

REPORT OF INDUSTRIAL STORMWATER COMPLINACE EVALUATION INSPECTION (CEI)

At

Milk Specialties Global

805 W. Omaha Ave
Norfolk, NE 68701
ISW-202200885

On

September 11 – 12, 2024

By

U. S. ENVIRONMENTAL PROTECTION AGENCY
Region 7
Enforcement and Compliance Assurance Division (ECAD)

1.0 INTRODUCTION

I performed an Industrial Stormwater Compliance Evaluation Inspection (CEI) at the Milk Specialties Global facility in Norfolk, Nebraska on September 11-12, 2024. The inspection was authorized by Section 308(a) of the Federal Water Pollution Control Act, as amended. The inspection was completed in conjunction with a Compliance Sampling Inspection (CSI) of the Nebraska Pretreatment Permit (NPP) permit for process wastewater issued to Milk Specialties Global. The results of the CSI are contained in a separate report. This narrative report and attachments present the findings and observations made during the Industrial Stormwater CEI.

2.0 PARTICIPANTS

Milk Specialties Global (MSG): (402) 371-2411
Keith Mason, Sr. VP of Operations
Eric Olfert, Director of Operations (507) 206-9312
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Michael Lackey, EHS Manager (402) 851-1323
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Peter Thein, Regional EHS Manager

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3.0 INSPECTION PROCEDURES

On September 9, 2024, I arrived unannounced at MSG at 1:00 p.m. and introduced myself to Mr. Olfert and Mr. Lackey. I presented my credentials and explained the scope and purpose of the inspection. I informed them that I would be performing a CSI of the facility's NPP permit (separate report) and a complete Industrial Stormwater inspection. I stated that I would first conduct the CSI inspection then conduct the Industrial Stormwater inspection on September 11 - 12, 2024. I informed him that the Industrial Stormwater inspection would consist of a visual inspection of the facility and review of records being maintained at the facility. I informed them that I would first focus on the NPP inspection and that I would then focus on the industrial stormwater inspection.

Prior to entering the facility, I conducted a visual reconnaissance of the facility, searching for areas of concern observable from the public roads such as discharges, drainage patterns, flow directions, distance and direction of nearest perennial waters, visual condition of perennial waters, facility location, and layout. The facility is located on the south side of Omaha Street (Nebraska Highway 275) at 805 W. Omaha Avenue, Norfolk, Nebraska. Corporation Gulch flows north to south along the west side of property. Corporation Gulch was flowing at the time of the inspection. Corporation Gulch flows for approximately 1 ½ miles south before entering the Elkhorn River. There is also a stormwater drainage ditch along the east side of the facility that flows south-southwest and enters Corporation Gulch south of the facility.

Mr. Lackey stated that he was the Environmental Manager of the facility and was responsible for the environmental affairs at the facility. I then made Mr. Olfert aware of their confidentiality rights and informed him that a Confidentiality Notice, which he reviewed, would be provided at the end of the inspection to make any claims. Mr. Olfert acted as the official facility representative during the inspection. Mr. Olfert and Mr. Lackey provided information pertaining to the facility operation and accompanied me during the entire inspection. Mr. Thein also provided copies of facility records for review and provided additional stormwater management information during the inspection.

I explained to Mr. Olfert that I would be conducting the Industrial Stormwater inspection under the authority of Section 308(a) of the Federal Water Pollution Control Act to evaluate the facility's compliance status with the requirements of the Clean Water Act and with Industrial Stormwater Permit (ISW202200885) issued by the Nebraska Department of Environment and Energy (NDEE) which covers stormwater discharges from industrial activities. I explained that the inspection would consist of a review of facility operations, required records, the Stormwater Pollution Prevention Plan (SWPPP), and a visual inspection of the facility. I stated that I would document my findings and observations by making photocopies, taking photographs and/or videos, and obtaining statements from facility staff.

I conducted this inspection in accordance with the procedures described herein and following all EPA Region 7 Standard Operating Procedures (SOPs), unless otherwise noted.

