July 5, 2022

CERTIFIED MAIL
RETURN RECEIPT REQUESTED
#7018 2290 0001 8043 7057

B & B Partnership
White Oak Farm, Inc.
604 Benton Pond Road
Fremont, North Carolina 27830

Subject: NOTICE OF VIOLATION/NOTICE OF INTENT and NOTICE OF REGULATORY REQUIREMENTS
White Oak Farm #96-67
AWI960067
Wayne County
NOV-2022-PC-0329

Dear B & B Partnership:

On May 30, 2022, agents of the facility reported a failure of the digester cover (over the anaerobic earthen-lined digester) resulting in discharge of “foam” waste material from the digester lagoon. DWR Animal Feeding Operations (AFO) staff made site inspections on May 30, May 31, June 3, and June 7, 2022, including subsequent dates, confirming the discharge and observing the efforts made to contain the foam pollutant. During site inspections, ruptures in the digester cover were identified and discharge and accumulation of the foam product at the facility and into the surrounding environment were observed.

Foam waste product was observed in surface waters and/or Nahunta Swamp on June 3, 2022. Abatement measures were taken to address foam discharged to surface waters with no observed foam present on June 7, 2022. As of a site visit on June 23, 2022, foam waste product was still discharging from the anaerobic earthen-lined digester. Foam product or foam product residual mass was still located in areas outside of the earthen-lined digester, whether contained, partially contained, or uncontained.

Based on the above incident, you are hereby notified that, having been permitted to have a non-discharge permit for the subject animal waste disposal system pursuant to 15A NCAC 2T Section .1300, you have been found to have improperly managed an animal waste management system resulting in a discharge of pollutants to surface waters and wetlands in accordance with your Certified Animal Waste Management Plan and the Individual Swine Animal Waste Management System General Permit No. AWI960067 that you are covered to operate under. Violations related to the incident and facility management follow:

Violation 1: Failure to maintain and operate a non-discharge system to prevent discharges in
accordance with the facility’s Certified Animal Waste Management Plan, and in accordance with Condition I.1. of Individual Swine Waste Management System Permit No. AWI960067. Condition I.1. states

“The animal waste collection, treatment, storage, and land application system permitted under this Permit shall be effectively maintained and operated as a non-discharge system to prevent the discharge of pollutants to surface waters, wetlands, or ditches. Waste shall not reach surface waters or wetlands by runoff, drift, manmade conveyance, direct application, direct discharge or through ditches, terraces, or grassed waterways not otherwise classified as state waters.”

A discharge did occur from the system (covered digester lagoon) on and/or following the May 30, 2022 incident, and proceeded to flow overland into the wetlands and open water of Nahunta Swamp and/or tributaries.

**Required Corrective Action for Violation 1:** Take all necessary additional steps to properly operate and maintain the non-discharge system to prevent future discharges.

**Violation 2:** Failure to maintain animals at the facility since December 2020 based on available information and related failures to update CAWMP and modify the facility’s permit to reflect current operational practices in accordance with Condition I.5. of Individual Swine Waste Management System Permit No. AWI960067. Condition I. 5. states

“Any violation of the CAWMP, the Operation and Maintenance Plan, or the Monitoring Plan shall be considered a violation of this Permit and subject to enforcement actions. A violation of this Permit 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 Permit being reopened and modified, revoked and reissued, and/or terminated. These actions may include but are not limited to: ceasing use of the Innovative System, modifying operation of the Innovative System, modifying the CAWMP, ceasing land application of waste, or removing animals from the Facility.”

The facility has been operating without animals since December 2020 based on available information.

