



REGION 3

PHILADELPHIA, PA 19103

FILED
Jun 13, 2024
11:50 am
**U.S. EPA REGION 3
HEARING CLERK**

In the Matter of:

Vale Wood Farms
517 Vale Wood Road
Loretto, PA 15940-6605

Respondent

and

Vale Wood Dairy
517 Vale Wood Road
Loretto, PA 15940-6605

Facility

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: **U.S. EPA Docket No. CWA-03-2024-0004DN**
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: **ADMINISTRATIVE ORDER FOR COMPLIANCE ON**
: **CONSENT PURSUANT TO CLEAN WATER ACT**
: **SECTION 309(a), 33 U.S.C. § 1319(a)**
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I. STATUTORY AUTHORITY AND JURISDICTION

1. This Administrative Order on Consent (“AOC or Order”) is issued to Vale Wood Farms (“Respondent”), under the authority vested in the United States Environmental Protection Agency (“EPA”) by Section 309(a) of the Clean Water Act, 33 U.S.C. § 1319(a) (“CWA” or “Act”). The Administrator delegated this authority to the Regional Administrator of EPA Region 3, who further delegated it to the Director of the Enforcement and Compliance Assurance Division, EPA Region 3.
2. Section 309(a) of the Act provides, among other things, that: “Whenever, on the basis of information available to [the EPA], [the EPA] finds that any person is in violation of any condition or limitation which implements section [301, 302, 306, 307, 308, 318, or 405] of this title in a permit issued under section [402] of this title,” The EPA shall issue an order requiring such person to comply with such condition or limitation. See 33 U.S.C. § 1319(a)(3).
3. The EPA has jurisdiction over the above-captioned matter, as described in Paragraphs 1 and 2, above.

4. The EPA has consulted with the Pennsylvania Department of Environmental Protection (“PADEP”) regarding this action and, subsequent to the Effective Date, the EPA will mail a copy of this fully executed AOC to the appropriate PADEP representative.

II. GENERAL PROVISIONS

5. The provisions of this AOC shall apply to and be binding upon the Respondent and the officers, directors, employees, contractors, agents, trustees, successors and assigns of the Respondent.
6. Respondent shall bear its own costs and attorney’s fees in connection with this proceeding and associated with the implementation or enforcement of this AOC, including any costs related to resolution of any dispute arising regarding this AOC.
7. The EPA reserves the right to commence an action against any person, including Respondent, in response to any condition which the EPA determines may present an imminent and substantial endangerment to the public health, public welfare, or the environment. The EPA reserves all existing rights and remedies available to it under the CWA, 33 U.S.C. § 1251 – 1389, the regulations promulgated thereunder, and any other federal laws or regulations for which the EPA has jurisdiction, including enforcement of this AOC.
8. This AOC does not constitute a waiver or modification of the terms or conditions of any permit issued to Respondent. Nothing in this Order shall relieve Respondent of its obligation to comply with all applicable provisions of federal, state, or local laws and regulations, nor shall it restrict the EPA’s authority to seek compliance with any applicable laws or regulations, nor shall it be construed to be a ruling on the validity of any federal, state or local permit. This Order does not constitute a waiver, suspension, or modification of the requirements of the Act, 33 U.S.C. § 1251 – 1389, or any regulations promulgated thereunder.
9. Respondent waives any and all remedies, claims for relief and otherwise available rights to judicial or administrative review that Respondent may have with respect to any issue of fact or law set forth in this AOC, including any right of judicial review pursuant to Chapter 7 of the Administrative Procedure Act, 5 U.S.C. §§ 701-706.
10. The EPA reserves all existing inspection authority otherwise available to the EPA pursuant to Section 308 of the CWA, 33 U.S.C. § 1318, or pursuant to any other statute or law.
11. The undersigned representative of Respondent certifies that he or she is fully authorized by the Respondent to enter into the terms and conditions of this AOC and to execute and legally bind the Respondent.
12. By signing this AOC, Respondent acknowledges that this AOC may be available to the public and represents that, to the best of Respondent’s knowledge and belief, this AOC

does not contain any confidential business information or personally identifiable information from Respondent.