I completed my inspection, and I summarized the findings and recommendations with Mr. Olfert during the exit briefing. A Notice of Preliminary Findings (NOPF) (attachment 1) was issued during the inspection. Twenty-one photographs were taken during the inspection. See attachment 2 for the digital photograph chain of custody/photo log and photos #1 - #21.

4.0 FACILITY DESCRIPTION

4.1 Facility Operations

The facility is on the east side of Norfolk, Nebraska, on Omaha Street (Highway 275). The facility's physical address is 805 W. Omaha, Norfolk, Nebraska. The facility has a corporate mailing address which is 7500 Flying Cloud Drive, Eden Prairie, MN 55344. The legal description of the facility is the NE ¼, NW ¼, of Section 34, Township 24 North, Range 1 West, in Madison County Nebraska. MSG is a milk processing facility, which extracts proteins from various milk products for human and animal consumption. The facility process processes 1.2 – 1.4 million pounds of milk per day.

Mr. Olfert stated that the facility has approximately 117 employees and that the facility runs 24 hours a day 6 days per week. See attachment 3 for the facility layout and stormwater flow patterns. Stormwater is discharged to Corporation Gulch through one outfall located on the west side of the facility as identified by the Storm Water Pollution Prevention Plan (SWPPP).

4.2 Regulatory History

MSG applied for coverage under NDEE General Industrial Stormwater Permit (NE-R920000) on September 8, 2022 (attachment 4). NDEE issued the permit on September 12, 2022 (attachment 5).

The facility was most recently inspected by NDEE on July 2, 2024 (attachment 6). During that NDEE inspection it was observed that the facility was missing inspection reports from 2023 and 2024, analytical results for stormwater were missing, corrective action reports were not submitted, and the quarterly inspection reports did not cover all areas required by the permit.

The facility reported unauthorized discharges from the stormwater system on December 23, 2023, February 9, 2024, March 11, 2024, March 12, 2024, April 30, 2024, May 9, 2024, June 27, 2024, and July 11, 2024 (attachment 7). The reported spill on June 27, 2024, was approximately 4,000 gallons of milk product that entered Corporation Gulch through Outfall 001. The NDEE incident report noted dead fish were observed within Corporation Gulch. The NDEE fish kill investigation report noted that approximately 188 dead fish were counted within Corporation Gulch (attachment 8).

5.0 FINDINGS AND OBSERVATIONS

On September 11 – 12, 2024, I conducted an Industrial Stormwater inspection to determine if MSG is in compliance with their NPDES General Permit. The weather conditions at the time of the inspection were warm and clear (85°F). The facility and surrounding area had not received significant amounts of precipitation prior to the inspection. During the inspection, I performed a visual inspection of the facility, reviewed operating permit requirements, and reviewed records being maintained by the facility.

5.1 Stormwater Pollution Prevention Plan (SWPPP)

The NPDES General Permit does require that the facility have an SWPPP. Mr. Thein provided a copy of the current SWPPP (attachment 9). He stated that the facility was in the process of reviewing and updating the SWPPP. Mr. Thein also provided a copy of the new draft SWPPP. I reviewed both the current and draft SWPPP and after my review, I placed the draft SWPPP in the ECAD electronic file system.

The SWPPP and permit (section 4.1.2) require routine inspections of the stormwater structures. During the inspection, I requested to review the routine inspection forms for 2023 and 2024. Mr. Lackey provided the 1st and 2nd quarter inspection reports for 2024 and the 2023, 4th quarter inspection reports (attachment 10). I reviewed the inspection reports and noted that they did contain all information required by the permit. The permit requires at a minimum that the following information be provided on the inspection report:

- The inspection date and time.
- The name(s), title(s), and signature(s) of the inspector(s).
- Weather information and a description of any discharges occurring at the time of the inspection.
- Any previously unidentified discharges from and/or pollutants at the facility.
- Any evidence of, or the potential for, pollutants entering the drainage system.
- Any control measures needing maintenance or repairs.
- Any failed control measures that need replacement.
- Any incidents of noncompliance observed; and
- Any additional control measures needed to comply with the permit requirements.

