



REGION 2

NEW YORK, N.Y. 10007

Via Certified Mail or UPS Mail

Article Number:

Mike Zielinski, Interim Plant Manager
North Country Dairy
22 County Route 52
North Lawrence, NY 12967

Re: Request for Information

North Country Dairy, LLC North Lawrence, NY
Docket No. CWA-IR-24-012
EPA Compliance Evaluation Inspection, March 27th, 2024
SPDES Permit No. NY0002763

Dear Mr. Zielinski:

The purpose of this Request for Information ("RFI") letter is to require you to submit information to the U.S. Environmental Protection Agency ("EPA") regarding North Country Dairy, 22 County Route 52, North Lawrence, NY ("Site" or "Facility"). Representatives of the United States Environmental Protection Agency ("EPA") Region 2, and the New York State Department of Environmental Conservation ("NYSDEC") Region 6, conducted a Compliance Evaluation Inspection ("CEI" or "Inspection") at this Dairy Products Facility on March 27, 2024. The purpose of the CEI was to determine the Facility's compliance status with its NYSDEC State Pollutant Discharge Elimination System ("SPDES") Permit NY0002763. The SPDES Permit authorizes discharges from the Facility via Outfalls 001 and 002 to the Deer River. The Deer River is a tributary of the St. Regis River which flows into the Saint Lawrence River.

Section 308(a) of the Clean Water Act ("CWA"), 33 U.S.C. §1318(a), provides that whenever it is necessary to carry out the objectives of the CWA, including determining whether or not a person/agency is in violation of Section 301 of the CWA, 33 U.S.C. §1311 the EPA shall require the submission of any information reasonably necessary to make such a determination. Under the authority of Section 308 of the Clean Water Act, EPA may require the submission of information necessary to assess the compliance status of any facility and its related appurtenances. Failure to respond properly to a Request for Information may subject the Owner/Operator to enforcement subject to Section 309 of the CWA 33 U.S.C. §1319.

REQUEST FOR INFORMATION

North Country Dairy, LLC (“Respondent”) is hereby required, pursuant to Section 308(a) of the Clean Water Act, 33 U.S.C. §1318(a), to submit the following information regarding the subject site.

1. Within forty-five (45) calendar days of receipt of this RFI submit:

- a. A written response to the CEI Report with the actions (including a schedule) that are being taken or will be taken to address each of the Potential Non-Compliance Items and Areas of Concern (items that should be improved or addressed for better operations of the facility);
- b. A spreadsheet or documents indicating the daily amount of whey (pounds, gallons, or liters) since January 1, 2004, that were discharged into the Facility’s wastewater treatment system (and not hauled off-site). If this time frame is not available, provide this information from January 2020 to the present.
- c. If the information requested in b. above is not available going back to January 2004, provide a written summary and estimate of the approximate average daily amount of whey discharged to the Facility’s wastewater treatment on or before 2004 when the SPDES Permit was issued, 2006 when the Permit was renewed, and the daily average amounts in 2022, 2023 and the beginning of 2024 (prior to condensing and transporting whey off site in April 2024).
- d. All SPDES Permit applications filed for the 2004 Permit and continuing through the present.
- e. All notifications, if applicable, to the Regional Water Engineer from 2004 to the present of any actual increases or planned increases in the amount of pollutants being discharged from the Facility consistent with 6 NYCRR 750-2.6.
- f. If available, provide representative monitoring results for the concentration of Total Phosphorus, Total Nitrogen (Sum Total Kjeldahl Nitrogen (“TKN”), Nitrite and Nitrate), Biochemical Oxygen Demand – Five Day and/or Chemical Oxygen Demand in the Facility’s uncondensed whey.
- g. A list of cleaning agents and detergents used at the facility for Clean in Place (“CIP”) and other uses along with the MSDS sheets for each and approximate amounts used annually.
- h. Reports, surveys, analysis, memoranda, documents related to the growth, cause of, and/or abundance of algae, slimes, molds, bacteria, biofilms, sewage fungus, or other related biota in the Deer River, including the river bottom, rocks and water column upstream, adjacent to, and downstream of the Facility and its outfalls.
- i. Records of the removal and disposal of aerated and unaerated lagoon sludge (date, sludge volume, disposal location) and the monitoring/judging of the sludge depth in the aerated lagoon and unaerated lagoon system. Also provide the approximate frequency of removing sludge from both the aerated and unaerated lagoons.
- j. Any existing Lagoon Best Management Practices Plan or Standard Operating Procedures that describe procedures for evaluating the sludge depth in the lagoons and the frequency of cleaning the lagoon system (both the aerated and unaerated lagoons).

