

**PLEASE PRINT CLEARLY OR TYPE**

STATE OF NORTH CAROLINA  
 COUNTY OF (1) New Hanover

IN THE OFFICE OF  
 ADMINISTRATIVE HEARINGS

(2) Environmental Justice Community Action Network and Cape Fear River Watch )  
 \_\_\_\_\_ )  
 PETITIONERS, )  
 v. )  
 (3) North Carolina Department of Environmental Quality – Division of Water Resources )  
 \_\_\_\_\_ )  
 RESPONDENT. )  
 (The State agency or board about which you are complaining) )

**PETITION  
 FOR A  
 CONTESTED CASE HEARING**

I hereby ask for a contested case hearing as provided for by North Carolina General Statute § 150B-23 because the Respondent has:

(Briefly state facts showing how you believe you have been harmed by the State agency or board.)

Environmental Justice Community Action Network and Cape Fear River Watch hereby request a contested case hearing as provided for by N.C. Gen. Stat § 143-215.1 and § 150B-23 to challenge actions of the North Carolina Department of Environmental Quality – Division of Water Resources (DEQ) in issuing Permit No. AWI310035 (Exhibit 1) to Murphy-Brown, LLC’s Waters Farm 1-5 M&M Rivenbark on March 31, 2021 for the construction and operation of an animal waste treatment system in Duplin County. The permit authorizes a new anaerobic digester system to generate biogas from swine waste while also authorizing the operation of Murphy-Brown’s dangerous and polluting lagoon and sprayfield system for waste management, which adversely affects water, air, and nearby community members when less polluting technologies for treating and disposing of this waste are practicable. DEQ also failed to evaluate and the permit fails to address cumulative effects of industrial hog operations and agricultural pollution in the Cape Fear River Basin. In issuing this permit, DEQ violated its obligations to prevent the violation of water quality standards due to the cumulative effects of permit decisions, and to require the practicable waste treatment and disposal alternative with the least adverse impact on the environment. N.C. Gen. Stat. § 143-215.1(b)(2); 15A N.C. Admin. Code 2T.0105(f).

Environmental Justice Community Action Network, Cape Fear River Watch, and their members are persons aggrieved and substantially prejudiced under N.C. Gen. Stat. § 150B-23 as a result of DEQ’s unlawful issuance of Permit No. AWI310035. Environmental Justice Community Action Network is a North Carolina-based not-for-profit organization with a mission to achieve environmental justice and provide resources to communities who are working to improve the environment where they live, work, and play. Cape Fear River Watch is a not-for-profit organization based in Wilmington, N.C., with a mission to protect and improve the water quality of the Cape Fear River Basin for all people.

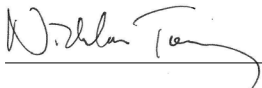
(4) Amount in controversy \$ n/a (if applicable)  
 (If more space is needed, attach additional pages.)

(5) Because of these facts, the State agency or board has: (check at least one from each column)  
 \_\_\_\_\_ deprived me of property;  exceeded its authority or jurisdiction;  
 \_\_\_\_\_ ordered me to pay a fine or civil penalty; or  acted erroneously;  
 otherwise substantially prejudiced my rights; **AND**  failed to use proper procedure;  
 acted arbitrarily or capriciously; or  
 failed to act as required by law or rule.

(6) Date: April 29, 2021 (7) Your phone number: (919) 967-1450

(8) Print your full address: 601 Rosemary Street, Suite 220 Chapel Hill, NC 27516  
 (street address/p.o. box)(city) (state)(zip)

(9) Print your name: Nicholas S. Torrey

(10) Your signature: 

**You must** mail or deliver a **COPY** of this Petition to the State agency or board named on line (3) of this form. You should contact the agency or board to determine the name of the person to be served.

### CERTIFICATE OF SERVICE

I certify that this Petition has been served on the State agency or board named below by depositing a copy of it with the United States Postal Service with sufficient postage affixed **OR** by delivering it to the named agency or board:

(11) Bill Lane

(name of person served)

(12) N.C. Department of Environmental Quality

(State agency or board listed on line 3)

(13) 217 West Jones Street, Raleigh, NC 27603

(street address/p.o. box) (city) (state) (zip code)

Also served by certified mail:

Brady Stewart, Agent

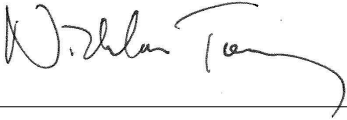
Murphy-Brown LLC

2822 Highway 24 West

Warsaw, NC 28398

(14) This 29th day of April, 2021.

(15)



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When you have completed this form, you **MUST** mail or deliver the **ORIGINAL** to the Office of Administrative Hearings, 6714 Mail Service Center, Raleigh, NC 27699-6700.

**This box for OAH use only.**

<p>Amount Paid \$ _____</p> <p>Cash – receipt number _____</p> <p>Money Order    Certified Check    Attorney Trust Account</p> <p>Check number _____</p>	<p>Indigent (must complete form HOI )</p> <p>Mandated federal cause of action</p> <p><b>Received by:</b> _____</p>
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# Exhibit 1



NORTH CAROLINA  
Environmental Quality

March 31, 2021

ROY COOPER  
Governor

DIONNE DELLI-GATTI  
Secretary

S. DANIEL SMITH  
Director

Murphy-Brown, LLC  
Waters Farm -5 M&M Rivenbark  
PO Box 856  
Warsaw, NC 28390-0856

Subject: Permit No. AWI310035  
Waters Farm -5 M&M Rivenbark  
Swine Waste Collection, Treatment, Storage  
and Application System  
Duplin County

Dear MurphyBrown, LLC:

In accordance with your permit application received December 23, 2019 and subsequent information received on February 3, 2020, December 3, 2020 and December 22, 2020 we are forwarding herewith Permit No. AWI310035 issued to MurphyBrown, LLC, authorizing the construction and operation of an anaerobic digestion animal waste treatment system to produce renewable energy (Waste to-Energy System) for Waters Farm -5 M&M Rivenbark located in Duplin County.

When fully implemented, the Waste-Energy System shall serve as the treatment system for the entire animal waste stream for the facility with an animal capacity of no greater than 308 Wean to Finish Swine \$00 ZDVWH DSSOLFDWLRQ WR ODQG VKDOO EH DV VSHF Management Plan (CAWMP). Any increase in flow or increase in stocked animals above the listed values in this Permit will require a modification to this Permit and shall be completed prior to actual increase in either flow or number of animals.

This Permit is for the Waste-Energy System on the Waters Farm -5 M&M Rivenbark only and does not cover the Align Gas Upgrading System, biogas collection lines, or the Pipeline Intersection.

The issuance of this permit does not excuse the Permittee from the obligation to comply with all applicable laws, rules, standards, and ordinances (local, state, and federal), nor does issuance of this permit convey any property rights in either real or personal property.

This permit shall be effective from the date of issuance February 28, 2020 and shall rescind General Permit and Certificate of Coverage Number AWS310035 dated October 1, 2019. You are authorized and required to operate the system in conformity with the conditions and limitations as specified in this Permit, and the facility's CAWMP. Please pay particular attention to the record keeping and monitoring requirements in this permit as well as Condition III.1.8 Failure to establish an adequate system for collecting and maintaining the required operational information will result in future compliance problems.

You are subject to the conditions of this Permit until the closure of all waste treatment and storage structures and the rescission of this Permit. You must submit a letter to the Division of Water Resources (Division)



to request rescission of the Permit providing documentation of closure of all treatment and containment structures.

If any parts, requirements, or limitations contained in this permit are unacceptable, you have the right to request an adjudicatory hearing upon written request within (30) days following receipt of this permit. This request must be in the form of a written petition, conforming to Chapter 150B of the North Carolina General Statutes, and filed with the Office of Administrative Hearings, 6714 Mail Service Center,,Raleigh NC 276996714. This permit shall be final and binding unless such demands are made.

If your Waste Utilization Plan (WUP) has been developed based on specific information, careful evaluation of future samples is necessary. Should your records show the current WUP is inaccurate you will need to have a new WUP developed.