I noted that the inspection forms did not contain information on any maintenance or repairs needed, any control measures that needed replaced and any non-compliance observed. At the conclusion of the inspection, I issued the facility a Notice of Preliminary Findings (NOPF) for not including all parameters required on the routine inspection form. Furthermore, the facility only was able to supply inspections for one quarter in 2023. The permit and SWPPP requires that the routine inspection occur on a quarterly basis.

The SWPPP and permit (section 4.2.2) requires that the facility conduct quarterly visual assessments of stormwater. Mr. Lackey provided copies of the available wet weather visual inspections for 2023 and 2024 (attachment 11). I noted that he only provided the quarterly visual

inspections for the 2nd and 3rd quarters of 2023. The permit requires at a minimum that the following information be provided on the inspection report:

- Sample location(s).
- Sample collection date and time, and visual assessment date and time for each sample.
- Personnel collecting the sample and conducting visual assessment, and their signatures.
- Nature of the discharge (i.e., runoff or snowmelt).
- Results of observations of the storm water discharge.
- Probable sources of any observed storm water contamination,
- If applicable, why it was not possible to take samples within the first 30 minutes; and
- A statement, signed and certified in accordance with Appendix A, section 12.

I noted that the inspection forms did not contain information as required above. At the conclusion of the inspection, I issued the facility a Notice of Preliminary Findings (NOPF) for not including all parameters required for the visual assessment inspections. Furthermore, the facility only was able to supply inspections for 2nd and 3rd quarters in 2023. The permit and SWPPP requires that the visual stormwater inspections occur on a quarterly basis.

The permit (section 6.2.1) requires that the facility conduct indicator sampling on a quarterly basis. As part of the indicator sampling, the facility must analyze the stormwater samples for Chemical Oxygen Demand (COD), Total Suspended Solids (TSS) and pH. During the inspection, Mr. Lackey provided the available indicator sampling results (attachment 12). I noted that he was only able to provide the sampling results for the 3rd quarter of 2024. I reviewed the results and noted that TSS was not analyzed as required. At the conclusion of the inspection, I issued the facility a Notice of Preliminary Findings (NOPF) for not including all parameters required for the visual assessment inspections. Furthermore, the facility was only able to supply inspections for the 3rd quarter in 2024. The permit and SWPPP requires that the visual stormwater inspections occur on a quarterly basis.

The SWPPP and Section 4.3.2 of the permit requires that an annual comprehensive inspection be conducted. Mr. Olfert stated that the facility utilized the NDEE inspection from May 25, 2025, as their comprehensive inspection for 2023. A comprehensive inspection for 2024, had not been completed at the time of my inspection.

Section 3.3 of the permit requires that the facility document any corrective actions taken to mitigate unauthorized discharges and or any corrective actions to mitigate deficiencies noted during any of the inspection required by the permit. During the inspection, I requested the corrective action documentation for the above-mentioned unauthorized discharges. Mr. Olfert stated that he believed that there was no documentation for the corrective actions taken. At the end of the inspection, I issued a NOPF for not documenting any corrective actions as required by the permit.

The SWPPP also requires that the facility maintain records of all SWPPP trainings that the facility has performed. I reviewed the training records for the facility during the inspection and noted that they were complete in accordance with the SWPPP and the permit.

5.2 Other Visual Observations

During the facility tour, I observed the stormwater flow paths throughout the facility and the one stormwater outfall (photos 1-21). I noted that in general, stormwater from the northwest part of the facility flows north into a grassy area at the front of the building. Stormwater flows west through the grassy area and into Corporation Gulch near the west entrance to the facility (photos 1-2). Stormwater from the middle and south parts of the facility including the areas around the facility “bone yard,” equalization tank, and tote storage area flows north and is collected by one of two stormwater inlets (photos 7&9). Stormwater is then conveyed via underground piping and is normally discharged to Corporation Gulch through Outfall 001 (photo 13). At the time of the inspection, Outfall 001 was plugged to prevent accidental discharges from the facility. Mr. Lackey explained that due to previous unauthorized discharges through Outfall 001, the facility has decided to plug the outfall. He also stated that during precipitation events, the facility will test the collected stormwater for COD, pH, and TSS before discharging it through Outfall 001. He also stated that the stormwater conveyance is checked on a weekly basis and can be pumped out by a third-party contractor as needed.

