Mailing Address: 4603 83rd Ave., Greeley, CO
 80634
 Phone: 970-330-0296
 Fax:

Operator Info (if different from Owner):

Name: Randy Mossberg
 Mailing Address: 4603 83rd Ave., Greeley, CO
 80634
 Phone:
 Fax:

Env. Consultant Info:

Name:
 Mailing Address:
 Phone:
 Fax:

Name/position of individual to whom credentials presented: Jerry Mossberg, Part Owner (48%)

II. FACILITY OPERATION INFORMATION

1. What type of operation is the facility?

<input checked="" type="checkbox"/> Dairy Cattle	<input type="checkbox"/> Turkeys	<input type="checkbox"/> Livestock Market
<input type="checkbox"/> Beef Cattle	<input type="checkbox"/> Swine	<input type="checkbox"/> Racetrack/Rodeo
<input type="checkbox"/> Chickens	<input type="checkbox"/> Horses	<input type="checkbox"/> Other

2. How many and what type of animals are present?

	<u>Currently present</u>	<u>Capacity</u>
<input checked="" type="checkbox"/> Dairy Cattle (milking and dry)	No. of animals <u>640</u>	No. of animals <u>1000</u>
<input type="checkbox"/> Swine (Over 55 lbs.)	No. of animals _____	No. of animals _____
<input type="checkbox"/> Beef Cattle	No. of animals _____	No. of animals _____
<input type="checkbox"/> Horses	No. of animals _____	No. of animals _____
<input type="checkbox"/> Sheep and/or Lambs	No. of animals _____	No. of animals _____
<input type="checkbox"/> Chickens	No. of animals _____	No. of animals _____

<u> </u> Turkeys	No. of animals <u> </u>	No. of animals
<u> </u> Other	No. of animals <u> </u>	No. of animals

3. Approximate number of days animals are stabled/confined and fed/maintained over any 12-month period (provide source of the information) Year-round.

4. How long has the facility been in operation at this location?
Mossberg built the barn in the 1950s. It was called Mossberg Dairy until 1993, then was changed to Ash Lane Dairy. Jerry Mossberg is part owner, along with his two sons who each own 26 percent of the business. In 1993, the site contained approximately 1,000 cattle onsite.

5. Is there another facility under common ownership or management located adjacent to this one? If so, does it share a common area or system for waste disposal? No.

6. Did the facility submit an annual report to CDPHE? No, do not have an NPDES permit.

7. Is the facility located near a surface water? X Y N
 Proximity of surface water: Approximately 1 mile south is the Big Thompson River which joins the South Platte River 2 miles east. Rehmer Lake, a privately owned lake, is about 0.5 miles to the south of the dairy.
 Name of surface water: Big Thompson River, South Platte River, Rehmer Lake.

8. What is the 25-year, 24-hour rainfall amount for this location?
Unknown by Mr. Mossberg.

9. What is the Chronic Storm amount for this location? Unknown

10. How are the animals watered? Is there overflow, and where does it go?
Water is supplied by the City of Greeley, CO. There is no overflow.

11. Is water used for dust control? Is it fresh water or lagoon water?
No.

12. Are daily inspections of water lines, including drinking water or cooling water lines, performed? Unknown

13. How are the animals fed? Where is feed stored? Can feed enter surface water? Feed is stored in a partially covered area on the northeast side of the facility. Animals are fed using trucks and alleys. Runoff from the feed storage areas flows to settling ponds.

III. CONFINEMENT

1. Describe the types of confinement:
 free stall barns
 sheltered or limited shelter dirt lots
 paved lots
 dirt open lots,
 swine houses
 other
2. Are any crops, vegetation, forage growth, or post-harvest residues sustained in the normal growing season over any portion of the lot or facility where animals are kept?(provide source of this information). No
3. Do the animals enter/or cross surface water (e.g., rivers, streams, canals) on a regular basis?
Not observed during the inspection.
4. Were animals observed in surface water?
No
5. How many feedlots does the owner have?
Owner has four properties that include Ash Lane Dairy, home farm at 4603 83rd Ave., Greeley, CO 80634, one dairy in Stone Post, KS and Prospect Valley Feedlot near Fort Lupton, CO.
6. Is there any other location where animals are confined for more than 45 days in a year?
Unknown.