13. Respondent certifies that to the best of its knowledge and belief, any information or representation it has supplied or made to the EPA concerning this matter was, at the time of submission, true, accurate, and complete and that there has been no material change regarding the truthfulness, accuracy or completeness of such information or representation. The EPA shall have the right to institute further actions to recover appropriate relief if the EPA obtains evidence that any information provided and/or representations made by Respondent to the EPA regarding matters relevant to this AOC are knowingly false or, in any material respect, inaccurate. This right shall be in addition to all other rights and causes of action that the EPA may have, civil or criminal, under law or equity in such event. Respondent and its officers, directors and agents are aware that the submission of false or misleading information to the United States government may subject a person to separate civil and/or criminal liability.
14. For purposes of the identification requirement in Section 162(f)(2)(A)(ii) of the Internal Revenue Code, 26 U.S.C. § 162(f)(2)(A)(ii), and 26 C.F.R. § 162-21(b)(2), performance of Section V of this Order (Compliance Order) is restitution, remediation, or required to come into compliance with the law.
15. Respondent neither admits nor denies the specific factual allegations set forth in this AOC.
16. Pursuant to 26 U.S.C. § 6050X and 26 C.F.R. § 1.6050X-1, the EPA is required to send to the Internal Revenue Service (“IRS”) annually, a completed IRS Form 1098-F (“Fines, Penalties, and Other Amounts”) with respect to any court order or settlement agreement (including administrative settlements), that require a payor to pay an aggregate amount that the EPA reasonably believes will be equal to, or in excess of, \$50,000 for the payor’s violation of any law or the investigation or inquiry into the payor’s potential violation of any law, including amounts paid for “restitution or remediation of property” or to come “into compliance with a law.” The EPA is further required to furnish a written statement, which provides the same information provided to the IRS, to each payor (i.e., a copy of IRS Form 1098-F). Failure to comply with providing IRS Form W-9 or Tax Identification Number (“TIN”), as described below, may subject Respondent to a penalty, per 26 U.S.C. § 6723, 26 U.S.C. § 6724(d)(3), and 26 C.F.R. § 301.6723-1. In order to provide the EPA with sufficient information to enable it to fulfill these obligations, the EPA herein requires, and Respondent herein agrees, that:
 - a. Respondent shall complete an IRS Form W-9 (“Request for Taxpayer Identification Number and Certification”), which is available at <https://www.irs.gov/pub/irs-pdf/fw9.pdf>;
 - b. Respondent shall therein certify that its completed IRS Form W-9 includes Respondent’s correct TIN or that Respondent has applied and is waiting for issuance of a TIN;

- c. Respondent shall email its completed Form W-9 to the EPA's Cincinnati Finance Center at Henderson.Jessica@epa.gov within 30 days after the Effective Date of this Order. The EPA recommends encrypting IRS Form W-9 email correspondence; and
- d. In the event that Respondent has certified in its completed IRS Form W-9 that it has applied for a TIN and that TIN has not been issued to Respondent within 30 days after the Effective Date of this Order, then Respondent, using the same email address identified in the preceding sub-paragraph, shall further:
 - i) notify the EPA's Cincinnati Finance Center of this fact, via email, within 30 days after the 30 days after the Effective Date of this Order; and
 - ii) provide the EPA's Cincinnati Finance Center with Respondent's TIN, via email, within five (5) days of Respondent's issuance and receipt of the TIN.

III. STATUTORY AND REGULATORY BACKGROUND

17. Section 402(a) of the Act, 33 U.S.C. § 1342(a), provides that the Administrator of the EPA may issue permits under the National Pollutant Discharge Elimination System ("NPDES") program for the discharge of pollutants from point sources to waters of the United States. The discharges are subject to specific terms and conditions as prescribed in the permit. Section 402(b) of the Act, 33 U.S.C. § 1342(b), provides for the authorization of state programs to issue NPDES permits.
18. Pursuant to Section 402(b) of the Act, 33 U.S.C. § 1342(b), the Commonwealth of Pennsylvania, through PADEP, has been authorized by the EPA to administer the NPDES program in Pennsylvania since June 30, 1978. Pennsylvania, through PADEP, has incorporated the NPDES Permit program requirements of the CWA, 33 U.S.C. § 1342, into its Clean Streams Law, as amended, 35 P.S. § 691.1 et seq.
19. Section 301(a) of the Act, 33 U.S.C. § 1311(a), prohibits the discharge of any pollutant by any person into waters of the U.S. except in compliance with sections 301, 302, 306, 307, 318, 402, and 404, 33 U.S.C. §§ 1311, 1312, 1316, 1317, 1328, 1342, and 1344, of the Act.
20. "Discharge of a pollutant" means "[a]ny addition of any 'pollutant' or combination of pollutants to 'waters of the United States' from any 'point source'." 40 C.F.R. § 122.2; *see also* 33 U.S.C. § 1362(12).
21. Pursuant to Section 402(i) of the CWA, 33 U.S.C. §1342(i), the EPA retains its authority to take enforcement action within Pennsylvania for NPDES permit violations.