During precipitation events, stormwater from the east side of the facility, generally flows to the east towards a stormwater ditch located along the east property line of the facility (photos 16-21). The stormwater ditch flows in a southwesterly direction and enters Corporation Gulch southwest of the facility “bone yard.”

As previously stated, the facility reported one unauthorized discharge in 2023, and 7 discharges in 2024. One unauthorized discharge (June 27, 2024) caused a fish kill within Corporation Gulch. At the conclusion of the inspection, I issued a NOPF for the unauthorized discharges of non-stormwater to Corporation Gulch.

Section 1.7.1 of the permit includes narrative limits that cannot be violated by discharges. These limits include that discharges:

- Shall not be toxic to aquatic life in surface waters of the state outside the mixing zones allowed in NDEE Title 117, *Nebraska Surface Water Quality Standards*;
- Shall not contain pollutants at concentrations or levels that produce objectionable films, colors, turbidity, deposits, or noxious odors in the receiving stream or waterway; and
- Shall not contain pollutants at concentrations or levels that cause the occurrence of undesirable or nuisance aquatic life in the receiving stream.

Due to the reported fish kills and other reported discharges to Corporation Gulch it appears that the facility violated the narrative limits set forth in the permit. At the conclusion of the inspection, I issued a NOPF for the violations of the narrative limits set in Section 1.7.1 of the permit.

Corporation Gulch is a concrete lined drainageway that begins near the intersection of 18th Street and Prospect Street on the northwest side of the City of Norfolk. Corporation Gulch flows approximately 2 miles southeast before passing along the west side of MSG. Corporation Gulch then continues for approximately 1.5 miles before entering the Elkhorn River south of the facility. At the time of the inspection, Corporation Gulch was flowing (photo 14). During the

inspection, I asked Mr. Lackey if Corporation Gulch flowed throughout the year, and he stated yes and that he has never seen it not have water in it including during times of drought.

6.0 SUMMARY

A NOPF was issued at conclusion of the inspection for the following observations:

- 7 unauthorized discharges of milk product to Corporation Gulch.
- The unauthorized discharges appear to violate the narrative limits set forth in section 1.7.1 of the stormwater permit.
- Corrective action reports for all corrective actions taken by the facility have not been documented in accordance with Section 3.3 of the permit.
- Routine Quarterly Inspection Reports do not cover all parameters required of Section 4.1.2 of the permit. The facility was missing Routine Quarterly Inspection Reports in 2023 and 2024.
- Quarterly Visual Assessment Reports do not cover all parameters required of Section 4.2.2 of the permit. The facility was missing Quarterly Visual Assessment Reports for 2023 and 2024.
- Indicator sampling is not being conducted on a quarterly basis as required by Section 6.2.1 of the permit. Not all parameters are sampled as required by the permit.

**JOSEPH
HEAFNER**
Joe Heafner
Life Scientist

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**NICOLE
MORAN**
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ATTACHMENTS:

1. NOPF (2 pages)
2. Digital Photograph Image Chain of Custody/Photo Log and Photos #1 - #21 (24 pages)
3. Facility Satellite Photos, Drawings, and Topographic Maps (1 page)
4. NOI from September 3, 2022 (3 pages)
5. Notice of Authorization (2 pages)
6. NDEE Inspection Report from July 2, 2024 (16 pages)
7. NDEE Spill Reports (25 pages)
8. NDEE Fish Kill Report (16 pages)
9. SWPPP (36 pages)
10. Routine Quarterly Inspections (3 pages)
11. Quarterly Visual Stormwater Inspections (2 pages)
12. Quarterly Indicator Sampling (1 page)