REPORT OF CONFINED ANIMAL FEEDING OPERATION INSPECTION

At

TOM REPPERT LIVESTOCK

(b) (6)
Pender, Nebraska 68047
(b) (6)
Facility IIS# 68417
EPA NPDES Permit# NE0136603
On
August 16, 2023
By
U.S. ENVIRONMENTAL PROTECTION AGENCY
Region 7
Enforcement and Compliance Assurance Division

1.0 INTRODUCTION

At the request of the Enforcement and Compliance Assurance Division, Water Branch, a Concentrated Animal Feeding Operation (CAFO) inspection was performed at the Tom Reppert Livestock, LLC, facility on August 16, 2023. This inspection was performed pursuant to Section 308(a) of the Federal Water Pollution Control Act, as amended. This narrative report and attachments present the findings and observations made during the inspection.

2.0 PARTICIPANTS

Tom Reppert Livestock: (TRL)
Tom Reppert, Owner (b) (6), email: (b) (6)

Nebraska Department of Environment and Energy (NDEE):
Derek Schreiter, Inspector (402) 471-8132

U.S. Environmental Protection Agency (EPA):
Rickey Roberts, Lead Inspector/Life Scientist (913)551-7615
Adam Hendrickson, Environmental Scientist (913) 551-7253

3.0 INSPECTION PROCEDURES

I contacted Mr. Tom Reppert on the afternoon of August 15, 2023, to notify him that I would be performing a compliance evaluation inspection at his facility located on M Avenue the following morning. I also informed him that Mr. Adam Hendrickson with the EPA and Mr. Derek Schreiter with the NDEE would accompany me during the inspection. I also informed him that I would be performing a complete CAFO inspection, which would consist of a visual inspection of the

facility and review of any records being maintained at the facility. I then asked Mr. Tom Reppert if the facility had a bio-security protocol and he said, "No." I discussed the EPA Region 7 bio-security protocol I would follow with Mr. Tom Reppert, and he stated that the EPA Region 7 bio-security protocol was acceptable. Mr. Tom Reppert and I agreed to meet at the facility the following morning at approximately 9:00 a.m.

I met with Mr. Schreiter from the NDEQ the following morning in Pender, Nebraska, and we proceeded to the facility. Prior to entering the TRL facility, I conducted a visual reconnaissance of the facility, searching for areas of concern observable from 12th Road and M Avenue 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 approximately five miles west and one mile south of Pender, Nebraska, on M Avenue. The open confinement cattle feeding operation is one mile south of Highway 16 and positioned directly north of M Avenue and approximately 1/4 mile east of 12th Road. The facility slopes from the northeast to the west and from north to south. An unnamed tributary is located along the entire southwest end of the facility. The unnamed tributary flows west, northwest along the facility solids settling basin (SSB) and holding pond for three-fourths mile, then turns north and flows north for an additional three-fourths of a mile to Rattlesnake Creek. Rattlesnake Creek flows east, northeast for approximately five miles to Logan Creek Dredge. Both the unnamed tributary and Rattlesnake Creek were observed flowing at the time of the inspection. Rattlesnake Creek and Logan Creek Dredge are identified as perennial waters per the USGS topographic maps (attachment 4).

Mr. Schreiter and I arrived at the facility at approximately 9:00 a.m. and met Mr. Tom Reppert. We proceeded to the facility office, and I began the entry briefing. I presented my credentials and explained both the purpose of the inspection and the procedures I would follow during the inspection. I then made Mr. Reppert aware of his 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. I also provided them with a copy of U.S. Federal Code l 001 and 1002 pertaining to false statements and documents, which he reviewed. I explained the Region 7 bio-security protocols to Mr. Reppert. Mr. Tom Reppert stated the EPA Region 7 bio-security protocol would be appropriate for the inspection. Mr. Tom Reppert acted as the official facility representative during the inspection and provided most of the facility operational information. Mr. Reppert stated that JES Environmental Services is writing and submitting his nutrient management plan (NMP) and some operation record keeping activities for the facility. Mr. Reppert stated that he had sent the Annual Report to the NDEE. Mr. Mark Matthews, EPA Water Branch, Permits and Certifications, stated that he had not received the 2022 Annual Report. Mr. Reppert accompanied Mr. Schreiter, Mr. Hendrickson, and me during the entire facility inspection.

