



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 6
1201 ELM STREET, SUITE 500
DALLAS, TEXAS 75270

August 23, 2023

TRANSMITTED VIA E-MAIL

Drew Braum
CEO
Braum's, Inc.
3004 NE 63rd St.
Oklahoma City, Oklahoma 73121

Re: Information Request

Dear Mr. Braum:

Pursuant to Section 308 of the Clean Water Act (CWA), 33 U.S.C. 1318, the United States Environmental Protection Agency (EPA) has the authority to request information pertinent to carrying out its responsibilities under the CWA. Accordingly, Braum's, Inc. is hereby served with this Information Request (Request) and is requested to respond to the enclosed Request. Braum's owns and operates the dairy operation, processing plant and farm (facility or facilities) on 491 County Road 2880, Tuttle, Oklahoma, 73089. The EPA requests that you immediately confirm receipt of this Request by a response e-mail to wills.carl@epa.gov.

Compliance with this Request is mandatory. Your responses to the questions are to be submitted to the EPA via email and hard copy, postmarked within thirty (30) calendar days of receipt of this letter. The response must be signed by a duly authorized official of Braum's, Inc. The information will be considered in the evaluation of the extent of Braum's compliance with the National Pollutant Discharge Elimination System and the CWA.

Failure to respond fully and truthfully to the Request within thirty (30) calendar days of receipt of this letter can result in an enforcement action by EPA. Section 309 of the CWA permits the EPA to seek the imposition of civil and criminal penalties for failure to submit information requested under Section 308 of the CWA, including issuance of an Administrative Penalty Order or referral to the United States Department of Justice for judicial action with monetary fines. Please be further advised that provision of false, fictitious, or fraudulent statements or representations may subject you to criminal penalties under Section 309 of the CWA.

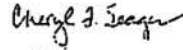
This Request is not subject to the approval requirements of the Paperwork Reduction Act, of 1980, as amended, 44 U.S.C. Section 3501, et.seq., as described in 5 CFR Part 1320.3(c).

Re: Braum's, Inc. Information Request

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If you need additional time to respond to this Request or have any questions, you may contact Carl Wills at (214) 665-7276, or via email at wills.carl@epa.gov or Ellen Chang at (214) 665-7328, via email at chang.ellen@epa.gov prior to the time specified above. Thank you for your cooperation in this matter.

Sincerely,



Digitally signed by Cheryl T.
Seager
Date: 2023.08.23 17:21:32
-05'00'

Cheryl T. Seager, Director
Enforcement and
Compliance Assistance Division

Enclosure

Cc: Michael Ferry, ODAFF
Lynzie Chan, ODEQ
Brent Larsen, EPA WD

DEFINITIONS AND INSTRUCTIONS

This information is requested pursuant to Section 308(a) of the Clean Water Act (CWA), 33 U.S.C. § 1318(a). The Instructions and definitions for responding to this Information Request are as follows:

1. The terms "facility" or "facilities" means Braum's, Inc. - W.H.B. Cattle L.P.
2. The term "identify" means, with respect to a document, to provide (a) its customary business description; (b) its date; (c) its number, if any (invoice or purchase order number); (d) the identity of the author, addressor, addressee and/or recipient; and (e) the substance or the subject matter.
3. If information or documents not known or not available to you as of the date of submission of a response to this Information Request should later become known or available to you, you must supplement your response to EPA. Moreover, should you find, at any time after the submission of your response, that any portion of the submitted information is false or misrepresents the truth, you must notify EPA of this fact as soon as possible and provide EPA with a corrected response. There are significant penalties for submitting false information, including the possibility of fine or imprisonment.
4. For each document produced in response to this Information Request, indicate on the document, or in some other reasonable manner, the number of the Question to which it responds. Please submit all information for each question in a logically sequenced manner.
5. Please provide a separate response to each question and subpart of a question set forth in this Information Request and precede each answer with the number of the question to which it corresponds.
6. For each question, identify each person responding to any question contained in this Information Request on your behalf, as well as each person consulted in the preparation of a response.
7. For each question, identify each document consulted, examined, or referred to in the preparation of the response or that contains information responsive to the question, and provide a true and correct copy of each such document if not provided in response to another specific question. Indicate on each document produced in response to this Information Request the number of the question to which it corresponds.
8. You must provide the information requested even though you may contend that it includes confidential information. You may assert a business confidentiality claim covering all or part of the information requested in this information request, as provided in 40 C.F.R. § 2.203(b).

To assert a confidentiality claim, you must submit the requested information and indicate that you are asserting a claim of confidentiality. You must mark any document over which you

assert a claim of confidentiality by attaching a cover sheet stamped or typed with a legend indicating your intent to claim confidentiality. The stamped or typed legend, or other suitable form of notice, should employ language such as "confidential" or "business confidential," and indicate a date, if any, when the information should no longer be treated as confidential. EPA will only disclose the information covered by such a claim to the extent permitted and by means of the procedures set forth in Section 308(b) of the CWA, 33 U.S.C. § 1318(b) and 40 C.F.R. Part 2. You must clearly identify allegedly confidential portions of otherwise non-confidential documents.