The issuance of this Permit does not excuse the Permittee from the obligation to comply with all applicable laws, rules, standards, and ordinances (local, state, or federal) convey any property rights in either real or personal property.

Per 15A NCAC 2T. 0103, a compliance boundary is provided for the facility and no new water supply wells shall be constructed within the compliance boundary. Per Natural Resources Commission standards, a 100 separation shall be maintained between water supply wells and any lagoon, storage pond, digester, or any wetted area of a spray field.

Please be advised that any violation of the terms and conditions specified in this Permit result in revocation of this Permit or penalties in accordance with NCGS 153A through 142-15.6C, the Clean Water Act, and 40 CFR 122.41, including civil penalties, criminal penalties, and injunctive relief.

If you wish to continue the activity permitted under this Permit after the expiration date of this Permit, an application for renewal must be filed at least 180 days prior to expiration.

This Permit is not automatically transferable. A name/ownership change application must be submitted to the Division prior to a name change or change in ownership.

This facility is located in a county covered by our Wilmington Regional Office. The Wilmington Water Quality Regional Operations Section (WQROS) Staff may be reached (910) 7967215. If you need additional information concerning this matter, please contact the Animal Feeding Operations Branch staff at (919) 7079129.

Sincerely,

S. Daniel Smith  
Director, Division of Water Resources

cc: Duplin County Health Department  
Duplin County Soil and Water Conservation District  
Smithfield Hog Production  
: LOOLDP \* 3 \* XV ' 6 L P P R Q V - U 3 ( & D Y D Q D X J K 6 R O X W L R Q V  
Laserfiche #Permit File No310035



NORTH CAROLINA  
ENVIRONMENTAL MANAGEMENT COMMISSION  
DEPARTMENT OF ENVIRONMENTAL QUALITY

INDIVIDUAL SWINE ANIMAL WASTE MANAGEMENT SYSTEM PERMIT

In accordance with the provisions of Article 21 of Chapter 143, General Statutes of North Carolina as amended, and other applicable Laws, Rules, and Regulations

PERMISSION IS HEREBY GRANTED TO

**Waters Farm 1-5 M&M Rivenbark**  
Duplin County

FOR THE

construction and operation of an anaerobic digestion animal waste treatment system to produce renewable energy- (Waste-to-Energy System) consisting of a 2,672,790 gallon synthetically lined anaerobic digester with 80 mil HDPE synthetic cover, one existing synthetically lined lagoon, two existing clay lined lagoons, three digester influent pump stations, one effluent pump station, one transfer pump station, one biogas drying unit, and all necessary pipes, pumps, and appurtenances, to serve the 2,308 Wean to Finish swine at Waters Farm -5 M&M Rivenbark with no discharge of wastes to the surface waters, in conformity with the project plan, specifications, and other supporting data subsequently filed and approved by the Department of Environmental Quality (Department) and considered a part of this Permit

All existing lagoon structures shall be properly operated and maintained through out the construction and operation of additional components of the Waste-to-Energy System. During construction of the Waste-to-Energy System, the existing animal waste management system may continue to operate subject to the conditions of this Permit.

This Permit is for the Waste-to-Energy System on the Waters Farm -5 M&M Rivenbark only and does not cover the High Gas Upgrading System, biogas collection lines, or the Pipeline Intersection.

This permit shall be effective from the date of issuance February 28, 2020, and shall be subject to the following specified conditions and limitations:

I. PERFORMANCE STANDARDS

- 1. Any discharge of waste that reaches surface waters or wetlands is prohibited except as otherwise provided in this Permit and associated statutory and regulatory provisions. Waste shall not reach surface waters or wetlands by runoff, drift, manmade conveyance, direct application, direct discharge through ditches, terraces, or grassed waterways not otherwise classified as state waters.

The waste collection, treatment, storage and application system operated under this Permit shall be effectively maintained and operated as a discharge system to prevent the discharge of pollutants to surface waters or wetlands. Application of waste to terraces and grassed waterways is acceptable as long as it is applied in accordance with Natural Resources Conservation Service (NRCS) Standards and does not result in a discharge of waste to surface waters or wetlands.

Facilities must be designed, constructed, operated, and maintained to contain all waste plus the runoff from a 25-year, 24-hour rainfall event at the time of construction for the location of the facility. A facility that has a discharge of waste that is because of a storm event more severe than the 25-year, 24-hour storm will not be considered to be in violation of this Permit if the facility is otherwise in compliance with its Certified Animal Waste Management Plan (CAWMP) and this Permit.

Any application of waste to a ditch that drains to surface waters or wetlands is prohibited unless all of the following are met:

- a. ditches are controlled by best management practices (BMPs) designed in accordance with NRCS standards;
- b. the BMPs have been submitted and approved by the Division of Water Resources (Division);
- c. the BMPs were implemented as designed to prevent a discharge of waste to surface waters or wetlands;
- d. inspections are conducted in compliance with Condition II.17;
- e. the waste was removed immediately from the ditch upon discovery; and
- f. the event was documented and reported in accordance with Condition II of this Permit.

Nothing in this exception shall excuse a discharge to surface waters or wetlands except as may result because of rainfall from a storm event more severe than the 25-year, 24-hour storm. [G.S. §143-215.10C]

- 2. This Permit does not allow the Permittee to cause a violation of any of the water quality standards established pursuant to Title 15A, Subchapter 2B of the North Carolina Administrative Code and Title 15A, Subchapter 2L of the North Carolina Administrative Code.
- 3. 7KH 3HUPLWWHH VKDOO GHYHORS DQG PDLQWDLQ D FXUUHQW incorporated by reference into this Permit. The CAWMP must be consistent with all applicable laws, rules, ordinances, and standards (federal, state and local) in effect at the time of siting, design and certification of the facility. Any violation of the terms or conditions of the COC or the CAWMP is a violation of this Permit subject to enforcement action and may result in the Permittee having to take immediate and/or long term corrective action(s) as required by the Division of G.S. §143-215.6A and 15A NCAC 02T .1304(b)]
- 4. The Permittee must assess and record, on an ongoing basis, the effectiveness of the CAWMP. The Permittee PXVW PDNH 3PDMRU FKDQJHV ' 3UHYLVLRQV ' RU 3DPHQGPHQW PDLQWDLQ FRPSOLDQFH ZLWK WKH IDFLQWLV\ 1V & 2 & DQG WKH 30DMRU FKDQJHV ' 3DPHQGPHQWV ' DVQW WKH & \$:03 PXVW EH GE\ WKH 3HUPLWWHH DQG D WHFKQLFDO VSHFLDOLVW DQG LOO recertification of the CAWMP by a technical specialist or other appropriate professional. The new CAWMP and the recertification shall be submitted with a request that the COC be amended to reflect the changes. The facility may not make the changes until approved by the Division and a new or amended COC has been issued.