**Required Corrective Action for Violation 2:** See below.

**Violation 3:** Failure to conduct air quality monitoring in accordance with Condition I.8.b. of Individual Swine Waste Management System Permit No. AWI960067. Condition I.8.b. states

“NC General Statute §143-215.10I requires the Facility covered by this Permit satisfy the performance criteria as prescribed in 15A NCAC 02T .1307-.1309 and 15A NCAC 02D .1808.

a. Facility must substantially reduce ammonia emissions.

i. The combined ammonia emissions from swine waste treatment and storage structures may not exceed an annual average of 0.2 kg NH3-N/week/1,000 kg of steady state live weight (SSLW) which is 375 kg NH3-N/week for this facility in Phase 1 and 844 kg NH3-N/week for this facility in Phase 2.

ii. Ammonia emissions from land application sites shall not exceed an annual average of 0.2 kg NH3-N/week/1,000 kg of SSLW which is 375 kg NH3-N/week for this facility in Phase 1 and 844 kg NH3-N/week for this facility in Phase 2.

iii. Total ammonia emissions from the swine farm must not exceed an annual average of 0.9 kg NH3-N/week/1,000 kg of SSLW which is 1685 kg NH3-N/week for this facility in Phase 1 and 3798 kg NH3-N/week for this facility in Phase 2.
b. Compliance and monitoring with respect to odor intensity levels at the property boundary shall be evaluated at both upwind and downwind locations of each treatment and animal housing site using one of the following:

i. Use an Odor Intensity Referencing Scale (OIRS) as specified in ASTM 544-99. All instantaneous observed levels shall be less than the equivalent of 225 parts per million n-butanol. The average of 30 consecutive observations conducted over a minimum of 30 minutes shall be less than the equivalent of 75 parts per million n-butanol with a minimum of four (4) observations of the 30 less than or equal to the equivalent of 25 parts per million n-butanol.

ii. Use a field olfactometry method and instrumentation. The measured dilution-to-threshold ratio shall be less than or equal to 7:1 as determined using the manufacturer's instrument procedures and instructions.

Ammonia emissions were not measured in 2021 and the annual report states "because the animal numbers were so low (50-81), the ammonia emissions will be so low compared to other waste sources".

Required Corrective Action for Violation 3: See below.

Violation 4: Failure to demonstrate that there has been no release of disease-transmitting vectors and airborne pathogens in accordance with Condition I.8.c. Condition I.8.c.i. of Individual Swine Waste Management System Permit No. AWI960067 states

“Facility must substantially eliminate the release of disease-transmitting vectors and airborne pathogens by meeting the following:

i. Fecal coliform concentrations in the final liquid effluent shall not exceed an annual average of 7,000 Most Probable Number/100 mL.”

Fecal samples results have not been measured and reported per Condition I.8.c.i. The annual report states "Fresh/untreated animal manure entered into the final effluent" for which, this operation was not permitted.

Required Corrective Action for Violation 4: See below.

Violation 5: Failure to demonstrate compliance with the NRCS nutrient management standard as it relates to phosphorus within 6 months of issuance of the facility’s permit in accordance with Condition I.9. Condition I.9. of Individual Swine Waste Management System Permit No. AWI960067 states

“The Permittee shall conduct an evaluation of the facility and its CAWMP to determine the facility’s ability to comply with the NRCS nutrient management standard as it relates to phosphorous within six (6) months of issuance of this Permit. The evaluation must be documented on forms supplied by or approved by the Division and must be submitted to the Division. The Permittee may submit documentation from a previous evaluation if performed within five (5) years of the issuance of this Permit.

All fields with a “HIGH” phosphorous-loss assessment rating shall have land application rates that do not exceed the established crop removal rate for phosphorous. There shall be no waste application on fields with a “VERY HIGH” phosphorous-loss assessment rating.”

Phosphorus documentation has not been provided for review.

Required Corrective Action for Violation 5: See below.
**Violation 6:** Failure to properly operate and maintain the collection, treatment, and storage units at all times in accordance with Condition II.1. Condition II.1. of Individual Swine Waste Management System Permit No. AW1960067 states

“The collection, treatment, and storage units and the land application equipment and fields shall be properly operated and maintained at all times.”

The operation has operated beyond the scope of what is approved under the facility’s permit, including introduction of unapproved products. The covered anaerobic earthen-lined digester cover failed resulting in the release of wastes into the environment and waters. Waste has discharged from concrete structures located on the western side of the digester. Air quality and odors observed over the incident were objectionable. Fugitive waste product foam was uncontained beyond the digester structure. Accumulation of solids and sludge were observed within structures with minimal freeboard remaining to safely contain product. Field observations indicate either prior or ongoing waste releases have impacted an area extending off the southeastern corner of the digester structure continuing south towards Nahunta Swamp have occurred. Groundwater monitoring data indicates exceedances of 15A NCAC 2L groundwater standards at locations at or beyond the Compliance Boundary. The cover on the 970,000 gallon mesophilic tank digester is in disrepair.