IV. WASTE MANAGEMENT

1. How is process wastewater, such as flush water from a dairy, handled?
Ash Lane has a wastewater/solids separation system that consists of a concrete holding area for solids, four separator basins, four settling ponds, one "25 Year" holding pond, one lagoon, and a tail water pond. According to Mr. Mossberg, the cement holding area is cleaned out three times per year. The process wastewater from the barn flows through the concrete holding area for initial solids removal. The wastewater flows through an alley into a four-basin separator system for additional solids separation. Effluent from the separator system flows through a series of four settling ponds and into the lagoon. The lagoon empties into a tail water pond. Wastewater from the tail water pond is pumped to a pivot for land application. Runoff from four of the five main pens flows to the "25 Year" holding pond. Runoff from the fifth main pen flows to the tail water pond. Runoff from a calving area pen flows to a concrete conveyance that leads to the Wiedeman Dairy to the east of Mossberg Dairy.

2. Describe the types of waste handling used:
- direct spreading in solid form
 - slotted floor with lagoon or pit
 - single or multi-cell lagoon
 - aerated lagoon
 - land application of liquid manure
 - spray irrigation, contractor disposal
 - other
3. Waste storage lagoon: Y N
- How many: Four settling ponds, one "25 Year" holding pond, one lagoon, and one tail water pond.
- Capacity: Unknown
- Date constructed: 1994
- Date improvements made to lagoon(s): N/A
- How dimensions were obtained by inspector: N/A
- Depth marker to measure freeboard present? No
- Are lagoons lined? No
- Is clean water diverted around the animal containment area? No
- Will all wastewater flow into the lagoons? No, runoff from the calving area pen on the northeast side of the facility drains into a concrete conveyance that leads to the Wiedeman Dairy to the east of Mossberg Dairy.
4. Are impoundments and tanks for production areas designed and constructed so they are capable of storing, at a minimum, the volume of all liquid manure and process wastewater, including the runoff from a 25-year, 24-hour Storm or Chronic Storm, whichever is greater? Unknown. Mr. Mossberg stated that he didn't believe there was storage capacity for a 25-year, 24-hour storm event. At the time of the inspection, manure was being stored in the "25 Year" holding pond (Photos 79, 80, 81), which was designated as the pond to store pen runoff.
5. Is 2 feet of freeboard maintained in all impoundments and tanks? No, there were no depth markers to measure freeboard in any of the impoundments and there was insufficient freeboard in the lagoon at the time of the inspection.
6. Are depth markers installed in all impoundments and storage tanks to indicate the design volume and the minimum capacity necessary to contain the 25-year, 24-hour Storm or Chronic Storm, whichever is greater, and to clearly indicate the 2-foot freeboard elevation? No.
7. Do all impoundments have a spillway designed to prevent erosion of the structural integrity of the impoundment (unless exempted)? No

8. Are weekly inspections of impoundments and tanks, including the recording of process wastewater levels, performed? Randy Mossberg and an operator perform some daily and some weekly inspections at the impoundments. Inspection logs are not maintained.
9. How is manure stored? Manure is stored in a concrete holding area just southeast of the barn. Manure is removed every few months and transferred to one of the local farms. During the inspection, manure was observed being stored in the "25 Year" holding pond (Photos 79, 80, 81). Solids were also observed without containment to the east of the lagoon (Photos 89 and 90).
10. Does the facility sell/give away manure? Yes, to local farmers. If so, what records are kept? For transfers to third parties are the following records kept: No records for manure transfers are kept.
The most current nutrient analysis provided to the recipient? No
The date and approximate amount transferred? No
The name and address of the recipient(s)? No
11. How are mortalities handled? For the past 5 years, mortalities have been composted at the Mossberg farm at 4603 83rd Avenue, Greeley, CO 80634.
12. Are structures used to divert clean water from running on to feedlots, holding pens, manure and process wastewater storage systems, manure stockpiles, and composting areas designed, constructed, and maintained such that they can carry the flow from a 25-year, 24-hour storm? No.
13. Are weekly inspections of all storm water run-on diversion devices, runoff diversion structures, animal waste storage structures, and devices channeling process wastewater to impoundments or tanks performed? No
14. Are impoundments, tanks, manure stockpiles, or composting areas located within a 100-year floodplain? If so, are they protected from inundation and damage from 100-year or smaller flood events? Mr. Mossberg did not think so, but was unsure.

V. LAND APPLICATION

1. If waste is land applied: Yes, process wastewater is applied to land east of the feedlot.
Does the facility own or control the land? Yes
What crops are grown? Corn, wheat, alfalfa
How many acres? 65 to 100 acres.
Are soil and/or manure analyses done? How often? According to Mr. Mossberg, soil analyses are done once per year. During the investigation, Mr. Mossberg was able to provide copies of the soil records up until 2004. Weid Laboratory performs the analysis.
What application records are kept? None.