- 35HYLVLRQV' QDQG 3DPHQGPHQWV' PXVW EH VXEF (30) calendar days. A CAWMP must be revised if the operation cannot utilize Nitrogen generated by the animal production in accordance with the existing CAWMP. If field, riser or pull numbers are changed an explanation shall also be submitted and include an updated irrigation map with a description of how the new numbers relate to the old numbers. [G.S. §143215.10C, 15A NCAC 02T .0108(b) and .1304(b)]
5. A violation of this Permit is subject to enforcement action and may result in the Permittee having to take immediate or long-term corrective action(s) as required by the Division. These actions may include but are not limited to: modifying the CAWMP; ceasing land application of waste; removing animals from the facility; or the COC being reopened and modified, revoked and reissued, and/or terminated. [G.S. §143215.6A and 15A NCAC 02T .0110]
  6. Any proposed modification to operation type or the annual average design capacity from that authorized by the Permit to modification of the facility. [G.S. §143215.10C, 15A NCAC 02T .0108(b) and .1304(b)]
  7. No wastecollection, treatment, or storage structure may be constructed in a 100-year flood plain. [G.S. §106803(a2)]
  8. Upon notification by the Division, the Permittee shall conduct an evaluation of the facility and its CAWMP for phosphorous. This evaluation will not be required until such time as the permittee is notified by the Division. The evaluation must be documented on forms supplied by or approved by the Division and must be submitted to the Division. This evaluation must be completed by existing facilities within twelve (12) months of receiving notification from the Division. [15A NCAC 02T .0108(c)]
- )RU IDFLOLWLHV ORFDWHG LQ ZDWHUVKHGV VHQVLWLYH WR loss assessment rating shall have land application rates that do not exceed the established crop removal for phosphorous. [7 KHUH VKDOO EH QR ZDVWH DSSOLFDWLRQ -1304 ILH assessment rating. [15A NCAC 02T .0108(b), see also NC NRCS Standard 590]
9. If prior approval is received from the Director of the Division (Director), facilities that have been issued a COC to operate under this Permit may add treatment units for the purpose of removing pollutants before the waste is discharged into the lagoons/storage ponds. Prior to any approval, the Permittee must demonstrate to the satisfaction of the Director that the new treatment unit will not interfere with the operation of the existing treatment system and that a process is in place to properly manage and track pollutants removed. [15A NCAC 02T .0105(n)]
  11. If prior approval is received from the Director, facilities that have been issued a COC to operate under this Permit may add innovative treatment processes to the systems on a pilot basis in order to determine if an innovative treatment process will improve how the waste is treated and/or aged. Prior to approval, the Permittee must demonstrate to the satisfaction of the Director that the innovative treatment process will not interfere with the operation of the existing treatment system and that a process is in place to properly manage and track the pollutants removed. [15A NCAC 02T .0105(n)]
  12. Animal waste shall not be applied within:
    - a. 100 feet of any well except for monitoring wells. The allowable distance to monitoring wells shall be established on a case-by-case basis by the Division. [15A NCAC 02T .1304(b)(5)]
    - b. 25 feet from a perennial stream or perennial waterbody for swine animal feeding operations sited or expanded prior to September 30, 1995. [15A NCAC 02T .1304(b)(6)]

- c. 50 feet from any perennial stream or river, other than an irrigation ditch or canal, for swine animal feeding operations sited after September 30, 1995 and constructed or expanded before August 27, 1997; ~~±~~[NC Session Law 1995-20]
- d. 75 feet from any perennial stream or river, other than an irrigation ditch or canal, and application area for swine animal feeding operations that is first put in use after August 27, 1997; [G.S. 106803 and NC Session Law 1997-78]
- e. 200 feet from a dwelling not owned by the Permittee at the time waste was first applied at the land application site. ~~±~~[15A NCAC 02T .1304(b)(5)]
13. Upon completion of construction and prior to operation of the new Waste Energy System, as-built plans and specifications and the certification, signed and sealed by a Professional Engineer, must be submitted certifying that the permitted Waste Energy System has been installed in accordance with this Permit, DQG EHVW HQJLQHULQJ SUDFWLFHV 0DLO WKH DWWDFKH Operations Unit, 1636 Mail Service Center, Raleigh, NC 27605. ~~±~~[15A NCAC 02T .0106]
14. The Wilmington Regional Office, telephone (910) 79215, shall be notified at least forty-eight (48) hours in advance of operation of the installed Waste Energy System so that an on-site inspection can be made. Such notification to the Regional Supervisor shall be made during the normal office hours from 8:00 a.m. until 5:00 p.m. on Monday through Friday, excluding State Holidays. ~~±~~[15A NCAC 02T .0108(b)]
15. The waste management system, including the Waste Energy System and the spray irrigation system shall be effectively maintained and operated at all times so that there is no discharge to surface waters or any contamination of ground waters, which will render them unsatisfactory for normal use. In the event that the Waste Energy System fails to perform satisfactorily, including the creation of nuisance conditions or failure of the irrigation area to adequately assimilate the waste water, the Permittee shall take immediate corrective actions including those actions that may be required by the Division. ~~±~~[15A NCAC 02T .0108(b)]

## II. OPERATION AND MAINTENANCE REQUIREMENTS

- The Waste Energy System, collection, treatment, and storage facilities, and the land application equipment and fields shall be properly operated and maintained at all times. ~~±~~[15A NCAC 02T .1304(b)]
- \$ YHJHWDWLYH FRYHU VKDOO EH PDLQWDLQHG and application fields and buffers in accordance with the CAWMP. No waste shall be applied upon areas not included in the CAWMP or upon areas where the crop is insufficient for nutrient utilization. However, if the CAWMP allows, then waste may be applied up to thirty (30) days prior to planting or breaking dormancy. ~~±~~[15A NCAC 02T .1304(b)]
- Soil pH on all land application fields must be maintained in the optimum range for crop production. ~~±~~[15A NCAC 02T .143215.10C(e)(7)]
- Land application rates shall be in accordance with the CAWMP. In no case shall the total land application rates from all nutrient sources exceed the agronomic rate of the nutrient of concern for the receiving crop. ~~±~~[G.S. §143215.10C, and 15A NCAC 02T .1304(b)]
- In no case shall land application result in excessive ponding or any runoff during any given application event. ~~±~~[15A NCAC 02T .1304(b)]
- Animal waste shall not be directly applied onto crops for direct human consumption that do not undergo further processing (e.g., strawberries, melons, lettuce, cabbage, apples, etc.) at any time during the growing season, or in the case of fruit bearing trees, following breaking dormancy. Application of animal waste shall not occur within thirty (30) days of the harvesting of fiber and food crops for direct human consumption that undergoes further processing. ~~±~~[15A NCAC 02T .0108(b)]

7. If manure or sludges are applied on conventionally tilled bare soil, the waste shall be incorporated into the soil within two (2) days after application on the land, or prior to the next rainfall event, whichever occurs first. This requirement does not apply to till fields, pastures, or fields where crops are actively growing. ~~15A NCAC 02T .0108(b)]~~
8. No material other than animal wastes of the type generated at this facility shall be disposed of in the animal waste collection, treatment, storage, or application systems. This includes but is not limited to pesticide toxic chemicals and petroleum products.

The biogas condensate generated by the biogas system may be returned to the digester as it serves to recycle moisture from the existing waste stream. No products or additives may be introduced to the condensate material that is returned to the digester. The condensate collection system must be designed to prevent the introduction of precipitation, runoff, or any chemicals or wastes. ~~15A NCAC 02T .1304(b)]~~

9. Domestic and/or industrial wastewater from showers, toilets, sinks, etc. shall not be discharged into the animal waste collection, treatment, storage and application system. Washdown of stock trailers owned by and used to transport animals to and from this Facility only will be permissible as long as the system can accommodate the additional volume. Only those cleaning agents soaps that are EPA approved according to their label, will not harm the cover crop, and will not contravene the groundwater standards listed in 15A NCAC 2L may be utilized in facilities covered by this Permit. Instruction labels are to be followed when using cleaning agents and soaps. ~~15A NCAC 02T .0108(b) and .1304(b)]~~
10. 'L V S R V D O R I G H D G D Q L P D O V V K D O O E H G R Q H L Q D F F R U G D Q F  
Department of Agriculture and Consumer Services (NCDA&CS) Veterinary Division's Statutes and regulations.

Disposal of dead animals must occur within twenty-four (24) hours after knowledge of the death in a manner approved by the State Veterinarian. Proposed methods for disposal of mortality that extends beyond twenty-four (24) hours must be approved by the State Veterinarian. Burial is not recommended for disposal of dead animals. Mortality management plans that utilize burial must include maps showing existing and planned burial locations with setbacks from surface waters, wells, and property lines. The Division may require groundwater monitoring for mortality burial sites.

For animal carcass disposal that addresses catastrophic mortality (as defined by NCDA&CS Veterinary Division), mortality numbers that exceed the capacity of the primary mortality management method, or when the primary/normal mortality management method is unable to be used, the facility shall:

- a. Report the loss to the NCDA&CS Veterinary Division within 24 hours of the mortality event.
- b. If burial is the disposal method, then also:
  - i. consult with the Division and NCDA&CS Veterinary Division prior to burial;
  - ii. map the burial sites, showing burial locations and setbacks from surface waters, wells, and property lines;
  - iii. record the dates and numbers of the animals buried by species and type; a
  - iv. submit the map and burial records within fifteen (15) calendar days of burial to the Water Quality Regional Operations Section within the appropriate Regional Office.