**Required Corrective Action for Violation 6:** See below.

**Violation 6:** Failure to maintain a vegetative cover on areas receiving wastes and apply wastes only to areas approved in the facility’s CAWMP in accordance with Condition II.2. Condition II.2. of Individual Swine Waste Management System Permit No. AW1960067 states

“A vegetative cover shall be maintained as specified in the facility’s CAWMP on all land 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.”

Discharged foam accumulated in areas not approved for application per the CAWMP. Such unapproved areas receiving wastes had no established vegetative cover.

**Required Corrective Action for Violation 6:** See below.

**Violation 7:** Failure to manage solids, residuals, or sludges in accordance with Condition II.14. Condition II.14. of Individual Swine Waste Management System Permit No. AW1960067 states

“The solids, residuals, or sludges generated from this Facility must be disposed in accordance with G.S. § 143-215.1 and in a manner approved by Condition 1.8.c of this Permit. When removal of sludge from the treatment units is necessary, provisions must be taken to prevent damage to any dikes and liners.

The current system design does not address treatment of solids, residuals, or sludges to the above referenced requirements; therefore, these materials must be transported to an offsite treatment facility unless or until a Permit modification is submitted and approved.

If solids, residuals, or sludges accumulate faster than predicted, and it is determined that designed treatment, storage and disposal methods are insufficient, the Permittee will immediately deactivate the Innovative System, ceasing the generation of solids, until adequate solids storage and/or removal can be designed, approved, and constructed.”
Based on observed volumes of solids, residuals, or sludges present at the facility, and no available records demonstrating solids/sludge removal and transporting to offsite treatment facilities, solids have not been disposed of and managed at the facility. Additionally, actions to immediately deactivate the Innovative System and cease generation of solids until conditions are acceptable did not occur.

**Required Corrective Action for Violation 7:**

**Violation 8:** Failure to limit introduction of material introduced into the Innovative System in accordance with Condition III.2. Condition III.2. of Individual Swine Waste Management System Permit No. AWI960067 states

“No material other than the following shall be disposed of in the Innovative System or other components of the animal waste collection, treatment, storage, or application systems. – [15A NCAC 02T.0108(b)]

a. animal wastes of the type generated on this facility;

b. up to 20,000 pounds/day of food waste (edible meat waste from Smithfield’s Kinston plant); and

c. up to 105 tons/day of swine animal mortality.”

Per the annual report submitted, the food waste far exceeded the allowable limit. Available information indicates that in addition to animal waste, food waste (from Smithfield’s Kinston Plant) and swine animal mortality, guts, filler, peptone, and blood, liquid protein (lp?) have also been introduced into the system. It is also unclear whether hot dog and deli products have originated from Smithfield’s Kinston Plant. Available information also lists multiple days where more than 20,000 pounds of food waste was received and accepted by the facility.

**Required Corrective Action for Violation 8:** See below.

**Violation 9:** Failure to update and revise nutrient content and volume in effluent to reflect actual nutrient load in accordance with Condition III.11. Condition III.11. of Individual Swine Waste Management System Permit No. AWI960067 states

“Six (6) months after mortality feed stocks are added to the digester and the digester has again reached steady state, the nutrient content and volume in the effluent from the Innovative System must be reviewed and the CAWMP revised, if needed, to reflect actual nutrient load based.”

It has not been demonstrated that nutrient content and volume in the effluent has been reviewed and the CAWMP has not been updated to reflect any necessary revisions.