IV. FINDINGS OF FACT, JURISDICTIONAL ALLEGATIONS AND CONCLUSIONS OF LAW

22. Respondent is a "person" within the meaning of Section 502(5) of the Act, 33 U.S.C. § 1362(5).

23. Respondent owns and operates the Vale Wood Dairy facility located at 517 Vale Wood Road in Loretto, PA (“Facility”). The Facility is a dairy processing facility which processes milk from cows at the farm and from neighboring farms. Non-stormwater discharges are processed at the facility’s industrial wastewater treatment facility (“WWTF”).
24. At all times relevant to this AOC, the operation of the WWTF has been subject to NPDES Discharge Permit No. PA0009466, issued by PADEP, effective August 1, 2012, with an expiration date of October 31, 2017, which was administratively extended (“Permit”).
25. Respondent is authorized to discharge pollutants, in the form of wastewater from the WWTF, to waters of the United States only in accordance with the terms and conditions of the Permit.
26. At all times relevant to this AOC, the WWTF discharged wastewater through a “point source,” as that term is defined at Section 502(14) of the Act, 33 U.S.C. § 1362(14), into Clearfield Creek, a relatively permanent water, which is connected to the West Branch of the Susquehanna River which is connected to the Susquehanna River which is connected to the Chesapeake Bay. The Chesapeake Bay, the Susquehanna River, and portions of the West Branch of the Susquehanna River are Traditional Navigable Waters. Clearfield Creek, the West Branch of the Susquehanna River, the Susquehanna River and the Chesapeake Bay are “waters of the United States” within the meaning of Section 502(7) of the Act, 33 U.S.C. § 1362(7).
27. On December 6, 2022, an EPA Inspection Team conducted an inspection of the Facility. The primary purpose of the inspection was to review the wastewater treatment processes at the Facility, evaluate WWTF operations, review the accuracy and reliability of the Permittee’s self-monitoring and reporting program, and obtain information that will assist the EPA in assessing the Permittee’s compliance with the requirements of its Permit.
28. The Permit authorizes the Permittee to discharge the following effluent to Clearfield Creek via Outfall 001: Non-contact cooling water from compressor systems, steam condensate overflows, process wastes resulting from cleaning and water flushes, and stormwater. The Permit authorizes the Permittee to discharge boiler blowdown effluent to Clearfield Creek via Outfall 002.
29. The Director of Business Development for Respondent stated that boiler blowdown water had been routed to the WWTF and that the Permittee no longer discharges via Outfall 002.
30. On February 6, 2023, the EPA sent Respondent a copy of the Compliance Inspection Report identifying the following violations of the Permit and the CWA as described below.

Count 1
Effluent Limit Exceedances at Outfall #1

31. Part A.I.A of the Permit defines effluent limitations and monitoring requirements for Outfall 001. In addition, all discharges at Outfall 001 shall be limited and monitored by the Respondent at the levels set forth in the Permit.

32. The Facility had 41 exceedances for the period of 9/30/19 to 2/28/23. These exceedances all occurred at the Facility’s only remaining outfall, Outfall 001 and included reoccurring exceedances of biochemical oxygen demand (“BOD”), as well as total suspended solids (“TSS”).