I explained to Mr. Reppert that I would be conducting the CAFO inspection under the authority of Section 308(a) of the Federal Water Pollution Control Act to evaluate their compliance status with the requirements of the Clean Water Act (CWA) and their National Pollutant Discharge Elimination System (NPDES) Permit# NE0136603, issued on September 23, 2020, and expires at

midnight, September 27, 2025 (attachment 5). I explained that the inspection would consist of a review of facility operations, required records, waste generation and management practices, 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 statement provide by Mr. Reppert. I did take photographs of the facility, but they were erased from the SD card during transfer.

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

- SOP No. 2332.09A Bio-Security Procedures for Conducting NDPES Compliance Evaluations at Animal Feeding Operations

- 2332.08C Animal Feeding Operation Inspection Program

I completed my inspection and summarized the findings and recommendations with Mr. Tom Reppert. During the exit briefing, Mr. Reppert acknowledged receipt of the Confidentiality Notice, which he signed indicating no confidential business information had been provided during the inspection and a Receipt for Documents and Samples (attachments 2 & 3).

No samples were taken during the inspection, and no Notice of Potential Violation (NOPV) was issued during the inspection. See attachment 4 for the facility maps/satellite photos, building identification, and manure stockpile location.

4.0 FINDINGS DESCRIPTION

4.1 Facility Operations

The TRL facility is located approximately five miles west and one mile south of Pender, Nebraska, on M Avenue. The facility's physical address is (b) (6), Pender, Nebraska 68047 within the Omaha Indian Reservation boundary. The legal description for the facility is the SE¼ of the SW¼ of Section 25, in Township 25N, Range 05E, in Thurston County, Nebraska.

Mr. Tom Reppert stated that TRL is a custom feeding operation and receives cattle of all weights and ages. Mr. Tom Reppert stated that he currently holds the permit for the animal feeding operation, but the facility is leased to another individual that owns the cattle and feeds them. The cattle are then sent to a beef processing facility. Mr. Reppert stated that he does the recordkeeping for the facility at this time. Mr. Reppert estimated that there were approximately I,480 head of beef cattle being fed at the facility at the time of the inspection. Mr. Tom Reppert stated the facility is family owned but now leased to someone else.

The feeding facility consists of approximately 45 acres, with approximately 25 acres utilized for cattle open confinement lots. The remaining acreage is for the feed stock storage area, manure storage area, homestead, machine sheds and a tree wind break. The facility slopes from east

northeast toward south and west. The north ridge line runs along the north side of the facility starting from the east end of the tree wind break toward the northwest. The east ridge line is located at the property line starting from the east end of the tree wind break (attachment 4). Mr. Reppert stated that the facility originally consisted of open confinement lots 1 – 7. Mr. Reppert stated that they completed their facility expansion located directly west of the tree wind break in 2014, adding lots 8-19, six SSBs, and the holding pond. A clean water diversion basin is located directly east of confinement lot 2. The east SSB is located southeast of the holding pond and collects process wastewater from the original seven confinement lots (1 - 7). An irrigation pump that is used to pump process wastewater to the irrigation system is also used to pump the process wastewater from the east SSB to the holding pond. The remaining six SSBs collect process wastewater from the twelve confinement lots (8 - 19) located directly north of the holding pond and west of the tree wind break. Storm water run-off generated from the homestead, machine shed areas and tree wind break area will flow southwest between the holding pond and the east SSB and then flow into a toward the unnamed tributary (attachment 5). The feed stock storage area for silage is located directly east of the east confinement lots and has minimal process wastewater controls. Most of the process wastewater from this area flows through a culvert under the driveway and discharges into open lot 1. The remaining process wastewater discharging from the feedstock storage area flows south to the clean water diversion then south to the unnamed tributary. See attachment 5 for facility maps and satellite photos of the facility, as well as process wastewater flow pathways and livestock waste control facilities (LWCF) and confinement lot locations.

The facility has approximately 826 acres of land for the application of solids and includes the 156 acres used for the center pivot. Mr. Tom Reppert stated that the center pivot was installed in the field directly south of the facility which is owned by him. Mr. Tom Reppert stated that he utilizes a nutrient management plan (NMP) prepared by JES to calculate agronomic rates and uses pump run times for process wastewater application rates. Mr. Tom Reppert stated that confinement lot scraping is performed as needed and that the manure solids are stored in either the confinement lots or in a manure stockpile on-site. A manure stockpile is currently located on the crest of a hill at the northeast end of the tree wind break and process wastewater run-off now flows west to a SSB, then flows into the holding pond. Mr. Tom Reppert stated the manure solids will be land applied on his fields utilizing a pull type 20-ton vertical spreader after crops are harvested. The facility utilizes P & K Solutions located in West Point, Nebraska, for the rendering of mortalities on an on-call basis.