[G.S. §143215.10C(e)(3) and §10603]

In the event of a state of emergency declared by the Governor, disposal of dead animals shall be done in accordance with the guidelines issued by the State Veterinarian. [G.S. §106402.1]

11. Unless accounted for in temporary storage volume, all uncontaminated runoff from the surrounding property and buildings shall be diverted away from the animal waste system, including but not limited to lagoons, storage ponds, sludge treatment or containment areas, and/or open storage structures to prevent any unnecessary addition to the liquid volume in the structure. [15A NCAC 02T .1304(b)]
12. A protective vegetative cover shall be established and maintained on all earthen basin embankments (outside toe of embankment to maximum pumping elevation), berms, pipe runs, erosion control areas, and surface water diversions. Trees, shrubs, and other woody vegetation shall not be allowed to grow on the earthen basin dikes or embankments. Earthen basin embankment areas shall be kept mowed or otherwise controlled and accessible. [15A NCAC 02T .1304(b)]
13. At the time of sludge removal from either the digesters or the lagoons, the sludge must be managed in accordance with the CAWMP. When removal of sludge from the treatment units is necessary, provisions must be made and precautions taken to prevent damage to any dikes and berms. [15A NCAC 02T .1304(b)]
14. All treatment units shall be kept free of foreign debris, including, but not limited to, tires, bottles, light bulbs, gloves, syringes or any other solid waste. [15A NCAC 02T .0108(b)]
15. The facility must have at least one of the following items at all times:
  - a. adequate animal waste application and handling equipment
  - b. a lease, or other written agreement, for the use of the necessary equipment
  - c. a contract with a third-party applicator capable of providing adequate waste application.
 [15A NCAC 02T .0108(b)]
16. The Permittee shall designate a certified animal waste management system operator with a valid certification to be in charge of the animal waste management system. The waste management system shall be operated by the SHUDWRU LQ & KDUJH 2, & RUDSHUGS 90402 HU V.
17. The OIC, a designated Backup OIC of a Type A Animal Waste Management System, or a person under the supervision of an OIC or designated Backup OIC shall inspect the land application site as often as necessary to ensure that the animal waste is land applied in accordance with the CAWMP. In no case shall the time between inspections be more than 120 minutes during the application of waste. A record of each inspection shall be recorded on forms supplied by, or approved by, the Division and shall include the date, time, land application area used, and name of the operator for each inspection. If neither the OIC or designated Backup OIC was present during land application, then the OIC or designated Backup OIC shall inspect the land application area within twenty-four (24) hours.
 

Inspection shall include but not be limited to visual observation of application equipment, land application area, subsurface drain outlets, ditches and drainage ways for any discharge of waste. [15A NCAC 8F .0203(b) and 15A NCAC 02T .0108(c)]
18. Upon written notification from the Director, the Permittee shall install and operate automatic flow meters with flow totalizers or other flow monitoring equipment approved by the Division. The Permittee shall PDLQWDLQ VXFK GHYLFHV DFFRUGLQJ WR W The equipment must be in place no later than ninety (90) days following receipt of notice from the Director. Notification by EDVHG RQ WKH IDFLOLW\ TV YLRODWLRQV LQFRPSOHWH R U determines that flow estimation techniques do not effectively quantify volumes of waste applied. This determination shall be made on a case-by-case basis. [15A NCAC 02T .0108(c)]
19. No waste shall be applied in wind conditions that cause or might reasonably be expected to cause the waste to reach surface waters, wetlands, or cross property lines, or field boundaries. [15A NCAC 02T .0108(b)]

20. Upon written notification from the Director, the Permittee shall install/utilize application equipment or practices that reduce drift potential. Written notification may be provided if the Division determines violations due to wind drift. This determination shall be made on a case-by-case basis. ~~15A NCAC 02T .1304(b)]~~

21. 7 KH 3 H U P L W W H H V K D O O P D L Q W D L Q E X I I H U V W U L S V R U R W I  
CAWMP near feedlots, manure storage areas, and land application areas. ~~15A NCAC 02T .1304(b)]~~

22. Waste shall not be applied on land that is flooded, saturated with water, frozen or snow covered at the time of land application. ~~15A NCAC 02T .1304(b)(7)]~~

23. Land application of waste is prohibited during precipitation events. The Permittee shall consider pending weather conditions in making the decision to land apply waste and shall document the weather conditions at the time of land application on forms supplied by or approved by the Division. ~~15A NCAC 02T .1304(b)(8)]~~

Land application of waste shall cease within twelve (12) hours of the time that the National Weather Service issues a Hurricane Warning, Tropical Storm Warning, or a Flood Watch associated with a tropical system including a hurricane, tropical storm, or tropical depression in the county in which the permitted facility is located. ~~15A NCAC 02T .1304(b)(8)]~~  
LV ORFDWHG : D W F K H V D Q G Z D U Q L Q J V I R U ' X S O L Q & R X Q W \ D  
located at [www.weather.gov/mhx/](http://www.weather.gov/mhx/). Watch and warning information can also be obtained by calling the Newport/Morehead City, NC National Weather Service Office that serves Duplin County (252) 223 5737. ~~15A NCAC 02T .0108(b)]~~

24. The Permittee shall:

- install, operate, and maintain devices on all irrigation pumps/equipment designed to automatically stop irrigation activities during precipitation; or
- commit to provide for the presence of the OIC, a designated backup OIC person under the supervision of an OIC or designated Backup OIC at all times during the land application of waste so that in case of a precipitation event, the irrigation activities will be stopped immediately. This commitment must be submitted in writing to the Division on a form supplied by, or approved by, the Division. ~~15A NCAC 02T .0108(b)]~~

Installation of devices or submission of alternate documentation shall be completed within 12 months of the issuance of the COC for the Permit. The Permittee shall maintain such devices according to the manufacturer's instructions. ~~15A NCAC 02T .0108(b)]~~  
P D Q X I D F W X U H U \ V L Q V W U X F W L R Q V D Q G Z D U U D Q W L H V 7 K L V  
equipment pulled by manned vehicles. ~~15A NCAC 02T .0108(b)]~~

25. If liquid effluent samples show that additional land will be necessary for application of nitrogen at agronomic rates, the Permittee will take immediate action. This action may include, but may not be limited to, one of the following:

- preparing additional land at the site for land application of wastewater or solids
- acquiring leased land agreements for land application of wastewater or solids
- decrease the animal population to that which creates a balance between nutrients produced and utilization on the existing land application and crops
- any other method approved by the Division.

26. Land application activities shall cease on any application site that exceeds a Mehlich 3 Soil Test Index for Copper of greater than 3,000 or Zinc of greater than 3,000. ~~15A NCAC 02T .0108(b)]~~