Table 1 – Discharge Monitoring Report Data

Perm Feature ID	Parameter Desc	Limit Value	Limit Unit Short Desc	Statistical Base Short Desc	DMR Value	Monitoring Period End Date
001	Solids, total suspended	7.2	lb/d	MO AVG	8.4	09/30/2019
001	BOD, 5-day, 20 deg. C	40.3	mg/L	MO AVG	42.3	02/29/2020
001	BOD, 5-day, 20 deg. C	80.7	mg/L	DAILY MX	84.6	02/29/2020
001	BOD, 5-day, 20 deg. C	4.8	lb/d	MO AVG	9.1	01/31/2021
001	BOD, 5-day, 20 deg. C	40.3	mg/L	MO AVG	110	01/31/2021
001	BOD, 5-day, 20 deg. C	80.7	mg/L	DAILY MX	115	01/31/2021
001	BOD, 5-day, 20 deg. C	4.8	lb/d	MO AVG	10.6	01/31/2022
001	BOD, 5-day, 20 deg. C	9.6	lb/d	DAILY MX	12.3	01/31/2022
001	BOD, 5-day, 20 deg. C	40.3	mg/L	MO AVG	128	01/31/2022
001	BOD, 5-day, 20 deg. C	80.7	mg/L	DAILY MX	148	01/31/2022
001	BOD, 5-day, 20 deg. C	4.8	lb/d	MO AVG	9.8	02/28/2022
001	BOD, 5-day, 20 deg. C	9.6	lb/d	DAILY MX	11	02/28/2022
001	BOD, 5-day, 20 deg. C	40.3	mg/L	MO AVG	148	02/28/2022
001	BOD, 5-day, 20 deg. C	80.7	mg/L	DAILY MX	165	02/28/2022
001	BOD, 5-day, 20 deg. C	4.8	lb/d	MO AVG	6.4	10/31/2022
001	BOD, 5-day, 20 deg. C	40.3	mg/L	MO AVG	43.2	10/31/2022
001	BOD, 5-day, 20 deg. C	40.3	mg/L	MO AVG	59.5	11/30/2022
001	BOD, 5-day, 20 deg. C	4.8	lb/d	MO AVG	13.9	12/31/2022
001	BOD, 5-day, 20 deg. C	9.6	lb/d	DAILY MX	17.4	12/31/2022
001	BOD, 5-day, 20 deg. C	40.3	mg/L	MO AVG	166.8	12/31/2022
001	BOD, 5-day, 20 deg. C	80.7	mg/L	DAILY MX	209	12/31/2022
001	BOD, 5-day, 20 deg. C	4.8	lb/d	MO AVG	26.1	01/31/2023
001	BOD, 5-day, 20 deg. C	9.6	lb/d	DAILY MX	28	01/31/2023
001	BOD, 5-day, 20 deg. C	40.3	mg/L	MO AVG	160.3	01/31/2023
001	BOD, 5-day, 20 deg. C	80.7	mg/L	DAILY MX	172	01/31/2023

001	BOD, 5-day, 20 deg. C	4.8	lb/d	MO AVG	28.2	02/28/2023
001	BOD, 5-day, 20 deg. C	9.6	lb/d	DAILY MX	30.6	02/28/2023
001	BOD, 5-day, 20 deg. C	40.3	mg/L	MO AVG	169.2	02/28/2023
001	BOD, 5-day, 20 deg. C	80.7	mg/L	DAILY MX	184	02/28/2023
001	BOD, 5-day, 20 deg. C	4.8	lb/d	MO AVG	19.8	03/31/2023
001	BOD, 5-day, 20 deg. C	9.6	lb/d	DAILY MX	28.7	03/31/2023
001	BOD, 5-day, 20 deg. C	40.3	mg/L	MO AVG	118.5	03/31/2023
001	BOD, 5-day, 20 deg. C	80.7	mg/L	DAILY MX	172	03/31/2023
001	BOD, 5-day, 20 deg. C	4.8	lb/d	MO AVG	10.2	04/30/2023
001	BOD, 5-day, 20 deg. C	9.6	lb/d	DAILY MX	18	04/30/2023
001	BOD, 5-day, 20 deg. C	40.3	mg/L	MO AVG	76.6	04/30/2023
001	BOD, 5-day, 20 deg. C	80.7	mg/L	DAILY MX	135	04/30/2023
001	BOD, 5-day, 20 deg. C	9.6	lb/d	DAILY MX	10	05/31/2023
001	BOD, 5-day, 20 deg. C	40.3	mg/L	MO AVG	82.3	05/31/2023
001	BOD, 5-day, 20 deg. C	80.7	mg/L	DAILY MX	177	05/31/2023
001	BOD, 5-day, 20 deg. C	40.3	mg/L	MO AVG	53.2	06/30/2023
001	BOD, 5-day, 20 deg. C	80.7	mg/L	DAILY MX	117	06/30/2023

33. Based on the above assertions and allegations, the EPA concludes that by discharging reoccurring exceedances of BOD and TSS from Outfall 001 at levels above what the Permit allowed, Respondent has violated Section 301 of the CWA, 33 U.S.C. § 1311, and the Permit issued pursuant to Section 402 of the CWA, 33 U.S.C. § 1342.