2. For flood irrigation: Are tail water facilities used? Is there adequate capacity to retain all wastewater runoff? There is a tail water pond on-site. It is not known if the tail water pond will contain all wastewater runoff.
3. Are the following records maintained for land application sites:
 - a. Expected crop yields?
 - b. The date(s) manure or process wastewater is applied to each land application site?
 - c. The amount of precipitation received at the time of land application and for 24 hours prior to and following application?
 - d. Test methods used to sample and analyze manure, process wastewater, and soil?
 - e. Results from manure, process wastewater, and soil sampling and analysis?
 - f. Explanations of the basis for determining manure and process wastewater application rates?
 - g. Calculations showing the total nitrogen and phosphorus that will be applied to each land application site?
 - h. The total amount of nitrogen and phosphorus actually applied to each land application site, including documentation of calculations?
 - i. The method used to apply the manure and process wastewater?
 - j. Dates of manure application equipment inspections?

No land application records were available for review during the inspection.

VI. NUTRIENT MANAGEMENT PLAN

1. Is there a site-specific nutrient management plan (i.e., land application records) kept on-site? Date developed or last revised?
If no, does the facility plan to implement an NMP by February 29, 2009?

Mossberg Dairy is not permitted and did not have an NMP at the time of the inspection.

VII. DISCHARGE INFORMATION

1. Can pollutants from the disposal of wastes and wastewater enter a surface water, drybed, ditch, canal, etc? The Big Thompson River (approximately 1 mile) and the South Platte River (approximately 2 miles) are south of the dairy. Rehmer Lake is less than 0.5 miles south of the dairy. According to Mr. Mossberg, there have been "25-year storm events" and releases. There was a break in the berm on the south end of the property and evidence of runoff leading off-site to the south (Photos 91, 93, 94, 96). Further evaluation is needed to make this determination.

2. Name the surface water, drybed, ditch, canal, etc. Big Thompson River, South Platte River, Rehmer Lake.
3. Describe how the discharge may occur.
The last known discharge that he could recall was in March 2009. According to Mr. Mossberg, during high storm flows, the tail water pond will overflow into Rehmer Lake, a private lake south of the dairy. The lake is owned by Joyce Alleley.
If a past overflow did occur, are there records of the date, time, and estimated volume of the overflow? Mr. Mossberg stated that the last time there was a discharge to Rehmer Lake was on March 2009 during a heavy storm. No other information was provided by Mr. Mossberg.
4. Are there records of discharge monitoring for all past discharges? No

If there is evidence of a discharge or a discharge was observed, obtain answers to the following and indicate how the information was obtained. Also, take a sample from the source of the discharge and take photographs of the discharge or evidence of the discharge.

5. List any discharges which have occurred at the facility and describe how and why the discharge occurred (e.g., failure of manure-storage structure, 25-year, 24-hour storm)

Discharges	How Discharge Occurred	Why Discharge Occurred
<u>Unknown</u>		

6. Did any of the discharges occur through a:
 - i. Y ___ N man-made ditch
 - ii. Y ___ N flushing system
 - iii. Y ___ N similar man-made device (i.e., man-made shaping or grading or man-made alteration to property, trough)
7. Verify the type (ditch, canal, stream, river, drybed) and name of the water body receiving the discharge: Rehmer Lake (privately owned lake).
8. Was the discharge:

Process-generated wastewater	Yes ___	No ___
Animal Waste	Yes ___	No ___
Rain or snow runoff	Yes ___	No ___

 If another type of discharge, please describe:

VIII. WATER QUALITY ASSESSMENT

1. Does a surface water, drybed, ditch, canal, etc., pass over, across, through, or along side the area where the animals are confined? Y X N
2. If the answer to #1 is no, what is the distance from the area where the animals are confined to a surface water, drybed, ditch, canal, etc.? Approximately 0.5 miles to Rehmer Lake, 1 mile to the Big Thompson River, 2 miles to the South Platte River.
3. If there is a buffer or diversion structure to prevent waste from entering a surface water, describe the condition of the buffer or diversion structure. There is a berm on the south end of the property. A breach in the berm was observed during the inspection (Photo 91).
4. Describe where the surface water originates and where it flows once it has received a discharge. Not evaluated.
5. Describe other animal operations in the immediate vicinity and their proximity to the same or other surface waters. Wiedeman Dairy is located immediately adjacent to Mossberg Dairy to the east and within the same proximity to surface waters as Mossberg Dairy.
6. Provide information on the nearby surface water, such as uses, known impairment, etc. Not evaluated.