4.2 CAFO Status

TRL is located within the boundary of the Omaha Indian Reservation. EPA issued TRL an NPDES permit that went into effect on September 23, 2020, and expires on September 27, 2025 (attachment 5). A review of the current EPA NPDES Permit# NE0136603 allows the facility to have a maximum capacity of 1,500 head of cattle with an average weight of 900 pounds. Mr. Reppert stated that there were currently 1,480 head of cattle in the confinement lots at the time of the inspection and provided me with inventory logs for review. A review of facility records and statements by Mr. Reppert revealed that TRL has confined at least 1,000 head of

cattle (1,000 animal unit equivalents) for more than 45 days during the last 12-month period. I did not observe any vegetative cover in any of the confinement lots that were currently being utilized to confine/feed cattle during the inspection. As a result of my observations, I determined that TRL meets the definition of a large, concentrated animal feeding operation (large CAFO) as it is defined in Title 40 of the Code of Federal Regulations, Part 122.23.

4.3 Regulatory History

The EPA last inspected TRL on June 5, 2018. The NDEQ issued TRL a phased construction and operating permit on July 8, 2013, and phase 1 was required to be completed by November 15, 2013. The NDEQ certified that TRL had completed the construction of the permit required livestock waste control facilities (LWCFs). EPA issued TRL an NPDES permit that went into effect on September 2, 2015, and expired on September 27, 2020. Mr Reppert was then issued a permit that became effective September 28, 2020, and will expire on September 27, 2025 (attachment 5). Mr, Reppert submitted his 2022 Annual Report to the Nebraska Department of Environment and Energy. I have requested a copy be sent to me and future copies be sent to the EPA.

The NDEQ performed compliance status inspections at TRL on December 1, 2021, by Mr. Schreiter (attachment 8). The facility requested assistance concerning record keeping requirements and annual reporting requirements. NDEE found the TRL had not documented the following during this inspection:

1. The liquid levels in the holding pond must reach winter pump down prior to the winter months. The Department recommends this level be achieved by November l5th of each year.
2. Immediately implement a record keeping protocol that documents the liquid level in the holding pond at least weekly, after precipitation events and before and after pumping to land application sites.
3. Immediately implement a record keeping protocol which diligently documents:
    a. Inspections of the irrigation distribution system prior to de-watering the LWCF.
    b. An annual sludge inspection.
    c. Weather conditions 24-hours prior, during and 24-hours after application of waste.
    d. Dates of inspection of land application equipment.
    e. Chemical management plan (i.e., inventory, volume, disposal).

5.0 FINDINGS AND OBSERVATIONS

The Enforcement and Compliance Assurance Division, Water Branch (ECAD)formally requested a CAFO inspection to determine if TRL is in compliance with the NPDES permit CWA Permit and if the LWCFs are capturing all process wastes, and to determine if the recordkeeping is up to date.

On the morning of August 16, 2023, Mr. Hendrickson, Mr. Schreiter, and I inspected the TRL facility. The facility had not received any measurable precipitation within the last month. The weather conditions during the inspection were sunny and cool (60°F). I met with Mr. Tom Reppert and reviewed the permit requirements, reviewed records on site that are required by the permit, and performed a visual inspection of the facility. The specific requirements pertaining to the daily operation, maintenance and record keeping requirements of the facility are outlined in Parts I, II, and IV of the permit and the annual reporting requirements are outlined in Section III of the permit (attachment 5).

During the visual inspection, I observed the clean storm water diversion area, the manure stockpile area, the open confinement lots, the east SSB, and the six SSBs located at the south end of the lots for the facility expansion used to collect manure solids and process wastewater, and the holding pond. The feed stock storage area appeared to have areas that were not controlled. Mr. Tom Reppert stated that the silage piles are usually covered except for the working end, which I observed. Mr. Torn Reppert also stated that the concrete bunkers used to store com and distillers grain slope east to minimize the chance of a discharge. However, it appeared that process wastewater generated from the west ends of the concrete bunkers will flow south into the clean storm water diversion basin. I did not observe process wastewater discharging from this area, but the area did appear to have discharges to the area west of it, then the discharge flows south into a clean water diversion. I informed Mr. Tom Reppert that all process wastewater and manure solids generated at the facility must be controlled by an LWCF such as the SSBs. I recommended to Mr. Tom Reppert that the process wastewater generated from the feed stock storage area be controlled and to discharge into the east pens process wastewater SSB. The feed mixing area was not draining to the east SSB. Mr. Tom Reppert stated that the feed stock storage area would be evaluated to determine best manage practices (BMPs) that would need to be utilized to ensure that no discharge could occur from the area. Mr. The SSBs were observed to be ¼ full of manure solids, except for the east open lot SSB. The east open lot SSB appeared to have some standing water in it and was almost completely full of solids. Mr. Tom Reppert stated that the SSBs would be cleaned out within the next 30 days if the weather cooperated and be land applied or stockpiled in the manure stockpile area. Mr. Tom Reppert also stated that the open lots are scraped as needed and the manure is stockpiled in the manure stockpile area or staged in fields to be land applied after the harvest crops or the planting of fall crops.