Count 2
Failure to Report all Sampling Results

34. Part A.I.A of the Permit lists the Minimum Measurement Frequency for analysis of parameters at Outfall 001. Part A.III.B.6 of the Permit states, “If the permittee monitors any pollutant at monitoring points as designated by this permit, using analytical methods described in Part A III.A.4. herein, more frequently than the permit requires, the results of this monitoring shall be incorporated, as appropriate, into the calculations used to report self-monitoring data on the DMR [Discharge Monitoring Report]. (40 CFR 122.41(l)(4)(ii)).”
35. The Respondent was conducting additional sampling for parameters, which included BOD, TSS, and Fecal Coliform at a frequency of four times per month, which exceeds the Permit requirement of two times per month. The additional parameters were sometimes not included in the calculations for determining monthly averages or daily maximums that are reported as DMRs. In addition, the permittee in some instances incorrectly calculated the monthly averages. A summary of instances in which the Permittee did not include all analytical data in their calculated monthly averages or daily maximums, as well as instances in which these values were incorrectly calculated, is provided in Table 2 below:

Table 2 – Summary of DMR reports where analytical results were miscalculated and/or had data omitted.

Monitoring Period End Date	Parameter Name	Laboratory Values	Values Omitted	Limit Type	DMR Value	Actual Value	Permit Limit	Units
February 2018 ⁷	BOD	160	160	Daily Maximum	45.6	160	80.7	mg/L
		136	136					
		45.6						
		39.4		Monthly Average	39.4	95.3	40.3	mg/L
May 2018	Fecal Coliform	40	3,433.50	Daily Maximum	86	3,433.50	1,000	#/100
		10	165.5					
		3,433.50						
		165.5						
		86.5						
July 2018	Fecal Coliform	306.8	1956	Daily Maximum	189	1,965	1,000	#/100
		151.6	306.8					
		189	275					
		1,956						
		275						
August 2018	Fecal Coliform	148	1,986.30	Daily Maximum	884	3,448	1,000	#/100
		1,986.30	3,448					
		3,448						
		884						
August 2019	Fecal Coliform	38.4	669.6 9,678.4	Daily Maximum	200	9,678.40	1,000	#/100
		669.6						
		9878.4						
		200						
January 2020 ⁶	BOD	52.7	108	Daily Maximum	55.1	108	80.7	mg/L
		84.4	84.4					
		55.1						
		108		Monthly Average	26.9	75	40.3	mg/L
April 2020	BOD	22.9	72.3	Monthly Average	25.6	46.6	40.3	mg/L
		20	83.8					
		34						
		72.3						
		83.8						
July 2020	TSS	4.8	160.0 162.0 154.0	Daily Maximum	17	162	121	mg/L
		17						
		160						
		162						

		154		Monthly Average	10.9	99.6	60.5	mg/L
September 2020	Fecal Coliform	16.4	2452.4	Daily Maximum	268	2452.4	1,000	#/100
		2452.4						
		20.8						
		183.6						
December 2020	BOD	44.2	87.5, 154	Daily Maximum	44.2	154	80.7	mg/L
		43.5						
		87.5						
		8.5						
		154		Monthly Average	32	67.5	40.3	mg/L
February 2021 ⁵	BOD	122	201	Monthly Average	40	161.3	40.3	mg/L
		161						
		201		Daily Maximum	80	80.7	80.7	mg/L
March 2021 ⁴	BOD	162	162	Daily Maximum	61.1	162	80.7	mg/L
		132	132					
		85	85					
		81						
		61.1		Monthly Average	30.5	104.2	40.3	mg/L
July 2021	BOD	20	98.4	Daily Maximum	24.7	98.4	80.7	mg/L
		20						
		24.7						
		98.4		Monthly Average	21.6	40.8	40.3	mg/L
September 2021	BOD	264	264	Daily Maximum	23	264	80.7	mg/L
		20						
		23						
		20.2						
		20.2		Monthly Average	20.8	69.5	40.3	mg/L
December 2021 ³	BOD	40	63.3	Daily Maximum	63.3	97.4	80.7	mg/L
		53.8	97.4					
		63.3						
		97.4		Monthly Average	40	63.6	40.3	mg/L
March 2022 ²	BOD	119	119	Daily Maximum	60.4	160	80.7	mg/L
		97.3	97.3					
		160	160					

		84.5						
		60.4		Monthly Average	30	104.24	40.3	mg/L
April 2022 ¹	BOD	249	249	Daily Maximum	53.9	249	80.7	mg/L
		34.6	165					
		53.9						
		165		Monthly Average	34.6	125.6	40.3	mg/L
May 2022	BOD	42.3	55.4	Monthly Average	36.3	42.7	40.3	mg/L
		30.3						
		55.4						
June 2022	BOD	20	108	Daily Maximum	33.8	108	80.7	mg/L
		25.5						
		108						
		33.8		Monthly Average	26.4	46.8	40.3	mg/L
September 2022	BOD	175	175	Daily Maximum	47.9	175	80.7	mg/L
		20						
		38.5						
		47.9		Monthly Average	35.4	70.4	40.3	mg/L

¹For April 2022, based on the two values the Permittee did not omit, the BOD monthly average concentration would have been 44.3 mg/L, however; the Permittee reported 34.6 mg/L. A calculated average was not written on the hand-written sheet containing transcribed analytical results.