27. All waste application equipment must be tested and calibrated at least once every two calendar years. The results must be documented on forms provided by, or approved by, the Division of Water Resources, [15A NCAC 02T .1304(b)(9)]
28. Any major structural repairs to digesters, lagoons/storage ponds, or lift stations must have written documentation certifying proper design and installation. Professional engineers, authorized federal employees, and technical specialists with Structural Animal Waste designation may provide certification. However, if a piece of equipment is being replaced with a piece of equipment of the identical specifications, no certification is necessary [i.e. piping, reels, valves, pumps (if the gallons per minute (gpm) capacity is not being increased or decreased), etc.] unless the replacement is disturbing the lagoon/storage pond embankment or liner. [15A NCAC 02T .0108(b)]
29. Crops for which animal waste is land applied must be harvested, removed from the land application site, and properly managed and utilized unless other management practices are approved in the CAWMP. Hay harvested from land application fields shall be removed within twenty (24) months of cutting unless other management practices are approved in the CAWMP. [15A NCAC 02T .0108(b) and .1304(b)]
30. In accordance with NC 8 & 6 & R Q V H U Y D W L R Q 3 U D F W L F H 6 W D Q G D U G 1 R, the operator may temporarily lower lagoon levels to provide irrigation water during drought periods and to provide additional temporary storage for excessive rainfall during the hurricane season and in preparation for the following winter months. All conditions of NC NRCS Standard No. 359 must be satisfied prior to lowering lagoon levels below designed stop pump level. NC NRCS Standard No. 359 requires the following:
- Lagoon levels may be lowered during the period of June 15 through October 31
  - This option shall be limited to lagoons having a minimum of 4 feet of liquid above the sludge layer. The measurement shall be taken from stop pump level, at the pump intake, prior to pumping below the stop pump level.
  - All applications must be in conformance with the CAWMP developed for the operation, including adherence to the planned nutrient application rates.
  - From November 1 through January 4, pumping from the lagoon will not be permitted when the lagoon level is at or below the stop pump elevation.
  - The following information concerning the pump down conditions shall be recorded and maintained on site:
    - Date the lagoon was first pumped below the stop pump level;
    - Depth of liquid between the stop pump level and the sludge layer prior to pumping below the stop pump mark. Measured from the stop pump level near the pump intake location but off the inside slope of the embankment;
    - Date pump down was completed; and
    - Depth of pump down below the stop pump level. Measured weekly until the lagoon returns to the stop pump level.
- [15A NCAC 02T .1304(b)]
31. The nutrient management plan shall be modified as needed based on performance of the Waste-to-Energy System. If performance is not as predicted, immediate measures such as those listed in Condition II. 25 above will be taken.
32. In the case of interruption or failure of Waste-to-Energy System, the Permittee shall follow the Emergency Action Plan (EAP) as submitted.

III. MONITORING AND REPORTING REQUIREMENTS

- 1. An inspection of the Waste-Energy System collection, treatment, and storage structures, and runoff control measures shall be conducted and documented at a frequency to insure proper operation but at least weekly and after all storm events of greater than one (1) inch in 24 hours. For example, lagoons/storage ponds, and other structures should be inspected for evidence of erosion, leakage, damage, or discharge. Inspection shall also include visual observation of subsurface drain outlets, ditches, and drainage ways for any discharge of waste. [15A NCAC 02T .1304(b)]

The Permittee shall keep an inspection log or summary including at least the date and time of inspection, observations made, and any maintenance, repairs, or corrective actions taken by the Permittee. This log inspections shall be maintained by the Permittee for a period of five years from the date of the inspection and shall be made available upon request to the Division or other permitting authority. [15A NCAC 02T .0108(c)]

- 2. Monitoring and Recording Freeboard Levels:

- a. Highly visible waste level gauges shall be maintained to mark the level of waste in each storage pond that does not gravity feed through a free-flowing transfer pipe into a subsequent structure. The gauge shall have readily visible permanent markings. [15A NCAC 02T .1304(b)(10)]

The waste level in each structure with a waste level gauge shall be monitored and recorded weekly on forms supplied by or approved by the Division. [15A NCAC 02T .0108(c)]

Upon written notification from the Director, more frequent monitoring and recording of waste levels shall be made on a case-by-case basis. [15A NCAC 02T .0108(c)]

- b. All waste-level gauges must be certified, at least once every five (5) years, that it complies with the structure design and CAWMP, is representative of low point of the lagoon embankment, and accurate to within 1/10 of a foot. Certification must be recorded on forms provided or approved by the Division. [15A NCAC 02T .0108(b)]

- c. Upon written notification from the Director, the Permittee shall monitor and record waste levels as described below. Written notification may be provided if the Division determines that waste level monitoring and recordkeeping do not adequately represent the volumes of waste in the structure to ensure appropriate management. This determination shall be made on a case-by-case basis. [15A NCAC 02T .0108(c)]

Level gauges and freeboard monitors shall be installed on all treatment and storage structures covered by a COC issued under this Permit to measure and record freeboard. Automated waste level monitors and recorders (monitored and recorded at least daily) must be installed on all treatment and storage structures covered by a COC issued under this Permit to measure and record freeboard operation and maintenance recommendations. This automated equipment must be in place no later than ninety (90) days following notification from the Director. The Director may determine that installation of automated waste level monitors is not required if the Permittee can demonstrate that preventative measures were taken to avoid the violations and that the violations resulted from conditions beyond the Permittee's control. [15A NCAC 02T .0108(c)]

If an automated level monitor(s) becomes inoperable, the Permittee shall

- i. report the problem by telephone to the appropriate Division Regional Office as soon as possible but in no case more than twenty-four (24) hours following first knowledge of the problem; and,

ii. make any needed repairs to the equipment as quickly as possible and take and record daily waste levels at the same time every day until such time as the automated equipment is placed back in operation.

d. The Director may require new or modified water gauges at any facility if it is determined that the existing gauges are not adequate to accurately indicate actual lagoon levels, or the various lagoon levels. UHTXLUHG WR EH PDLQWDLQHGE \ W\H\15A NCAC 02T .0108(c)] WKH

3. Monitoring and Recording Precipitation Event

a. A rain gauge must be installed at each land application site(s). Daily records of precipitation type and amount must be recorded for all precipitation events and maintained on site for review by the Department of Environmental Quality (Department). Daily records do not need to be maintained for those days without precipitation event. [15A NCAC 02T .0108(c)]

b. Upon written notification from the Director, the Permittee shall install an automated rain gauge and recorder to measure and record all precipitation events. This equipment must be properly maintained and FDOLEUDWHG LQ D PDQQHU FRQVLVWHQW ZLWK PI recommendations. This automated equipment must be in place for a minimum of ninety (90) days following receipt of notice from the Director. Written notification may be provided if the Division determines that precipitation measurements and recordkeeping do not adequately represent precipitation at the facility. This determination shall be made on a case-by-case basis. [15A NCAC 02T .0108(c)]

If an automated rain gauge(s) becomes inoperable, the Permittee shall

- i. report the problem by telephone to the appropriate Division Regional Office as soon as possible but in no case more than twentyfour (24) hours following first knowledge of the problem; and,
- ii. make any needed repairs to the equipment as quickly as possible and take and record all rainfall events until such time as the automated equipment is placed back into operation.

[15A NCAC 02T .0108(c)]

4. A representative Standard Soil Fertility Analysis, including pH, phosphorus, copper, and zinc, shall be conducted at least once every three (3) years on each application field receiving animal waste. [G.S. §143-215.10C(e)(6)]

5. An analysis of a representative sample of the animal waste to be applied shall be conducted in accordance with recommended laboratory sampling procedures as close to the time of application as practical and least within sixty (60) days (before or after) the date of application. Every reasonable effort shall be made to have the waste analyzed prior to the date of application and as close to the time of waste application as possible. This analysis shall include the following parameters: [G.S. §143-215.10C(e)(6)]

Nitrogen	Zinc
Phosphorus	Copper

6. The Permittee shall record all irrigation and land application event(s) including hydraulic loading rates, nutrient loading rates and cropping information. The Permittee shall also record removal of solids and document nutrient loading rates if disposed of site, or record the off-site location(s). These records must be on forms supplied by, or approved by, the Division. [G.S. §143-215.10C(e)(8)]

7. The Permittee must maintain monthly stocking records at the facility and make the records available to the Department. [15A NCAC 02T .0108(c)]



8. If, for any reason, there is a discharge from the waste collection, treatment, storage and application system (including the land application sites), to surface ~~water~~ wetlands, the Permittee is required to make notification in accordance with Condition ~~II~~. The discharge notification shall include the following information:
- Description of the discharge: A description of the discharge including an estimate of the volume discharged, a description of the flow path to the receiving surface waters or wetlands and a site sketch showing the path of the waste.
  - Time of the discharge: The length of time of the discharge, including the exact dates and times that it started and stopped, and if not stopped, the anticipated time the discharge is expected to continue.
  - Cause of the discharge: A detailed statement of the cause of the discharge caused by a precipitation event, detailed information from the ~~site~~ rain gauge concerning the inches and duration of the precipitation event.
  - All steps being taken to reduce, stop and cleanup the discharge. All steps to be taken to ~~prevent~~ prevent future discharges from the same cause.
  - Analysis of the waste: A copy of the last waste analysis conducted as required by Condition III. 5 above.

