

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 7  
901 NORTH 5th STREET  
KANSAS CITY, KANSAS 66101

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ENVIRONMENTAL PROTECTION  
AGENCY REGION VII  
REGIONAL HEARING CLERK

BEFORE THE ADMINISTRATOR

IN THE MATTER OF	)	
	)	
Darling International Inc.	)	Docket No. CWA-07-2010-0110
	)	
Respondent	)	FINDINGS OF VIOLATION AND
	)	AMENDMENT TO ORDER FOR
	)	COMPLIANCE ON CONSENT
Proceeding under Section 309(a)(3)	)	
of the Clean Water Act,	)	
33 U.S.C. § 1319(a)(3)	)	
_____	)	

A. INTRODUCTION

1. The FINDINGS OF VIOLATION are made and AMENDED ORDER FOR COMPLIANCE ON CONSENT is issued pursuant to the authority vested in the Administrator of the United States Environmental Protection Agency (“EPA”), by Section 309(a)(3) of the Clean Water Act (“CWA” or the “Act”), 33 U.S.C. § 1319(a)(3), as delegated by the Administrator to the Regional Administrator, EPA Region VII, and further delegated to the Director, Water, Wetlands and Pesticides Division, EPA Region VII.

2. On or about July 29, 2009, the United States Environmental Protection Agency (“EPA”) issued a Findings of Violation and Order for Compliance, CWA-07-2009-0025, to Nebraska By-Products, Inc. (“Nebraska By-Products”) pursuant to Section 309(a)(3) of the Clean Water Act (“CWA”), 33 U.S.C. § 1319(a)(3), for violations of Sections 301(a) and 307(d) of the CWA, 33 U.S.C. §§ 1311(a) and 1317(d) at its rendering facility located at 1208 East Walnut in Lexington, Nebraska (the “Facility”) (hereinafter “The Order for Compliance”).

3. The Order for Compliance, CWA-07-2009-0025, required Nebraska By-Products to provide EPA with a written Compliance Plan, for EPA’s review and approval, describing in detail how Nebraska By-Products will no longer be in violation of its Nebraska Pretreatment Program (“NPP”) Permit and no longer cause pass through and/or interference at the POTW, as described in the Findings of Violation noted within the Order for Compliance, and come into compliance with 40 C.F.R. Part 403 and Respondent’s NPP Permit.

4. The terms and conditions of the Order for Compliance are binding upon Nebraska By-Products’ successors and assigns.

5. Darling International Inc. (“Darling”) is a “person” within the meaning of Section 502(5) of the CWA, 33 U.S.C. § 1362(5), and is a foreign corporation registered to do business in the state of Nebraska.
6. On or about May 28, 2010, Darling purchased various assets from Nebraska By-Products, including the Facility. Darling is now the owner and/or operator of the Facility.
7. Prior to consummating the acquisition, Darling notified EPA of its proposed acquisition and desire to work with EPA to bring the Facility into compliance with the Facility’s NPP permit. Moreover, Darling International agreed to enter into an amended Administrative Order of Compliance to establish a plan to achieve compliance.
8. All references to “Respondent” within the compliance portion of the Order for Compliance in Paragraph 13 and 14 below are hereby amended to define Darling as the Respondent.
9. Respondent admits the jurisdictional allegations set forth in paragraphs 1 through 6 of the July 29, 2009, Findings of Violation and Order for Compliance.
10. Respondent neither admits nor denies the factual allegations set forth paragraphs 7 through 18 or the finding of violations set forth in paragraphs 19 through 55 of the July 29, 2009, Findings of Violation and Order for Compliance.
11. Respondent consents to the issuance of the Amended Consent Order for Compliance hereinafter recited provided paragraphs 13 and 14 below replace Paragraphs 56 and 57 of EPA’s July 29, 2009 Findings of Violation and Order for Compliance, CWA-07-2009-0026.
12. The signatory below certifies that he or she is fully authorized to enter into the terms and conditions of this Amendment to Order for Compliance on Consent (“Amended Order”).

#### B. AMENDMENT TO ORDER FOR COMPLIANCE ON CONSENT

13. Based on the authority of Section 309(a)(3) of the Act, 33 U.S.C. § 1319(a)(3), Respondent CONSENTS and is hereby ORDERED as follows:
14. As soon as possible, but no later than one hundred twenty (120) calendar days from receipt of this Amended Order, Respondent shall provide EPA with a written Compliance Plan, for EPA’s review and approval, describing in detail how Respondent will achieve compliance with its NPP Permit, the CWA and the regulations promulgated thereunder, including 40 C.F.R. Part 403, and eliminate discharge causing or contributing to pass through and/or interference at the Lexington Publicly Owned Treatment Works (“POTW”), as described in the Findings of Violation referenced herein, by meeting the parameters set forth in the NPP Permit and this Amended Order for Compliance. At a minimum, the proposal shall include:

- a. A description of wastewater treatment modifications Respondent proposes to undertake at the facility to reduce loadings in the wastewater discharged to the POTW;
- b. A schedule for implementation of the proposed modification(s); and
- c. Submission of cost information relating to any proposed modification.