²For March 2022, the Permittee calculated a BOD average monthly concentration of 72.4 mg/L based on values of 60.4 and 84.5 mg/L but reported a value of 30.0 mg/L. Additionally, the Permittee did not report 84.5 mg/L as the daily maximum concentration even though this value did not contain a strikethrough.

³For December 2021, the Permittee calculated the BOD monthly average concentration to be 46.9 mg/L based on values of 40.0 and 53.8 mg/L but reported 40.0 on the DMR. The Permittee omitted 63.3 mg/L from the calculation for the monthly average concentration but reported it as the daily maximum.

⁴For March 2021, the Permittee calculated a BOD monthly average of 71 mg/L based on values of 81 and 61.1 mg/L but reported a monthly average of 30.5. Additionally, the Permittee reported the daily maximum to be 61.1 mg/L even though 81 mg/L did not contain a strikethrough on the hand-written sheet.

⁵For February 2021, the permittee calculated the BOD monthly average to be 141.5 mg/L based on values of 122 and 161 mg/L but reported 40.0 mg/L on the DMR. Additionally, the Permittee reported a BOD daily maximum of 80.0, but there were no measurements of 80.0 mg/L identified on the hand-written sheet.

⁶ For January 2020, the Permittee calculated a BOD monthly average of 26.9 mg/L although the two values that did not contain strikethroughs were 52.7 and 55.1 mg/L.

⁷ For February 2018, the Permittee calculated a BOD monthly average of 42.5 mg/L based on values of 45.6 and 39.4 mg/L but reported 39.4 mg/L as the monthly average.

36. Based on the above observations and allegations, the EPA concludes that the Respondent failed to comply with Part A.III.B.6 of its Permit by not including all self-monitoring data in the DMRs which is a violation of the Permit issued under Section 402 of the CWA, 33 U.S.C. § 1342. As a result, Respondent has violated Section 301 of the CWA, 33 U.S.C. § 1311.

V. COMPLIANCE ORDER

THEREFORE, based on the foregoing, Respondent is hereby ORDERED, pursuant to Section 309(a) of the CWA, 33 U.S.C. § 1319(a), to perform the following activities:

37. Respondent shall take all actions necessary to comply with its NPDES Permit.
38. Within one hundred eighty (180) days of the Effective Date of the AOC, the Respondent shall perform a root cause analysis of sources of BOD effluent exceedances.
39. Within sixty (60) days of the completion of the root cause analysis, the Respondent shall submit a corrective action plan (“CAP”) to the EPA that will list corrective actions and a schedule for the actions to be undertaken by the Respondent to ensure all BOD effluent exceedances are ceased.
40. The schedule submitted with the CAP shall not exceed an implementation period of two (2) years.
41. The EPA will review the CAP and make a determination of completeness, based on the requirements described in Paragraphs 39 and 40 above. If the EPA determines that the CAP is not complete or adequate, the EPA shall notify Respondent in writing and Respondent shall resubmit an updated CAP within forty-five (45) days of Respondent’s receipt of the EPA’s notice. Upon a determination of completeness as provided in writing by the EPA to the Respondent, Respondent will implement the CAP in full.
42. Within one hundred eighty (180) days of the Effective Date of the AOC, the Respondent shall implement a Standard Operating Procedure (“SOP”) for sampling and analysis. This SOP shall include the following:

- a. Procedures for collecting samples in accordance with all permit requirements. If any samples are collected by a third party, then procedures shall be included for verifying that samples were collected in accordance with all permit requirements.
 - b. Procedures for reporting samples, which shall include a requirement that all representative samples collected from permitted effluent streams and analyzed will be included in the calculations for DMRs.
 - c. Procedures for calculating average monthly concentrations, daily maximums, and any other reported values that are reported on DMRs.
 - d. Procedures for collecting discharge flow rates and storing records onsite.
43. For a period of two (2) years from the Effective Date of the AOC, the Respondent shall report to the EPA on a quarterly basis the results of DMRs, and if any effluent exceedances occur, a statement shall be included indicating actions the Respondent is taking to cease any effluent exceedances. The report shall include a signed certification statement that is included in Paragraph 45 below.