[15A NCAC 02T .0108(b) and (c)]

9. Upon written notification by the Director, the Permittee shall undertake ~~monitoring~~ monitoring and reporting (including but not limited to groundwater, surface ~~water~~ wetland, waste, sludge, soil, lagoon/storage pond levels and plant tissue) necessary to determine the source, quantity, quality, and effect of animal waste upon surface ~~waters~~ wetlands. Such monitoring, including its scope, frequency, duration and any sampling, testing, and reporting systems, shall meet all applicable Division requirements. Notification shall be made on a ~~case-by-case~~ case-by-case basis. ± [15A NCAC 02T.0108(c)]
10. A copy of this Permit, certification forms, lessee and landowner agreements, the CAWMP, Best Management Plan, the Operations and Maintenance Manual, and copies of all records required by the 3 H U P L W D Q G W K H I D F L O L W \ | } by the Permittee ID 01010101 and 01010101 for a minimum of five (5) years. These records shall be maintained on forms provided ~~and approved~~ by the Division and shall be readily available for inspection.

Records include but are not limited to operation, maintenance, repair and waste analyses, rain gauge readings, freeboard levels, irrigation and land application event(s), past inspection reports and operation reviews, animal stocking records, records of additional nutrient sources ~~including~~ including but not limited to sludges, unused feedstuff leachate, septage and commercial fertilizer), cropping information, waste application equipment testing and calibration, and records of removal of solids ~~and~~ and identification(s). ± [15A NCAC 02T .008(c)]

11. Within fifteen (15) working days of receiving the request from the Division, the Permittee shall provide to the Division one (1) copy of all requested information and reports related to the operation of the animal waste management system. Once received by the Division, all such information and reports become public information, unless they constitute confidential information under G.S. ~~§ 132~~ § 143-15.9D and shall be made available to the public by the Division as specified in Chapter ~~132~~ General Statutes. ± [15A NCAC 02T .0108(c)]

12. Regional Notification:

The Permittee shall report by telephone to the appropriate Division Regional Office as soon as possible, but in no case more than twenty-four (24) hours following first knowledge of the occurrence of any of the following events: ± [15A NCAC 02T .0108(b)]

- Failure of any component of the animal waste management system resulting in a discharge to ditch or surface waters, or wetlands.

- b. Any failure of the waste treatment and ~~disposal~~ system that renders the facility incapable of adequately receiving, treating, or storing the waste and/or sludge.
- c. A spill or discharge from a vehicle transporting waste or sludge to the land application field which results in a discharge to ditch~~surface~~ waters, or wetlands or an event that poses a serious threat to surface waters, wetlands, or human health and safety.
- d. Any deterioration or leak in a lagoon/storage pond that poses an immediate threat to the environment or human safety or health.
- e. Failure to maintain storage capacity in a lagoon/storage pond greater than or equal to that required Condition V.2. of this Permit.
- f. Failure to maintain waste level in a lagoon/storage pond below that of the designed structural freeboard (twelve (12) inches from top of dam or as specified in lagoon/storage pond design). Note that this notification is in addition to the report required by Condition ~~II~~ above.
- g. An application of waste either in excess of the limits set out in the CAWMP or where runoff enters ditches, surface waters, or wetlands.
- h. Any discharge to ditches, surface waters, or wetlands or any discharge that poses a serious threat to environment or human health or safety.

For any emergency, which requires immediate reporting after normal business hours, contact must be made with the Division of Emergency Management at 800-858-0368

The Permittee shall also file a written report to the appropriate Division Regional ~~Office~~ five (5) calendar days following first knowledge of the occurrence. This report shall outline the actions taken or proposed to be taken to correct the problem and to ensure that the problem does not recur. In the event of a storage capacity violation as described in Condition ~~III~~ e, the written report shall outline the actions proposed to be taken to restore compliance within thirty (30) calendar days. The requirement to file a written report may not be waived by the Division Regional Office. ~~15A NCAC 02T .0108(c)]~~

In the event the waste level in a lagoon/storage pond is found to be within the designed structural freeboard the Permittee shall file a written report to the appropriate Division Regional Office within two (2) calendar days following first knowledge of the occurrence. This report shall outline actions taken or proposed to be taken to reduce waste levels below the designed structural freeboard within five (5) calendar days of first knowledge of the occurrence. ~~15A NCAC 02T .0108(c)]~~

- 13. Upon written notification by the Director, the Permittee shall submit an annual certification report or other reports/certifications based on the compliance history of the facility. If required, the report must be filed on forms provided by the Division. ~~15A NCAC 02T .0108(c)]~~
- 14. In the event of a discharge of 1,000 gallons or more of animal waste to surface waters or wetlands, the Permittee must issue a press release to all print and electronic news media that provide general coverage of the county in which the discharge occurred setting out the details of the discharge. The press release must be issued within forty-eight (48) hours after it is determined that the discharge has reached the surface waters or wetlands. A copy of the press release ~~and~~ of the news media to which it was distributed must be kept for at least one (1) year after the discharge and must be distributed to any person upon request. ~~15A NCAC 02T .0108(c)]~~

At a minimum the press release shall include the name of ~~the~~ location of the discharge, estimated volume of waste water entering state waters, time and date discharge occurred, duration of the discharge, and identification of receiving water body. The Permittee shall provide a copy of the press release to the Division. ~~15A NCAC 02T .0108(b)]~~

15. In the event of a discharge of 1,000,000 gallons or more of animal waste to surface waters or wetlands, a public notice is required in addition to the press release described in Condition I.14. The public notice must be placed in a newspaper having general circulation in the county in which the discharge occurred and the county immediately downstream within ten (10) days of the discharge. The notice shall be captioned "Public Notice of Discharge" and shall include the name of the facility, location of the discharge, estimated volume of waste entering state waters, time and date of discharge occurred, duration of the discharge, identification of water body that was discharged into including creek and river basin if applicable, actions taken to prevent further discharge, and a facility contact person and phone number. The owner or operator shall file a copy of the notice and proof of publication with the Department within thirty (30) days after the notice is published. Permittee must maintain a copy of the press release and the public notice consistent with Condition I.14. [G.S. §143215.10C(h)(2)]

16. If a discharge of 1,000,000 gallons or more of animal waste reaches surface waters or wetlands, the appropriate Division Regional Office must be contacted to determine in what additional counties, if any, public notice must be published. A copy of all public notices and proof of publication must be sent to the Division within thirty (30) days after the notice is published.

These requirements are in addition to those found in Condition I.14 and III.15 above. The Permittee must maintain a copy of the public notice and proof of publication consistent with Condition I.15A NCAC 02T .0108(b)]

17. Facility shall conduct a survey of the sludge accumulation in digesters and lagoons every year. The survey report should be written on forms provided or approved by the Division and shall include a sketch showing the depth of sludge at the various locations within each lagoon. This survey frequency may be reduced if it can be demonstrated to the satisfaction of the Division that the rate of sludge accumulation does not warrant an annual survey. [15A NCAC 02T .0108(b) and .1304(b)]

If the sludge accumulation is such that the structure does not satisfy the criteria set by NRCS National Engineering Handbook, Part 3, Chapter 10, "Sludge Accumulation in Ponds and Lagoons," amendment, a sludge removal or management plan must be submitted to the appropriate Division Regional Office within ninety (90) days of the determination. The plan shall describe removal and waste utilization procedures to be used. Compliance regarding sludge levels must be achieved within two (2) years of the determination. [15A NCAC 02T .0108(b) and .1304(b)]

18. The Permittee shall conduct wastewater analysis of both the influent and effluent of the digester for the following parameters quarterly. Quarterly tests of representative grab samples shall be conducted once within each of the following windows with at least sixty (60) days between any two sampling events: Quarter 1: Jan-Mar; Quarter 2: Apr-Jun; Quarter 3: Jul-Sep; Quarter 4: Oct-Dec. Sample results shall be submitted to the Division. [15A NCAC 02T .0108(b)]

- |   |  |
|---|--|
| Total Nitrogen or Total Kjeldahl Nitrogen | Nitrate Nitrogen(NO <sub>3</sub> -N/ NO <sub>2</sub> -N) |
| Ammonium nitrogen (NH <sub>4</sub> -N)    | Total Phosphorous  |
| Copper                                    | Zinc   |
| Sulfur                                    | Fecal coliform bacteria                                  |

**IV. INSPECTION AND ENTRY**

1. The Permittee is subject to inspections at any time, without announcement, by the Department. The Permittee shall allow any authorized representative of the Department, upon the presentation of credentials and other documents as may be required by law and in accordance with reasonable and appropriate biosecurity measures, to:

- a. Enter the Permittee's premises where a regulated facility or activity is located or conducted, or where records must be kept under the conditions of this Permit;
- b. Have access to and copy, at reasonable times, any records that must be kept under the conditions of Permit;
- c. Inspect, at reasonable times any facilities, equipment (including monitoring and control equipment) practices, or operations regulated or required under this Permit; and,
- d. Sample or monitor, at reasonable times, for the purpose of assuring permit compliance, any substances or parameters at any location

## V. GENERAL CONDITIONS

1. The issuance of this Permit shall not relieve the Permittee of the responsibility for compliance with all applicable surface water, wetlands, groundwater and air quality standards or for damages to surface water, wetlands or groundwaters resulting from the animal operation.