- k. Records of the analysis of sludges in the aerated lagoon system for Total Nitrogen, Total Phosphorus, and any other nutrients.
- l. Flow diagram depicting which outfall(s) receive the ground water pumped flows and artesian well flows.
- m. The Permit Application, for a permit modification, dated 2006 indicates that .02 MGD of off-site dairy by-products are brought into the plant and discharged via the Plant's Outfall 001. Provide a written summary of whether the Facility is or has been taking in off-site dairy waste into its wastewater treatment system? If so, how much waste (e.g. pounds or gallons) is taken in daily. Provide the sources of the dairy by products, the type of products, the screening procedure for these products and the typical characteristics (pH, Total Nitrogen, Total Phosphorus, BOD and COD of this incoming wastewater). Also provide the time frames that such off-site dairy waste was being brought into the Facility's wastewater treatment system.

Enhanced Monitoring

2. **Within sixty (60) calendar days of receipt of this RFI**, Respondent shall conduct the following monitoring using 40 CFR Part 136 approved methods at the described frequencies.

Whey Monitoring

- a. Within 30 days of receipt of this RFI, conduct at least 5 representative grab samples of uncondensed whey on 5 different days (and also capturing any whey with different consistencies depending on type of products being made) for total nitrogen (also report the components of total nitrogen – TKN, Nitrite/Nitrate), total phosphorus, Biochemical Oxygen Demand-Five Day and Chemical Oxygen Demand. Submit the results of this monitoring within 60 days of receipt of the RFI.

Enhanced Effluent Monitoring

- b. Starting with the month following receipt of this RFI, for a period of 12 consecutive months as follows or until a renewed SPDES Permit is effective, whichever is sooner:
 - i. At Outfall 001, conduct weekly monitoring, by composite sample, for total phosphorus, ammonia, and total nitrogen (Note that in the week where the quarterly composite phosphorus sample overlap, only one sample is required). This weekly monitoring must be conducted at the same time as the weekly BOD and TSS sampling.
 - ii. At outfall 002, conduct monthly monitoring, by grab sample, for Chemical Oxygen Demand ("COD"), total nitrogen, ammonia-nitrogen, total phosphorus, and pH (for months when there is flow during weekday day shift).
 - iii. Submit the results of the above monitoring on the 28th day of the month following the sample collection to the addresses below.
- c. Whole Effluent Toxicity Testing
 - i. **Beginning with the 3rd quarter of 2024 (July to September)**, the Facility shall conduct quarterly Whole Effluent Toxicity ("WET") Test (acute and chronic) at Outfall 001, consistent with the methods and instructions in Appendix A (attached below) for a

period of one year. The results of the WET testing shall be reported 30 days after the end of each calendar quarter to the NYSDEC Toxicity Testing Unit at WET@dec.ny.gov in addition to the addresses specified below.

3. **Within 150 days of receipt of this Request for Information** conduct and submit the results of an Engineering Study on the Lagoon system that:
- Evaluates the sludge depths in each of the lagoons and determines the current volume of the lagoons and compares that to the design volume of the lagoon system and whether removal of sludge in either or both, the aerated and/or unaerated lagoons is necessary;
 - If removal of sludge is needed to restore the design capacities of each of the lagoons, then provide a plan and schedule for this sludge removal;
 - conduct representative sampling and analysis for nutrients such as nitrogen and phosphorus, in the sludge, in the lagoons and submit a written determination whether the sludge is a source of nutrients in the discharge through outfall 001 (e.g. either through scouring of solids, or chemical reactions leading to nutrients bound in the sludge moving to the aqueous phase).

CERTIFICATION

Any documents to be submitted as part of this Request for Information shall be signed by an authorized representative of the respective entity (see 40 C.F.R. §122.22), and shall include the following certification:

"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 gathered and evaluated 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."