IX. OTHER QUESTIONS TO CONSIDER

1. Are waste oil containers labeled properly? N/A
2. Does the facility have an above-ground fuel tank 660 gallons or greater? A 250-gallon kerosene tank and 1,000-gallon diesel fuel tank were on-site.
3. Does the facility have a total storage capacity of fuel and oil greater than 1,320 gallons? No
4. Do fuel tanks have spill containment structures? No
5. If the answer to questions 2 or 3 is yes, does the facility have a SPCC plan? No
6. Where and how is vehicle maintenance and washing done? N/A
7. Are there any drinking water wells nearby? Not evaluated.

X. FACILITY DIAGRAM

Attach a sketch of the facility layout, including pertinent information such as surface water, discharge location, buildings, fencing, etc.

See attached aerial images.

Concentrated Animal Feeding Operation (CAFO) Inspection
 Ash Lane Dairy, LLC (Previously known as Mossberg Dairy), Greeley, Colorado
 May 20, 2009
 Findings and Recommendations

Findings	Recommended Corrective Actions
<p>1. According to Mr. Mossberg, the dairy has had wastewater discharges from the tail water pond during storm events. The last known discharge occurred in March 2009 when the tail water pond overflowed during a storm event into Rehmer Lake. Evidence of discharge activity can be seen in photographs 91, 93, 94, and 96.</p> <p>The 25-year, 24-hour storm event volume was not known. No information was available to determine if all impoundments and tanks for production areas were designed and constructed so they are capable of storing, at a minimum, the volume of all liquid manure and process wastewater, including the runoff from a 25-year, 24-hour storm or chronic storm, whichever is greater. None of the impoundments were lined and none of the impoundments had depth markers. There was insufficient freeboard being maintained in the lagoon at the time of the inspection. None of the impoundments had spillways to prevent erosion of the structural integrity of the impoundments.</p> <p>No records are maintained for inspections of the impoundments.</p>	<p>1. A comprehensive evaluation of the capacity necessary to contain all manure and process wastewater and the runoff and direct precipitation from the 25-year, 24-hour storm or chronic storm should be conducted. The evaluation should include proposed improvements to the existing impoundments to ensure adequate capacity, including sufficient freeboard. The impoundments should be lined and equipped with depth markers and spillways.</p> <p>The impoundments should be regularly inspected and records of the inspections should be maintained.</p>
<p>2. Manure was observed being stored in the "25 Year" holding pond (Photos 79, 80, 81) and solids were also observed without containment to the east of the lagoon (Photos 89 and 90).</p>	<p>2. Manure should be stored in a designated area to prevent the discharge of pollutants to surface waters, such as the concrete holding area. Manure should be removed from the "25 Year" holding pond to maintain the capacity of the holding pond for the storage of runoff.</p>
<p>3. No records of manure transfer to third parties were being maintained.</p>	<p>3. Records of manure transfers should be maintained, including the most current nutrient analysis provided to the recipient(s), the date and approximate amount transferred, and the name and address of the recipient(s).</p>
<p>4. No structures used to divert clean water from running on to the production were in place.</p>	<p>4. Structures used to divert clean water from running on to the holding pens, manure and process wastewater storage systems, manure stockpiles, and composting areas should be designed, constructed, and maintained such that they can carry the flow from a 25-year, 24-hour storm.</p>

Findings	Recommended Corrective Actions
<p>5. No land application records were available for review during the inspection.</p>	<p>5. Land application records should be maintained , including expected crop yields; the date(s) manure or process wastewater is applied to each land application site; the amount of precipitation received at the time of land application and for 24 hours prior to and following application; test methods used to sample and analyze manure, process wastewater, and soil; results from manure, process wastewater, and soil sampling and analysis; explanations of the basis for determining manure and process wastewater application rates; calculations showing the total nitrogen and phosphorus that will be applied to each land application site, including sources other than manure or process wastewater; the total amount of nitrogen and phosphorus actually applied to each land application site, including documentation of calculations for total amount applied; the method used to apply the manure and process wastewater; and date(s) of manure application equipment inspections.</p>
<p>6. A 1,000 gallon diesel fuel tank and a 250-gallon kerosene tank were located outside the barn and did not have secondary containment.</p>	<p>6. Secondary containment should be installed around the fuel storage tanks to prevent spills or releases from reaching the impoundments and/or surface water. The secondary containment can be a simple earthen berm</p>