**Required Corrective Action for Violation 9:** See below.

**Violation 10:** Failure to submit a comprehensive Operation and Maintenance (O & M) manual within 1 year of operation of the Innovative System in accordance with Condition VII.9 VII.9. of Individual Swine Waste Management System Permit No. AWI960067 states

“After the Innovative System has been in use for one (1) year (does not need to be consecutive) the Permittee or their designee must submit a comprehensive Operation and Maintenance (O&M) manual if the system is to remain operational. The O&M manual shall include the following minimum information:

a. As-built drawings,

b. A detailed description of the Innovative System,

c. Warranty information for all installed equipment and each major component,”
d. Inventory, functional descriptions, and complete operating instructions for all installed equipment and each major component,
e. Instructions for start-up/shut-down as well as for calibration and adjustment of all installed equipment and each major component,
f. Recommended maintenance management system, including preventative and predictive maintenance, for all installed equipment and each major component,
g. Contact information for local service companies as well as instructions for replacement of all installed equipment and each major component,
h. Contact information for local contractors capable of performing emergency repairs, and
i. Contact information for regulatory and other agencies.”

A comprehensive O & M manual has not been provided.

**Required Corrective Action for Violation 10:** See below.

**Violation 11:** Failure to submit a comprehensive operator training program for approval within 1 year of operation of the Innovative System in accordance with Condition VII.10. VII.10. of Individual Swine Waste Management System Permit No. AWI960067 states

“After the Innovative System has been in use for one (1) year (does not need to be consecutive) the Permittee or a designee must submit a comprehensive operator-training program to be approved by the Division.”

A comprehensive operator training program has not been submitted for review and approval.

**Required Corrective Action for Violation 11:** See below.

**Violation 12:** Failure to operate the White Oak Farms facility with respect to the nature and volume of wastes described in the permit in accordance with Condition VII.15. VII.15. of Individual Swine Waste Management System Permit No. AWI960067 states

“This Permit is effective only with respect to the nature and volume of wastes described in this Permit for the White Oak Farms.

Any proposed modification to an animal waste management system shall require approval from the Division prior to construction.”

Unapproved wastes have been accepted at the facility and approved volumes for acceptable receivables has been exceeded as referenced in Violation 8 above.

**Required Corrective Action for Violation 12:** See below.
Violation 13: Failure to comply with groundwater quality standards specified in 15A NCAC 2L .0202 and/or Interim Maxim Allowable Concentrations at or beyond the Compliance Boundary.

Groundwater monitoring data for monitoring wells MW-1 and MW-2 report the following levels for the March 30, 2022 sampling event.

<table>
<thead>
<tr>
<th>Date Sampled</th>
<th>Well</th>
<th>Ammonia (mg/L) (IMAC = 1.5 mg/L)</th>
<th>TKN (mg/L)</th>
<th>Nitrate (mg/L) (2L Std = 10 mg/L)</th>
</tr>
</thead>
<tbody>
<tr>
<td>3/30/2022</td>
<td>MW-1</td>
<td>26.20</td>
<td>23.76</td>
<td>65.53</td>
</tr>
<tr>
<td>3/30/2022</td>
<td>MW-2</td>
<td>24.60</td>
<td>24.56</td>
<td>3.33</td>
</tr>
</tbody>
</table>

A review of the permit and Groundwater Monitoring Reports showed that total ammonia in Monitoring Wells MW-1 and MW-2 were above the groundwater standard at or beyond the Compliance Boundary.

Required Corrective Action for Violation 13:

The Division of Water Resources has reason to believe that B & B Partnership is responsible for activities resulting in noncompliance with North Carolina law. B & B Partnership is producing managing wastes that can be characterized as containing elevated levels of nutrient compounds. The self-reported sample reports for the above referenced wells have elevated concentrations of total ammonia at or beyond the Compliance Boundary. This letter is to formally notify you of violations of 15A NCAC 2L (Groundwater Quality Standards) and to advise you of what you are required to do to correct these violations in accordance with 15A NCAC 2L .0106 (d).

According to 15A NCAC 2L .0106 (d) (1) the permittee shall demonstrate through predictive calculations or modeling, that natural site conditions, facility design and operational controls will prevent a violation of standards at the compliance boundary. Alternately, the person may submit a plan for alteration of existing site conditions, facility design or operational controls that will prevent a violation at the compliance boundary and implement that plan upon its approval by the Secretary.

If contaminants are detected at or beyond the compliance boundary, the permittee shall respond in accordance with the requirements of 15A NCAC 2L .0106 (f). The permittee shall assess the cause, significance and extent of the violation of standards and submit the results of the investigation, and a plan and propose a schedule for corrective action to the Division. The permittee shall implement the plan as approved.

