

BEFORE THE NEBRASKA DEPARTMENT OF ENVIRONMENTAL QUALITY

RECEIVED

IN THE MATTER OF WESTERN SUGAR  
COOPERATIVE CORPORATION

SCOTTSBLUFF, NEBRASKA

NDEQ #44141

Respondent.

Case No. 3418

SEP - 1 2017

ANSWER AND REQUEST  
FOR HEARING AND  
INFORMAL SETTLEMENT  
CONFERENCE

Nebraska Dept of Environmental Quality  
By: \_\_\_\_\_ DEQ#158

Respondent The Western Sugar Cooperative, Corporation (“Western Sugar”), for its Answer to the Nebraska Department of Environmental Quality’s (“NDEQ”) Complaint, Compliance Order, and Notice For Opportunity For Hearing Conference (“Complaint”) admits, denies and alleges as follows:

1. Paragraph 1 of the Complaint is a statement to which no admittance or denial is necessary.
2. Western Sugar admits Paragraph 2 of the Complaint with the exception that its principal office address is 7555 East Hampden Avenue, Suite 520, Denver, CO 80231.
3. Paragraph 3 of the Complaint is a statement of law to which no admittance or denial is necessary.
4. Paragraph 4 of the Complaint is a statement of law to which no admittance or denial is necessary.
5. Paragraph 5 of the Complaint is a statement of law to which no admittance or denial is necessary.
6. Paragraph 6 of the Complaint is a statement of law to which no admittance or denial is necessary. Western Sugar denies Paragraph 6 of the Complaint to the extent that the summary of the law may be inconsistent with the statutory provisions.



7. Paragraph 7 of the Complaint is a statement of law to which no admittance or denial is necessary. Western Sugar denies Paragraph 7 of the Complaint to the extent that the summary of the law may be inconsistent with the rule/regulatory provisions.

8. Paragraph 8 of the Complaint is a statement of law to which no admittance or denial is necessary. Western Sugar denies Paragraph 8 of the Complaint to the extent that the summary of the law may be inconsistent with the rule/regulatory provisions.

9. Paragraph 9 of the Complaint is a statement of law to which no admittance or denial is necessary. Western Sugar denies Paragraph 9 of the Complaint to the extent that the summary of the law may be inconsistent with the rule/regulatory provisions.

10. Western Sugar admits Paragraph 10 of the Complaint that since on or about sometime in 2002, Western Sugar has owned and operated a sugar beet processing facility located at 2100 E. Overland, Scotts Bluff County, Scottsbluff, Nebraska 69361 (“Scottsbluff Facility”).

11. Western Sugar admits Paragraph 11 of the Complaint with respect that in the area between the North Platte River and South Beltline Highway in Sections 31 and 32, Township 22 North, Range 45 West, there exist two basins. Western Sugar denies that it constructed the basins and states that the basins existed when Western Sugar acquired the Scottsbluff Facility in or about 2002. With respect to the southernmost of the two basins known as the “evaporation basin” (previously referenced by the NDEQ as Evaporation Pond), Western Sugar denies that the evaporation basin receives wastewater as part of Western Sugar’s normal operations, but rather states that it periodically receives diverted wastewater when there is a problem discharging wastewater at outfalls 001 and 001D. With respect to the northernmost of the two basins referenced in the Complaint as the “retention basin” (previously referenced by the NDEQ as

Retention Pond), Western Sugar admits that during the campaign when Western Sugar is processing sugar beets, it uses the retention basin to receive mud slurry generated from operations. Western Sugar denies that it presently uses the retention basin to receive precipitated calcium carbonate slurry. Western Sugar states that the retention basin is critical to its operations and that while the NDEQ has discussed with Western Sugar the cessation of use of the evaporation basin, the NDEQ has never discussed with Western Sugar the cessation of use of the retention basin.

12. Western Sugar admits in part Paragraph 12 of the Complaint. With respect to the reference to precipitated calcium carbonate slurry in Paragraph 12 of the Complaint, Western Sugar incorporates by reference its response to Paragraph 11. With respect to the allegations in the second sentence of Paragraph 12 of the Complaint, Western Sugar states that both basins are unlined and denies that the waste streams that may be diverted to the evaporation basin contain “sludge.”

13. Paragraph 13 of the Complaint is a statement of law to which no admittance or denial is necessary. Western Sugar denies Paragraph 13 of the Complaint to the extent that the summary of the law may be inconsistent with the statutory provisions.

14. Western Sugar denies Paragraph 14 of the Complaint. With respect to the allegations in Paragraph 14 of the Complaint, Western Sugar states that there are no NPDES permits issued with respect to the retention basin or the evaporation basin, and denies that NPDES permits are appropriate for the retention basin or the evaporation basin since neither discharge to surface water through a point source.

15. Western Sugar denies Paragraph 15 of the Complaint.

16. Paragraph 16 of the Complaint and its discrete sub-parts are not allegations to which a response is required. To the extent that the NDEQ is entitled to relief, Western Sugar states that it is willing to work with the NDEQ with respect to the timing and providing of appropriate information relating to its Scottsbluff Facility.

17. Paragraph 17 of the Complaint are not allegations to which a response is required. As set forth below, Western Sugar hereby requests a hearing with respect to these matters.

18. Paragraph 18 of the Complaint are not allegations to which a response is required. As set forth below, Western Sugar hereby requests a hearing with respect to these matters.

19. Paragraph 19 of the Complaint are not allegations to which a response is required. As set forth below, Western Sugar hereby requests an informal settlement conference that may obviate the need for the requested hearing with respect to these matters.

20. Paragraph 20 of the Complaint are not allegations to which a response is required. As set forth below, Western Sugar hereby requests an informal settlement conference that may obviate the need for the requested hearing with respect to these matters.

21. Paragraph 21 of the Complaint are not allegations to which a response is required.

22. Paragraph 22 of the Complaint states a legal conclusion to which no response is required.

23. Western Sugar denies any allegation of the Complaint not specifically admitted.

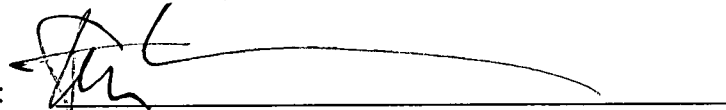
Pursuant to **Neb. Rev. Stat. § 81-1507(1)** (Reissue 2014), Western Sugar hereby timely requests a hearing before the Director of the NDEQ. Western Sugar also hereby requests an informal settlement conference with respect to the matters addressed in the Complaint.

THE WESTERN SUGAR COOPERATIVE,  
CORPORATION, Respondent

By Its Attorneys,

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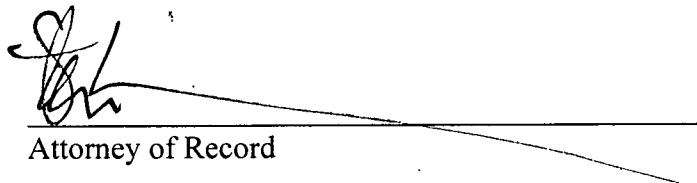


Stephen D. Mossman, #19859  
Ryan K. McIntosh, #25523  
One of Said Attorneys

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that a true and correct copy of the foregoing was served via hand-delivery on the 1<sup>st</sup> day of September, 2017, on the following named parties or their attorneys:

Tom O'Connor  
Nebraska Department of  
Environmental Quality  
1200 "N" Street, Suite 400  
Lincoln, NE 68509-8922



Attorney of Record