Please submit your response to this Information Request so that all non-confidential information, including any redacted versions of documents, is in one package and all materials for which you desire confidential treatment are in another package. EPA will construe the failure to furnish a confidentiality claim with your response as a waiver of that claim, and the information may be made available to the public without further notice to you. All confidentiality claims are subject to EPA verification. It is important that you satisfactorily show that you have taken reasonable measures to protect the confidentiality of the information, that you intend to continue to do so, and that the information is not and has not been obtainable by legitimate means without your consent.

If you assert a confidentiality claim for any of the information you submit to EPA, you bear the burden of substantiating that claim. EPA will give conclusory allegations little or no weight in its determination. For each document or response you claim confidential, you must separately address the following points:

- a. The portions of the information alleged to be entitled to confidential treatment;
- b. The period of time for which confidential treatment is desired (e.g., until a certain date, until the occurrence of a specific event, or permanently);
- c. Measures taken by you to guard against the undesired disclosure of the information to others;
- d. The extent to which the information has been disclosed to others, and the precautions taken in connection therewith;
- e. Pertinent confidentiality determinations, if any, by EPA or other federal agencies, and a copy of any such determinations or reference to them, if available; and
- f. Whether you assert that disclosure of the information would likely result in substantial harmful effects on your business' competitive position, and if so, what those harmful effects would be, why they should be viewed as substantial, and an explanation of the causal relationship between disclosure and such harmful effects.

Finally, EPA may disclose information which you submit in response to this Information Request to authorized representatives of the United States pursuant to 40 C.F.R. § 2.302(h) even if you assert that all or part of the information is confidential business information. Please be advised that EPA may disclose all responses to this information request to one or more private contractors for the purpose of organizing and/or analyzing the information contained in the responses to this Information Request. If you are submitting information which you assert is entitled to confidential treatment, you may comment on this potential disclosure to authorized representatives when you submit your response to this Information Request.

9. You must submit all requested information under an authorized signature along with the following signed certification. The following certification must accompany each submission pursuant to this Information Request, and must be signed by a management representative of Veolia that is authorized to respond on behalf of the facilities:

CERTIFICATION

I certify under penalty of law that I have examined and am familiar with the information in the enclosed documents, including all attachments. Based on my inquiry of those individuals with primary responsibility for obtaining the information, I certify that the statements and information are, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for knowingly submitting false statements and information, including the possibility of fines or imprisonment.

08/30/2023
Date


Signature

Braum's, Inc.
308 Information Request

- 1) Provide the volume of wastewater generated daily from: 1) the dairy operation and 2) the processing plant. A flowmeter should be used every day for one month for this measurement.
- 2) Collect a 24-hour composite sample (with hourly grabs) from both the dairy flowline and plant flowline prior to entering the lagoon.
- 3) Provide lagoon capacity by the foot. Does the current lagoon have the capacity to store wastewater during the winter months?
- 4) Please provide dates of any and all discharges from the Braum's fields to a waterway, within the last 18 months.
- 5) Please describe why the lagoon was lowered prior to the most recent release of August 8, 2022. Provide dates on when the lagoon has been lowered during the past 18 months.
- 6) After it was lowered, how long did it take for the lagoon to be full again?
- 7) How long did land application occur when the lagoon was lowered? Include number of hours during the day, number of days as well as land application designation.
- 8) Why were fields M-11, M-12, M-13, M-14 and M15 land applied when the lagoon was lowered?
- 9) Provide a list of all approved land application areas (including but not limited to field designation, acreage and crops grown). Are forage samples collected from land application fields to determine nutrient uptake?
- 10) Provide recent soil sampling data from all land application fields. Composite samples should be collected from 0 to 6 inches and 6 to 24 inches in a Z-pattern as developed by Oklahoma State University.
- 11) How often does land application occur?
- 12) What determines which fields are land applied?
- 13) Describe the events of all discharges within the last 18 months and what was done to stop them. What has occurred since the discharges?

- 14) Were samples taken at the discharges and in the creeks? If so, provide stream sediment samples in all stream segments that were required to be dammed. The samples should be collected from 0 to 2 inches approximately every 400 feet. It is recommended that each location have a number and World Geodetic System 1984 (WGS84) latitude/longitude associated with each.
- 15) How often are the pipes and pivots pressured tested? Does Braum's conduct mechanical integrity tests and if so, how often? Are flow meters on site?
- 16) Provide a map showing all flowlines, valves, wells, and pumps. Also indicate what fields are currently or in the past have had land application of wastewater.