I informed Mr. Tom Reppert that all process wastewater and manure solids generated at the facility must be controlled. I recommended to Mr. Tom Reppert when he places the manure stockpiles in a field and that a berm be constructed to minimize the chance of a discharge. The manure storage pile north of the windbreak now flows into a small SSB and the process wastewater flows through a pipe under the feeding alley/access drive and discharges into the holding pond. I observed the irrigation pump/lift station that is located at the east SSB and is utilized to transfer process wastewater from the east SSB to the holding pond and for dewatering the holding pond. There was approximately one foot of free board of process wastewater in the east SSB at the time of the inspection and the east SSB appeared be near

capacity for manure solids. Mr. Tom Reppert stated that the process wastewater is pumped into the holding pond and then the pumped to the irrigation pivot from the holding pond during land application activities. I informed Mr. Tom Reppert that the settling basin for the east pens need to be pumped down and the solids removed in a timely manner. I also informed Mr. Reppert that the requirement for the SSB is to remove solids from the process wastewater generated and be empty with a day. Mr. Reppert stated that the pump will cavitate when the process wastewater gets low in the east SSB and therefore some process wastewater remains in the east SSB. I informed Mr. Tom Reppert that the east SSB is not lined or designed to hold process wastewater and must be emptied after each precipitation event and kept empty. I observed the holding pond and the holding pond staff gauge as well as the unnamed tributary to Rattlesnake Creek located directly south of the holding pond. The staff gauge was observed below the minimum pump level due to the drought in the area. Mr. Reppert has been informed of the requirement that the SSBs are not to hold water. He then stated that he will pump the East SSB down and remove the manure solids. Mr. Reppert stated that land application activities would start as they remove the crops. I observed a thick stand of grass and minimal weeds on the holding pond berm. I did not observe trees growing in the berm around the holding pond nor any animal burrows. Mr. Reppert stated that they observe the east SSB and holding pond berm daily during feeding activities as they drive by it. I reviewed the permit requirements with Mr. Tom Reppert that requires them to maintain the vegetation on the holding pond berm to allow for the inspection of the holding pond berm for burrowing animals and to identify erosional areas. Mr. Tom Reppert stated that they wanted to continue to maintain the thick grass and wanted to know if they could graze the banks of the holding pond. I stated that it is not allowed to graze the holding pond or other LWC, but they can remove the hay and feed it.

TRL is required to maintain records to include documentation of inventory/mortalities, precipitation records, LWCF inspections, equipment maintenance records, and analyses of manure wastes. TRL is also required to maintain manure transfer/export records to include the name of the person receiving the manure and the amount given, as well as providing the recipient a copy of the nutrient analysis. Mr. Reppert provided me with the daily precipitation records for January 2023 through August 2023. Mr. Reppert stated that TRL utilizes multiple rain gauges and that he tracts the weather daily. Mr. Reppert stated that they perform the daily, weekly, and monthly facility water line, LWCF and equipment inspections and that they maintain the records at the facility. Mr. Tom Reppert provided me with copies of the weekly precipitation, holding pond LWCF levels, and the mortalities for the period of January 2023 - August 2023, during the inspection (attachment 9).

TRL previously listed in other annual report that they apply all their manure solids/process wastewater generated at the facility to land they own or operate.is required to submit an annual report that details the facility production information, the amount of manure solids and process wastewater generated at the facility, total land application acres, total tons of manure applied and a summary of discharges if any. TRL did not provide for review the 2022 annual report during file review during the inspection as it was not submitted to R7.