The issuance of this Permit does not exempt the Permittee from the obligation to comply with all applicable statutes, rules, regulations, or ordinances (local, state, and federal).

2. 7 KH PD [LPXP ZDVWH OHYHO LQ ODJRRQV VWRUDJH SRQGV CAWMP. At a minimum, maximum waste level for lagoons/storage ponds must not exceed the level that provides adequate storage to contain the 25, 24-hour storm event plus an additional one (1) foot of structural freeboard except that there shall be no violation of this condition if:
  - a. there is a storm event more severe than a 25, 24-hour event
  - b. the Permittee is in compliance with its CAWMP
  - c. there is at least one (1) foot of structural freeboard. 15A NCAC 02T .1304(b)

Lagoons and storage ponds designed after September 1, 1996, must also provide storage for the heavy rainfall factor (NC NRCS Standard 359) for the lagoons/storage pond. In case of lagoons/storage ponds series that are gravity fed, the 25, 24-hour storm event and/or the heavy rainfall factor storage requirement for the system may be designed into the lowest lagoon/storage pond in the system. However, adequate freeboard must be designed into the upper lagoons/storage ponds to allow sufficient storage to prevent the waste level from rising into the structural freeboard while the storm water is draining into the lowest structure in the system. [15A NCAC 02T .1304(b), also see NC NRCS Standard 359]

3. All containment basin, such as a lagoon or digester, used for waste management shall be subject to the conditions and requirements of this Permit until properly closed. When the containment basin SURSHUO\ FORVHG LQ DFFRUGDQFH ZLWK WKH 15&6 1& & RQ : D V W H , P S R X Q G P H Q W A n y s u b s e q u e n t a m e n d m e n t , t h e c o n t a i n m e n t b a s i n s h a l l n o t b e s u b j e c t t o t h e r e q u i r e m e n t s o f t h i s P e r m i t . T h e P e r m i t t e e m u s t s u b m i t a l e t t e r t o t h e D i v i s i o n t o r e q u e s t r e s c i s s i o n o f t h e P e r m i t b y p r o v i d i n g d o c u m e n t a t i o n o f c l o s u r e o f a l l c o n t a i n m e n t b a s i n s .

Closure shall also include a minimum of 24 hours notification of the Division and submittal of the Animal Waste Storage Pond and Lagoon Closure Report Form to the address identified on the form within fifteen (15) days of completion of closure. [15A NCAC 02T .1306(b)]

4. The annual permit fee shall be paid by the Permittee within thirty (30) days after being billed by the Division. Failure to pay the fee accordingly constitutes grounds for revocation of this Permit. [15A NCAC 02T .1015(e)(2)]

5. Upon classification of the Facility by the Water Pollution Control System Operators Certification Commission (WPCSOCC), the Permittee shall designate a Certified Water Pollution Control System Operator (Operator) to operate the Facility. The designated Operator must hold a certificate of the same type(s) and grade(s) as the classification(s) assigned to the Facility by the WPCSOCC. The Permittee may also be required to designate a certified back Operator of the appropriate type and grade to comply with the conditions of 15A NCAC 8G. 0202. The Permittee shall submit to the WPCSOCC a completed designation form designating the appropriately certified Operator(s) thirty (30) days prior to the introduction of waste into the system or within thirty (30) days of classification, in the case of the Existing System. The designated Operator of the Facility must visit the Facility as often as necessary to insure proper operation of the system, but in no case less frequently than as specified in 15A NCAC 8G.0204(2), 15A NCAC 8F. 0203, or both 15A NCAC 8F .0203 and 15A NCAC 02T .0108(c)]
  6. After the Waste-to-Energy System has been in use for one (1) year, the Permittee or their designee shall submit a progress report to the Division. This report shall include any updates or changes to the Operation and Maintenance Plan and any recommendations for improvements. 15A NCAC 02T .0108(c)]
  7. Failure to abide by the conditions and limitations contained in this Permit may subject the Permittee to an enforcement action by the Division in accordance with North Carolina General Statute 151-6C and may include the requirement to obtain additional treatment or storage units and/or addition of land application sites, and/or the modification of the animal waste management system.
  8. Failure of the Permittee to maintain, in full force and effect, lessee and landowner agreements, which are required in the CAWMP, shall constitute grounds for revocation of this Permit. 15A NCAC 02T .0110(1)
  9. If animal production ceases the Permittee is responsible for developing, implementing and completing a closure plan for the facility. The closure plan shall include a risk assessment of the facility and a plan to address potential for injury. Closure shall include notifying the Division. 15A NCAC 02T .1306(b)
- Should the Permittee desire to abandon the Waste-to-Energy System, the Permittee shall submit a closure plan to the Division. The closure plan must include recommendations by a Professional Engineer for the removal of all equipment associated with the Waste-to-Energy System so as not to create any discharge. No equipment shall be removed without prior approval from the Division. 15A NCAC 02T .0108(b)
10. This Permit shall become voided unless the facilities are constructed in accordance with the conditions of this Permit, the approved plans and specifications, and other supporting data. 15A NCAC 02T .1306(1)
  11. This Permit is effective only with respect to the nature and volume of wastes described in the application and other supporting data for Waters Farm - 5 M&M Rivenbark. The Permittee shall notify the Division immediately of any applicable information not provided in the permit application. 15A NCAC 02T .1306(1)
- Any proposed modification to an animal waste management system component shall require approval from the Division prior to construction.
12. This Permit is not automatically transferable. In the event there is a desire for the facility to change ownership, or there is a name change of the Permittee, a Notification of Change of Ownership form must be submitted to the Division, including documentation from the parties involved and other supporting materials as may be appropriate. This request shall be submitted within sixty (60) days of change of ownership. The request will be considered on its merits and may or may not be approved. 15A NCAC 02T .1304(c)
  13. A set of approved plans and specifications for the Waste-to-Energy System must be retained by the Permittee for the life of the system. 15A NCAC 02T .0108(c)]

14. The Permittee, at least six (6) months prior to the expiration of this permit, shall request its extension. Upon receipt of the request, the Commission will review the adequacy of the facilities described therein, and if warranted, will extend the permit for such period of time and under such conditions and limitations as may deem appropriate. [15A NCAC 02T .0110]
15. The issuance of this Permit does not prohibit the Division from reopening and modifying the Permit, revoking and reissuing the Permit, or terminating the Permit as allowed by the appropriate laws, rules, and regulations. [15A NCAC 02T .0110]
16. Upon abandonment or depopulation for a period of five (5) years or, the Permittee must satisfy all the follow prior to restocking the facility:
  - a. The Permittee must notify the Division in writing at least 60 days prior to bringing any animals back onto the site;
  - b. The facility has not been abandoned or depopulated for more than ten (10) years;
  - c. At the time the system ceased operation, the animal operation was in compliance with an individual or a general permit issued pursuant to § 143-215.10C;
  - d. The facility has maintained coverage under an individual permit or a COC under a general permit;
  - e. The Division issues an individual permit or a COC under a general permit issued pursuant to § 143-215.10C for the animal operations before any animals are brought on the facility;
  - f. The permit for the animal waste management system does not allow the production, measured by steady state live weight (SSLW), to exceed the greatest SSLW previously permitted under § 143-215.10C;
  - g. No component of the animal waste management system, other than existing swine bands or application sites shall be constructed within the 100 year floodplain; and
  - h. The inactive animal waste management system was not closed using the expenditure of public funds and was not closed pursuant to a settlement agreement, court order, cost share agreement, or grant condition.