15. In lieu of 24 hour verbal and 5 day written non compliance reporting, as specified in Respondent's NPDES permit, Appendix A, Subpart D, Respondent shall report to the Nebraska Department of Environmental Quality (NDEQ), on a monthly basis, all discharges to the POTW that are in violation of the requirements of Respondent's NPDES permit except with respect to an Endangerment Violations (as defined below). Notwithstanding the foregoing, however, Respondent shall report within 24 hours and provide 5 day written reporting, as specified in Respondent's NPDES permit, Appendix A, Subpart D, any noncompliance or upsets that are not similar to those described in the Finding of Violations noted within the Order for Compliance and which present (i) an endangerment to the environment, human health or welfare, (ii) an unanticipated, non-routine bypass, or cause upset, pass through, or interference at the POTW. (collectively, an "Endangerment Violation").,

16. Paragraph 58 of the Order of Compliance shall not be binding upon Respondent.

17. All documents required for submittal to EPA shall be hand delivered or sent by certified mail, return receipt requested, to the following:

Mr. Robert Bryant  
Water Enforcement Branch  
Water, Wetlands and Pesticides Division  
U.S. Environmental Protection Agency  
901 North 5th Street  
Kansas City, Kansas 66101

18. All documents required for submittal to NDEQ shall be hand delivered or sent by certified mail, return receipt requested, to the following:

Mr. Steven Goans  
Wastewater Section  
Nebraska Department of Environmental Quality  
Suite 400, The Atrium  
1200 "N" Street  
P.O. Box 98922  
Lincoln, Nebraska 68509-8922

19. All documents or responses to Respondent shall be hand delivered or sent by certified mail, return receipt requested:

William R. McMurtry  
Vice President of Environmental Affairs  
Darling International Inc.  
251 O'Connor Ridge  
Suite 300  
Irving, TX 75038

20. Upon receipt, EPA will review all documents submitted by Respondent pursuant to Paragraph 14, and approve such submittals or require modification and resubmittal of a portion or all of the documents pursuant to Paragraph 21, below. Upon approval, implementation plans and schedules submitted under Paragraph 14, above, or resubmitted pursuant to Paragraph 20, below, shall be deemed incorporated into and become enforceable under this Amended Order.

21. If required by EPA pursuant to Paragraph 20, above, Respondent shall, within fifteen (15) days of receipt of any written comments from EPA regarding the documents submitted by Respondent pursuant to this Amended Order, make modifications and changes to such documents as directed by EPA, and resubmit the documents to EPA. The parties may agree, in writing, to a longer period of time for resubmission of such documents, and EPA shall take into consideration any good faith efforts by Respondent to satisfy EPA's requests when determining extensions of time.

22. All submissions made by Respondent to EPA pursuant to the requirements of this Amended Order shall contain the following certification signed by an authorized official, as described at 40 CFR 122.22:

I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing submissions of false information.

### C. GENERAL PROVISIONS

23. Compliance with the terms of this Amended Order shall not relieve Respondent of liability for, or preclude EPA from initiating, an enforcement action to recover penalties for any violations of the CWA, or to seek additional injunctive relief, pursuant to Section 309 of the CWA, 33 U.S.C. § 1319.

24. Respondent shall comply with all other applicable laws, regulations, standards, and requirements contained in any applicable local, state and Federal pretreatment laws, regulations,

standards, and requirements including any such laws, regulations, standards, or requirements that may become effective during the term of this Amended Order.

25. To the extent there is any inconsistency or conflict between the Amended Order and the language of the Findings of Violation and Order for Compliance, the language of the Amendment shall control.

26. The terms of this Amended Order shall be effective and enforceable against Respondent upon its receipt of an executed copy of the Amended Order.

27. This Amended Order shall remain in effect until a written notice of termination is issued by an authorized representative of the EPA. Such notice shall not be given until all of the requirements of this Amended Order have been met.

28. This Order is binding on the Parties signing below.

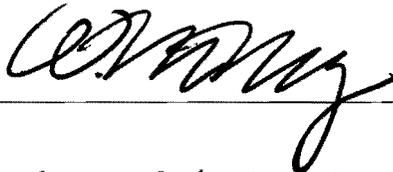
COMPLAINANT:  
U. S. ENVIRONMENTAL PROTECTION AGENCY



William A. Spratlin  
Director  
Water, Wetlands and Pesticides Division  
U.S. Environmental Protection Agency  
Region 7  
901 North 5th Street  
Kansas City, Kansas 66101

Date: 11/23/10

RESPONDENT:  
DARLING INTERNATIONAL INC.

By 

Title VP OF ENVR. AFFAIRS

Date 10/19/10

IN THE MATTER OF Darling International Inc., Respondent  
Docket No. CWA-07-2010-0110

CERTIFICATE OF SERVICE

I certify that a true and correct copy of the foregoing Findings of Violation and Amendment to Order for Compliance Consent was sent this day in the following manner to the addressees:

Copy hand delivered to  
Attorney for Complainant:

Kristen Nazar  
Assistant Regional Counsel  
Region 7  
United States Environmental Protection Agency  
901 N. 5<sup>th</sup> Street  
Kansas City, Kansas 66101

Copy by Certified Mail Return Receipt to:

Registered Agent, Darling International, Inc.  
C T Corporation System  
1024 K Street  
Lincoln, Nebraska 68508

Registered Agent, Nebraska By-Products, Inc.  
Mr. Leon A Johnson  
East Pacific, Box 736  
Lexington, NE 68850

William R. McMurtry  
Vice President of Environmental Affairs  
Darling International Inc.  
251 O'Connor Ridge  
Suite 300  
Irving, TX 75038

Copy by First Class Mail to:

Mr. Steven Goans  
Wastewater Section  
Nebraska Department of Environmental Quality  
Suite 400, The Atrium  
1200 N Street  
P.O. Box 98922  
Lincoln, Nebraska 68509-8922

Dated: 11/24/10



Kathy Robinson  
Hearing Clerk, Region 7