1. The flowmeters are order from Worth-Hydro Chem and they will arrive in 4-6 weeks. Information provided Brian Warren and consulted by Jay Lowe.
2. The 24-hour composite samples will be collected on 10/3/2023. Information provided by Brian Warren and consulted by James Aubrey.
3. The lagoon capacity by foot is shown on the attached drawing. The lagoon does have enough capacity to store wastewater during the winter months. We have always been able to manage the water use and recycle water during the winter months. Information provided by Brian Warren and consulted by Drew Braum II.
4. The only discharge from the irrigated fields to a waterway within the last 18 months was on February 22, 2023. Information provided by Brian Warren and consulted by Drew Braum II.
5. The lagoon level was lowered in February 2023 in order to replace a warn valve. There are no additional dates of when the lagoon level was intentionally lowered. Information provided by Brian Warren and consulted by Drew Braum II.
6. The lagoon level went from 8' to 12' when we ceased land application for 7 days. We have the ability to recycle the flush water at the dairy. This helps control the amount of water used and released to the lagoon and allows for more storage capacity. Information provided by Brian Warren and consulted by Drew Braum II.
7. The process to lower the lagoon level started on 2/8/2023 and went through 2/22/2023. The irrigation pumps ran for varying amounts of time each day. We irrigated D-7 six days, D-10 eight days, D-11 one day, D-16 seven days, M-2 eight days, M-4 eight days, M-5 three days, M-8 eleven days, M-11 three days, M-12 nine days, M-13 four days, M-14 one day, M-15 seven days. Information provided by Brian Warren and consulted by Drew Braum II.
8. Our Irrigation Supervisor chose fields M-11, M-12, M-13, M-14, and M-15. We irrigate on a rotational basis based on the results of the soil samples and the needs of each field. We terminated the Irrigation Supervisor's employment after discovering he was not following company policies and procedures. We also issued a written warning to the Farm Manager for neglecting to properly monitor the irrigation process. Information provided by Brian Warren and consulted by Drew Braum II.
9. The list of approved land application areas are listed on the "Lagoon Water Applied" forms. The acreage of each irrigated field is as follows: D-5 = 127 acres, D-10 = 195 acres, D-7 = 122 acres, D-15 = 145 acres, D-16 = 143 acres, D-11 = 223 acres, W-5 = 373 acres, M-5 = 121 acres, M-11 = 121 acres, M-2 = 109 acres, M-18 = 171 acres, M-17 = 184 acres, M-1 = 121 acres, M-19 = 101 acres, M-12 = 87 acres, M-14 = 89 acres, M-7 = 114 acres, M-4 = 267 acres, M-8 = 98 acres, M-16 = 122 acres, M-20 = 122 acres, M-9 = 101 acres, M-6 = 114 acres, M-15 = 120 acres, and M-13 = 164 acres. The crops grown in each circle vary each year. We mainly plant corn and alfalfa in the irrigated fields. We do take forage samples from the land application fields. Information provided by Brian Warren and consulted by Drew Braum II.
10. The most recent soil sampling data is on the attached result forms. Information provided by Brian Warren and consulted by Drew Braum II.
11. Land application is a daily process and it is on a rotational basis. Information provided by Brian Warren and consulted by Drew Braum II.
12. The soil sample results and the needs of each crop are the main factors that help us determine what fields are land applied. Information provided by Brian Warren and consulted by Drew Braum II.

13. In August of 2022, we had a release of plant processed water into Snake Creek. The power to the lift station was turned off by the construction crew as they were working in the area. The crew failed to turn the power back on after they completed their work that day. We have installed cameras, alarms and blinking lights on the lift stations to alert us of any issues. We have also installed an overflow pipe on the East lift station that directs water to the field and away from Snake Creek. We also built a concrete retaining wall on the West lift station to control excess water. On 2/22/2023, we were pumping down the lagoon to replace a worn valve. Our irrigation crew over applied on fields M-11, M-12, M-13, M-14, and M-15. The excess water entered our drainage ditch and entered Dry Creek. Dry Creek drains into the Canadian River. We immediately built a dam in our drainage ditch and stopped all flow to Dry Creek and beyond. We have removed all tin horns across the farm to prevent any water from entering waterways. Information provided by Brian Warren and consulted by Drew Braum II.
14. Water and soil samples were taken at various locations along Dry Creek down to the Canadian River. These samples do have the latitude/longitude locations. Information provided by Brian Warren and consulted by James Aubrey.
15. We monitor our irrigation systems daily. We do visual inspections and our maintenance crews check the integrity of the irrigation systems to make sure 40 psi of pressure is maintained. Information provided by Brian Warren and consulted by Drew Braum II.
16. The map showing flow lines, valves, wells, and pumps is attached. Information provided by Brian Warren and consulted by Koty Foran.