All information required to be submitted pursuant to this Request for Information shall be **sent by email** to the following (if unable to make electronic submittals mailing addresses are listed below):

Justine Modigliani, P.E., Supervisor
CWA Compliance Section - Water Compliance Branch
Enforcement and Compliance Assurance Division
EPA – Region 2
Modigliani.Justine@epa.gov

Christina Palmrose-Krieger
Water Compliance Branch Enforcement and Compliance Assurance Division
EPA - Region 2
Palmrosekrieger.Christina@epa.gov

Murray Lantner, P.E., Environmental Engineer
Water Compliance Branch Enforcement and Compliance Assurance Division
EPA - Region 2
Lantner.Murray@epa.gov

New York State Department of Environmental Conservation, Region 6
Matthew Duffany, P.E. Regional Water Engineer
matthew.duffany@dec.ny.gov

Brian Boyer, Environmental Program Specialist
brian.boyer@dec.ny.gov

Should you have any questions regarding this request, feel free to contact Justine Modigliani, P.E., Supervisor, Clean Water Act Compliance Section at (212) 637-4268, or Christina Palmrose-Krieger, Life Scientist, (212) 637-4049/Murray Lantner, P.E. Environmental Engineer (212) 637-3976 of my staff.

Sincerely,

NICOLE
FOLEY KRAFT

Digitally signed by
NICOLE FOLEY KRAFT
Date: 2024.06.24
12:48:51 -04'00'

Nicole Kraft, Acting Manager
Water Compliance Branch

Enclosure

Appendix A - WET Testing Instructions
EPA Compliance Evaluation Inspection Report, from March 27th, 2024

cc: Matthew Thompson, North Country Dairy, EHS Manager, mthompson@uncdairy.com
Ed Hampston, P.E., Director, Bureau of Water Compliance Programs, NYSDEC
Brian Boyer, NYSDEC Region 6, brian.boyer@dec.ny.gov
Matthew Duffany, P.E., Regional Water Engineer, DEC Region 6,
matthew.duffany@dec.ny.gov

Appendix A – WET Testing Methodology

Whole Effluent Toxicity (WET) Testing:

Testing Requirements - WET testing shall consist of Acute and Chronic simultaneously. WET testing shall be performed in accordance with 40 CFR Part 136 and TOGS 1.3.2 unless prior written approval has been obtained from the Department.

Quarterly chronic WET testing is required to capture seasonal variability, but report both the acute and chronic results. The test species shall be Ceriodaphnia dubia (water flea - invertebrate) and Pimephales promelas (fathead minnow - vertebrate). Receiving water collected upstream from the discharge should be used for dilution. All tests conducted should be static-renewal (two 24-hr composite samples with one renewal for Acute tests and three 24-hr composite samples with two renewals for Chronic tests). A standard dilution series consisting of 100%, 50%, 25%, 12.5%, and 6.25% effluent should be used to generate a definitive test endpoint.

Reporting - Toxicity Units shall be calculated as follows: $TU_a = (100)/(48\text{-hr LC}_{50})$ [note that Acute data is generated by both Acute and Chronic testing] and $TU_c = (100)/(7\text{-day NOEC})$ or $(100)/(7\text{-day IC}_{25})$ when Chronic testing has been performed. For Chronic results, report the most sensitive endpoint (i.e. survival, growth and/or reproduction) corresponding to the lowest 7-day NOEC or IC₂₅ and resulting highest TU_c. For Acute results, report a TU_a of 0.3 if there is no statistically significant mortality in 100% effluent as compared to the control. Report a TU_a of 1.0 if there is statistically significant mortality in 100% effluent as compared to the control, but insufficient mortality to generate a 48-hr LC₅₀. Also, in the absence of a 48-hr LC₅₀, use 1.0 TU_a for the Chronic prediction from the Acute data, and report a TU_c of 10.0. As of 2023, NYS DOH ELAP lab certification is required for labs conducting WET testing.

The results of the WET testing shall be reported 30 days after the end of each calendar quarter to the NYSDEC Toxicity Testing Unit at WET@dec.ny.gov in addition to the addresses specified in the Request for Information.