VI. PROCEDURES FOR SUBMISSION

44. No later than sixty (60) Days from the Effective Date, Defendant shall submit to the EPA for review a list of deadlines included in the AOC. The list shall be submitted in an electronic format (e.g., unlocked spreadsheet or similar format agreed to by the Parties). Within thirty (30) Days of any modification of any deadline under this Administrative Order, Defendant shall provide an updated list reflecting changes to the future schedule.
45. Certification. All documents required to be submitted by this Order and any Request for Termination shall be accompanied by a certification signed by a responsible officer, as defined in 40 CFR § 122.22(d), that reads as follows:

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 violations.

Signed _____

Title: _____

Date: _____

46. Respondent may assert a business confidentiality claim covering part or all of the information which this AOC requires it to submit to the EPA, but only to the extent and

only in the manner described in Part 2 Subpart B of Title 40 of the C.F.R. The EPA will disclose information submitted under a confidentiality claim only as provided in Part 2 Subpart B of Title 40 of the C.F.R. If, at the time any information is submitted to the EPA, the Respondent submitting such information does not assert a confidentiality claim, the EPA may make the submitted information available to the public without further notice to either Respondent.

47. Unless otherwise directed in writing, Respondent shall submit any submission or written communication, including any accompanying data, relating to this AOC **via email** to:

Michael Greenwald
Enforcement Officer
NPDES Enforcement Section 2 (3ED33)
Philadelphia, PA 19103
Greenwald.Michael@epa.gov

Any information submitted electronically shall be submitted in a widely recognized electronic format.

VII. CERTIFICATION OF COMPLIANCE AND REQUEST FOR TERMINATION OF AOC

48. Upon completion of all items required by Section V (Compliance Order), and a determination of completeness of each item, and after two years of implementation after the effective date of this Order, the Respondent shall submit to the EPA a Certification of Compliance and Request for Termination of this AOC. Such certification and request shall include:
- a. a certification that Respondent has maintained compliance with this AOC for the term of this AOC; and
 - b. all necessary documentation, including photo documentation as appropriate, to support a finding that Respondent has complied with Section V (Compliance Order) of this AOC.
49. If, following review of any Certification of Compliance and Request for Termination of this AOC, the EPA agrees that Respondent has adequately complied with all requirements of this AOC, then the EPA may provide written notification of termination of this AOC.

VIII. AOC MODIFICATIONS

50. Any request to modify the terms of, or parties to, this AOC shall be submitted, in writing, by Respondent to the EPA and shall be subject to review and approval by the EPA, in its sole and unreviewable discretion.

IX. CHANGE OF OWNERSHIP OR OPERATION OF THE WWTP

51. Until or unless this AOC is modified or terminated, in accordance with the terms of this AOC, Respondent shall remain responsible for compliance with the terms of this AOC following any transfer of ownership or operation of the WWTP.
52. At least ninety (90) days prior to any transfer of ownership or operation of the WWTP, Respondent shall submit a written notification to the EPA of any such anticipated change in ownership or operation of the WWTP (Notification of Change of Ownership or Operation). Each such Notification of Change of Ownership or Operation shall include, at a minimum, a detailed summary of the anticipated change in ownership or operation, contact information for the proposed new owner or operator of the WWTP and a schedule for such anticipated change.
53. Respondent shall condition any sale or transfer of ownership or operation of the WWTP, in whole or in part, upon the execution by such Prospective Third-Party Purchaser, or Transferee, of an agreement, which creates an obligation that shall survive the closing of such sale or transfer, of the WWTP, whereby such Prospective Third-Party Purchaser or Transferee agrees to comply with and be bound by the terms of this AOC.