Any facility that does not meet the criteria above is a new swine animal waste management system. [15A NCAC 02T .1302(5)]

17. The Groundwater Compliance Boundary is established by 15A NCAC 2L .0102 and 15A NCAC 2T .0103. An exceedance of Groundwater Quality Standards at or beyond the Compliance Boundary is subject to the requirements of 15A NCAC 2L and the Division in addition to the penalty provisions applicable under the North Carolina General Statutes.

## VII. PENALTIES

1. Failure to abide by the conditions and limitations contained in this Permit; the facility's CAWMP; and/or applicable state law; may subject the Permittee to an enforcement action by the Division including but not limited to the modification of the animal waste management system, civil penalties, criminal penalties and injunctive relief. [15A NCAC 02T .0110]
2. The Permittee must comply with all conditions of this Permit. Any permit noncompliance constitutes a violation of state law and is grounds for enforcement action; for permit coverage termination, revocation and reissuance, or modification; or denial of a permit coverage renewal application. [15A NCAC 02T .0110]
3. It shall not be a defense for a Permittee in an enforcement action to claim that it would be necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of this Permit. [15A NCAC 02T .0108(b)]

VIII. DEFINITIONS

25-year, 24-hour rainfall or storm event means the maximum 24-hour precipitation event with a probable recurrence interval of once in 25 years, as defined by the National Oceanic and Atmospheric Administration Atlantic 14 (NOAA 14), Volume 2, version 3.0, 2004 revised 2006, and subsequent amendments, or equivalent regional state rainfall probability information developed therefrom ± [NC NRCS Title 210 ± National Engineering Handbook (NEH), Part 650 Engineering Field Handbook Chapter 2 (2F), North Carolina Supplement, October 2017]

Agronomic rate means the amount of animal waste and/or nutrient sources applied to soil to meet the nitrogen needs of the crop but does not overload the soil with the nutrients or other constituents that cause or contribute to contravention of surface water or groundwater standards, limits crop growth, or adversely impact soil quality. Nitrogen needs of the crop shall be based on realistic yield expectations (RYE) established for a soil series through published Cooperative Extension Service bulletins, NRCS publications, county soil surveys, specific agronomist reports. Unless otherwise specified, nitrogen shall be the determining element. ± [G.S. §143-215.10C(e)(6), 15A NCAC 02T .0103(1) and 15A NCAC 02T .1304(b)]

Amendment to the CAWMP means a minor change and/or addition to a part(s) of the plan and does not require pre-approval from the Division to implement. The following are examples of amendments to the CAWMP:

- x In an existing CAWMP, a change in crops and/or cropping pattern that utilizes 25% or less of the N generated is considered a plan amendment. Additional acreage needed to facilitate the change in crops and/or cropping pattern is permissible and considered part of the amendment.
- x The addition of winter crops and/or interseeded perennial crops are considered amendments to an existing CAWMP when the operation does not require additional acreage and/or crops for N utilization and does not exceed the 25% criteria stated above.
- x Inclusions of emergency action plans, insect, odor and mortality checklists are considered CAWMP amendments.
- x Including additional acreage for land application beyond what is required in the existing CAWMP is considered a plan amendment.

Animal feeding operation means a lot or facility (other than an aquatic animal production facility) where the following conditions are met:

- a. animals (other than aquatic animals) have been, are, or will be stabled or confined and fed or maintained for a total of forty-five (45) days or more in any twelve (12) month period, and
- b. crops, vegetation, forage growth, or plant residues are not sustained in the normal growing season over any portion of the lot or facility. Two or more animal feeding operations under common ownership are considered to be a single animal feeding operation if they adjoin each other, or if they use a common area or system for the disposal of waste. ± [G.S. §143-215.10B]

Animal Waste means livestock or poultry excreta or a mixture of excreta with feed, bedding, litter, or other materials from an animal operation. ± [G.S. §143-215.10B(2)]

Certification means technical specialist certification of the CAWMP in accordance with the requirements of 15A NCAC 02T .1304.

Discharge is defined by G.S. §143-213.2 ZKLFK VWDWHV <sup>3</sup>:KHQHYHU UHIH UHQFH LV RU WKH <sup>3</sup>GLVFKDUJH RI ZDVWH <sup>1</sup> LW VKDOO EH LQWHUSUHWHG V emptying, or dumping into waters of the State, or into any unified sewer system or arrangement for sewage disposal. ZKLFK V\ VWHP RU DUUDQJHPHQW LQ WXUQ GLVFKDUJHV WKH ZDV <sup>3</sup>GLVFKDUJH RO ZDVWH EH VLQVH USUHWHG WR LQFOXGH <sup>3</sup>HPLVVLRQ <sup>1</sup> ± [G.S. §143-213(9)]

Director means the Director of the North Carolina Division of Water Resources.

Ditch means any manmade channel for the purpose of moving water from a site to the surface waters. [15A NCAC 02T .0108(b)]

Excessive Ponding means any area of the application field where visible liquid waste is ponded on the surface of the land application site more than four (4) hours following the application of waste. Excessive ponding also means any areas where the ponding of waste has resulted in crop failure. [15A NCAC 02T .0108(b)]

Expansion means an increase in the permitted steady state live weight associated with the animal waste management system. [15A NCAC 02T .1302(4)]

Facility means an animal feeding operation including confinement areas, waste collection areas, and treatment works associated with the animal feeding operation. [15A NCAC 02T .0108(b)]

Groundwaters means any subsurface waters, as defined in 15A NCAC 2L .0102.

Land application area means the areas used for the application of animal wastewater or waste. [15A NCAC 02T .0108(b)]

Land application means the application of wastewater and/or waste solids onto or incorporation into the soil. [15A NCAC 02T .0108(b)]

Major changes to the CAWMP means changes in the number of animals, type of operation (feeder to finish to weaner to feeder), retrofit of a lagoon, installation of a new irrigation system, and similar type changes. [15A NCAC 02T .0108(b) and .1304(b)]

Revision to the CAWMP means a change to an entire CAWMP to meet current applicable standards. For an existing CAWMP, a change in crops and/or cropping pattern that utilizes more than 25% of the N generated by the operation is considered a plan revision. [15A NCAC 02T .0108(b) and .1304(b)]

State Waters means all waters as defined in G.S. §143-212(6).

Surface Waters means all waters as defined in G.S. §143-212 except underground waters. [15A NCAC 02T .0103(4)]

Waste means animal waste. [G.S. §143-215.10B(2)]

Wetlands are those areas that are inundated or saturated by an accumulation of surface or ground water as defined in 15A NCAC 2B .0202. [15A NCAC 02T .0103(4)]

Permit issued this the 31<sup>st</sup> day of March 2021.

NORTH CAROLINA ENVIRONMENTAL MANAGEMENT COMMISSION

\_\_\_\_\_  
S. Daniel Smith Director  
North Carolina Division of Water Resources  
By Authority of the Environmental Management Commission

Permit Number AWI310035



Permit No. AWI310035  
March 31, 2021

ENGINEER'S CERTIFICATION

I, \_\_\_\_\_, as a duly registered Professional Engineer in the State of North Carolina, having been authorized to observe (periodically, weekly, full time) the

construction of the project \_\_\_\_\_,

Project Name

\_\_\_\_\_

Location

for the Permittee hereby state that, to the best of my abilities, due care and diligence was used in the observation of construction such that the construction was observed to be built within substantial compliance and intent of this Permit, approved plan and specifications, and other supporting materials.

Signature \_\_\_\_\_ Registration No. \_\_\_\_\_

Date \_\_\_\_\_