Also, according to 15A NCAC 2L .0106 (f) an initial response is required to be conducted prior to or concurrent with the assessment required in 15A NCAC 2L .0106 (d). The permittee shall abate, contain, or control the migration of contaminants. The permittee shall remove, treat or control the primary pollution source. The site assessment shall be in accordance with 15A NCAC 2L .0106 (g) and the corrective action shall be in accordance with 15A NCAC 2L .0106 (h).

Required Corrective Action for Violations 2 – 12:

Take all necessary actions to comply with all permit conditions, CAWMP requirements, and any other applicable regulatory requirements. Please work to ensure that your facility is managed in a way to maintain compliance with permit and animal waste management plan requirements.
ADDITIONAL INFORMATION REQUEST
1. In addition to violations cited above, the Division of Water Resources requests all records required to be maintained per Condition IV.1. of the permit be provided with your response. IV.1. of Individual Swine Waste Management System Permit No. AWI960067 states

“Adequate records shall be maintained by the Permittee to track the amount of sludge/separated solids that is disposed. These records shall include, but are not necessarily limited to the volume of sludge/separated solids generated and dates and amounts of sludge/separated solids removed from the site.”

Condition IV.8. requires submittal of a comprehensive report every six month, including the period from January 1 – June 30.

Condition IV.8. of Individual Swine Waste Management System Permit No. AWI960067 states

A comprehensive report shall be submitted to the Division every six months after initial start-up of the Innovative System. Reports for January 1 – June 30 are due by July 31, and Reports for July 1 – December 31 are due by January 31. The report shall consist of all records, logs, and reports as required in Permit Conditions III.1 through III.7. The report shall be submitted to the Animal Feeding Operations Program, 1636 Mail Service Center, Raleigh, NC 27699-1636 and to the Water Quality Regional Operations Supervisor, Washington Regional Office, , Washington, NC 27107-2241. Upon prior approval, reports may be submitted electronically.

Please include your January 1 – June 30, 2022, comprehensive report with your response to this Notice.

2. Areas where abatement and corrective action measures have been conducted have resulted in land disturbance in areas within protected zones covered under Neuse River Riparian Buffer regulations (50’ buffer along surface waters and wetlands, in general). A Riparian Buffer Repair and Restoration Plan to restore impacted areas within protected buffered areas shall be submitted within 45 days of receipt of this Notice.

3. Condition IV.20. of Individual Swine Waste Management System Permit No. AWI960067 states

In the event of a discharge of 1,000 gallons or more of waste to surface waters or wetlands, the Permittee must issue a press release to all print and electronic news media that provide general coverage in 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 a list 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.

Please provide documentation to support that press release requirements were satisfied.

You are required to take any necessary action to address the above violations. You are required to provide a written response to this Notice, including any additional information that you wish to provide related to this incident that you wish for the Division to consider, within 10 days of receipt of this letter. Please include in your response all corrective actions already taken and a schedule for completion of any corrective actions not addressed. Among items to include in your response, please also reference the volume of wastes discharged from the covered earthen digester structure, volume of wastes discharged to surface waters, and volumes recovered from surface waters.
Failure to comply with conditions in a permit may result in a recommendation of enforcement action, to the Director of the Division of Water Resources who may issue a civil penalty assessment of not more that twenty-five thousand ($25,000) dollars against any “person” who violates or fails to act in accordance with the terms, conditions, or requirements of a permit under authority of G.S. 143-215.6A. To minimize the potential for any possible future compliance matters attributable to prolonged wet weather conditions, you may wish to review your animal waste management system design, as well as the waste plan itself, for any potentially beneficial modifications and/or improvements.

Please note, as additional information becomes available, further action and/or response may be required beyond the scope of items referenced in this letter.

We appreciate your attention and prompt response in this matter. If you have questions, please do not hesitate to call Marlene Salyer at (252) 948-3846.

Sincerely,

David May

David May, L.G., Supervisor
Water Quality Regional Operations Section
Division of Water Resources
Washington Regional Office

cc: DWR-WQROS-CAFO Unit-Central Office
Wayne County Soil and Water Conservation District
NCDSWC - WaRO
WaRO Compliance Animal Files
mds Files