XIII. EXTENSION OF TIME BASED ON FORCE MAJEURE

54. "Force Majeure Event," for purposes of this AOC, is defined as any event arising from causes beyond the control of either Respondent, of any entity controlled by Respondent or any contractor of Respondent, that delays or prevents the performance of any obligation under this AOC subsequent to Respondent exercising best efforts to fulfill the obligation(s) at issue. The requirement that Respondent exercises "best efforts to fulfill the obligation" includes using best efforts to anticipate any Force Majeure Event and best efforts to address the effects of any such event: (a) as it is occurring and (b) after it has occurred, to prevent or minimize any resulting delay. Unanticipated or increased costs or expenses associated with the performance of Respondent's obligations under this AOC or Respondent's financial inability to perform any obligation under this AOC shall not constitute circumstances beyond Respondent's control nor serve as the basis for an extension of time under this AOC.
55. If at any time during the implementation of this AOC, any Force Majeure Event occurs that may delay the performance of any obligation under this AOC, including implementation of an EPA-approved plan or schedule, Respondent shall, within seven (7) days of determining that such event may delay the performance of such obligation, provide to the EPA a written request for an extension of time to comply with any such obligation (Force Majeure Extension of Time Request). Such Extension of Time Request shall include, at a minimum, the following information for each specific obligation(s) for which an extension of time is sought.
 - i. The specific obligation(s) for which an extension of time is sought, including each applicable deadline.

- ii. A detailed explanation and description of the Force Majeure Event at issue and the reasons for the requested extension of time, including all supporting documentation.
 - iii. The amount of time for which an extension of time is sought.
 - iv. A detailed description of all actions taken to prevent or minimize the amount of time for which an extension of time is sought, including a detailed description of each Respondent's best efforts to fulfill the obligation.
 - v. A detailed description, including a schedule for implementation, of all actions to be taken to prevent or mitigate the amount of time for which an extension is sought and the effect of any delay on any other obligation pursuant to this AOC.
 - vi. A statement as to whether, in the opinion of Respondent, the Force Majeure Event at issue may cause or contribute to an endangerment to public health, welfare, or the environment.
56. Respondent shall be deemed to know of the occurrence of, or reasonable likelihood of an occurrence of, any circumstance or event that may delay the performance of any obligation under this AOC of which Respondent, any entity controlled by Respondent or any contractor of Respondent knew or reasonably should have known.
57. Any Force Majeure Extension of Time Request shall be submitted in accordance with this AOC and the EPA may, in its unreviewable discretion, approve or disapprove any Force Majeure Extension of Time Request.
58. The EPA's approval, including conditional approval, of any Force Majeure Extension of Time Request shall not, of itself extend the time for performance of any other obligation not explicitly addressed in such approval.
59. Failure to comply with the above requirements may preclude Respondent from asserting any claim of Force Majeure or other related defense for non-compliance with the terms of this AOC for the time period such non-compliance is related to a reportable event.

EFFECTIVE DATE

60. This AOC shall become effective upon the Respondent's receipt of a fully executed copy of this AOC.

FOR RESPONDENT VALE WOOD FARMS

By: William C. Itle
William C. Itle
President
Vale Wood Farms
(dated via electronic timestamp)

SO ORDERED:

FOR THE U.S. ENVIRONMENTAL PROTECTION AGENCY

By:

[Digitally signed and dated]

Karen Melvin, Director

Enforcement and Compliance Assurance Division

U.S. Environmental Protection Agency, Region 3

(dated via electronic timestamp)



REGION 3

PHILADELPHIA, PA 19103

In the Matter of:	:	
	:	
Vale Wood Farms	:	U.S. EPA Docket No. CWA-03-2024-0004DN
517 Vale Wood Road	:	
Loretto, PA 19540	:	
	:	
Respondent	:	ADMINISTRATIVE ORDER FOR COMPLIANCE ON
	:	CONSENT
and	:	PURSUANT TO 33 U.S.C. § 1319(a)
	:	
Vale Wood Dairy	:	
517 Vale Wood Road	:	
Loretto, PA 19540-6605	:	
	:	
Facility	:	
	:	
	:	
	:	

CERTIFICATE OF SERVICE

I certify that the foregoing Administrative Order on Consent was filed with the EPA Region 3 Regional Hearing Clerk on the date that has been electronically stamped on the Administrative Order on Consent. I further certify that on the date set forth below, I caused to be served a true and correct copy of the foregoing Administrative Order on Consent to each of the following persons, in the manner specified below, at the following addresses:

Copies served via email and UPS, signature requested, to:

William C. Itle
 President
 Vale Wood Farms

Carissa itle Westrick
 Director of Business Development
 Vale Wood Farms
 carissa@valewoodfarms.com

with copies served via email to:

Louis Ramalho
Senior Assistant Regional Counsel
U.S. EPA, Region 3
ramalho.louis@epa.gov

Michael Greenwald
Enforcement Officer
U.S. EPA, Region 3
greenwald.michael@epa.gov

[Digital Signature and Date]
Bevin Esposito
Regional Hearing Clerk
U.S. Environmental Protection Agency,
Region 3