During the visual inspection, I observed the unnamed tributary to Rattlesnake Creek at the location directly south of the holding pond and at the M Avenue culvert crossing. I also observed the unnamed tributary to Rattlesnake Creek at the 12th Road culvert crossing less than ¼ mile west of the facility (photos 11 and 12). The unnamed tributary to Rattlesnake Creek was not observed with flowing water during the inspection due to the lack of rain during the summer. I also observed Rattlesnake Creek at the bridge crossing located approximately ¼ mile south of Hwy 16 on 12th Road. Rattlesnake Creek was observed flowing east under the bridge and it flows east and northeast approximately five miles to Logan Creek Dredge. I completed an EPA Stream Characteristics and Water Nexus Form for the unnamed tributary to Rattlesnake Creek located less than ¼ mile west of the facility on 12th Road and for Rattlesnake Creek approximately ¼ mile south of Hwy 16 on 12th Road.

6.0 OTHER REGULATORY CONCERNS

No additional specific information was requested from Mr. Tom Reppert during the exit briefing. See attachment 13 for the completed entry/exit briefing checklist. I reviewed all other applicable permit and CAFO requirements, and no apparent deficiencies or potential CWA violations were noted unless reported in this report. See attachment 14 for the General CAFO Inspection Form.

7.0 SUMMARY

TRL is located within the boundary of the Omaha Indian Reservation. EPA issued TRL an NPDES permit that went into effect on September 23, 2020, and expires at midnight, September 27, 2025. A review of the current EPA NPDES Permit# NEO136603 allows the facility to have a maximum capacity of 1,500 head of cattle with an average weight of 900 pounds. Mr. Tom Reppert stated that there were currently 1,480 head of cattle in the confinement lots at the time of the inspection. TRL meets the definition of large, confined animal feeding operation as it is defined in Title 40 of the Code of Federal Regulations, Part 122.23. No NOPV was issued to TRL at the time of the inspection. However, the following concerns were noted as discussed above in the report:

- The feed stock storage area appeared to have areas that were not controlled. Mr Reppert had a berm that would direct the process wastewater into open lot #1 during the inspection. I informed Mr. Reppert that all process wastewater and manure solids generated at the facility must be controlled by an LWCF such as an SSB. l recommended to Mr. Reppert that the process wastewater generated from the feed stock storage area be controlled and not allowed to discharge into the clean storm water diversion basin. Mr. Tom Reppert stated that the feed stock storage area would be evaluated to determine best manage practices (BMPs) that would need to be utilized to ensure that no discharge could occur from the area to the clean water flow path.

- I observed the manure stockpile area on the crest of the hill at the northeast end of the tree wind break and it did have any process wastewater run-off controls put in place.

Process wastewater generated from the manure stockpile appeared to flow north and northeast down the hill through the field then diverted into the SSB that drains into the holding pond via a pipe under the driveway.

- I observed approximately 1 foot of freeboard in the east SSB at the time of the inspection. Mr. Tom Reppert stated that the pump will cavitate when the process wastewater gets low in the east SSB and therefore some process wastewater remains in the east SSB. I informed Mr. Tom Reppert that the east SSB is not lined or designed to hold process wastewater and must be emptied after each precipitation event and kept empty. Mr. Tom Reppert stated that he could keep the area around the pump suction line free of manure solids and that he could slow the pump down to prevent it from cavitating which would allow him to empty the east SSB.

- I observed the holding pond and the holding pond staff gauge as well as the unnamed tributary to Rattlesnake Creek located directly south of the holding pond. The staff gauge was observed below the must pump level. Mr. Tom Reppert stated that he will start land applying the manure solids after crops are out and before planting fall or spring crops.

- I observed a thick stand of grass and minimal weeds on the holding pond berm. I reviewed the permit requirements with Mr. Reppert that requires them to maintain the vegetation on the holding pond berm to allow for the inspection for burrowing animals and to identify erosional areas. Mr. Reppert stated that they would physically walk and inspect the holding pond berm to identify and correct any issues observed as required by the permit.

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Rickey Roberts
Life Scientist
ECAD| WB|DWIS

JODI BRUNO Digitally signed by JODI BRUNO Date: 2023.12.21 10:04:58 -06'00'

Jodi Bruno
Branch Manager
ECAD | WB

ATTACHMENTS

Attachment 1 CAFO Checklist 1 page
Attachment 2 Receipts for Documents and Samples 1 page
Attachment 3 Confidentiality Notice 1 page
Attachment 4 Maps and Flow Paths 3 pages
Attachment 5 NDPES Permit Tom Reppert Livestock for September 28, 2020, through September 27, 2025 19 pages
Attachment 6 **2012** Tom Reppert Nutrient Management Plan 232 pages
Attachment 7 LWCF Inspections 7 pages
Attachment 8 Precipitation Records 5 pages
Attachment 9 Mortalities 1 Page
Attachment 10 Stream Nexus 2 pages