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DEPT. OF ENVIRONMENT AND ENERGY

CERTIFIED MAIL
Return Receipt Requested

Notice of Violation

Scott Tingelhoff, General Manager
AltEn, LLC
1344 County Road 10
Mead, NE 68041

RE: AltEn, LLC Stockpiling of Waste
NDEQ ID: 84069
Program ID: NE0204447

Dear Mr. Tingelhoff,

This Notice of Violation (NOV) is issued to AltEn, LLC (AltEn) based upon violations of Nebraska State Statutes and Title 132- Integrated Solid Waste Management Regulations of the Nebraska Department of Environment and Energy (Department). The violations were determined as a result of a site investigation conducted on July 31, 2019 at AltEn, LLC. The specific violations are as follows:

1. Disposal of solid waste after October 1, 1993, at a location other than a solid waste management facility holding a current permit issued by the Department pursuant to the Integrated Solid Waste Management Act (Neb. Rev. Stat §81-1506(3)(d)).
2. Operating a solid waste management facility without a permit issued by the Department (Title 132 - Chapter 2, 001).

The Department has determined that AltEn is managing the following materials as solid waste: old wet cake, new wet cake, super sacks of starch, and super sacks of Biochar. The following actions must be taken to correct these violations:

1. All solid waste materials currently onsite must be disposed at a permitted solid waste management facility.
 - a. Based upon data collected, the Department has concerns that composting the waste materials is unlikely to provide adequate decomposition of the chemicals in the solid waste to a level that will allow land application of the compost on agricultural land. Therefore, composted material cannot be land applied under any circumstances. Composting may be an effective option for the reduction of the volume of waste onsite, potentially resulting in lower transportation and disposal fees at a permitted landfill. Note that if you choose to compost the waste material, the resulting compost

Department of Environment and Energy

P.O. Box 98922
Lincoln, Nebraska 68509-8922

Jim Macy, Director

OFFICE 402-471-2186 FAX 402-471-2909
ndeq.moreinfo@nebraska.gov

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may contain increased levels of the chemicals found in the solid waste, which has the potential to further restrict the possible uses and disposal options for the compost generated.

- b. You must provide a written response describing how materials will be disposed including: the type and quantity (expressed in tons and cubic yards) of each waste material onsite, a schedule for disposal, an expected starting date, an expected completion date, any interim measures that can be taken to mitigate odors and environmental hazards, and an estimated cost of activities.
 - c. The written response required by 1.b must be received by the Department **within 30 days of receiving this letter**.
 - d. The Department will review your response and notify you, in writing, if it is approved.
 - e. If you want to propose alternative management methods for the waste, you may submit detailed explanations and any supporting data for review and approval. Alternative management practices may not be used until the Department provides written approval.
2. Old wet cake which has been stockpiled on site may be composted for the purposes of volume reduction prior to disposal at a permitted solid waste management facility. However, you must follow the composting requirements described below. Note that no composted materials can be land applied.
3. AltEn is prohibited from stockpiling or composting any new wet cake generated from the use of treated seed corn in the ethanol production process.
 - a. This material, upon generation, must be taken to a permitted solid waste management facility for disposal.
 - b. Provide a summary of each type of waste that is generated each day onsite. The summary should include the type and the maximum quantity (tons and cubic yards) you are capable of generating (e.g. 150 tons, 100 yd³). This summary should be received by the Department **within 30 days of receiving this letter**.
 - c. AltEn must maintain records of the vendors providing the treated seed corn and any other types of treated seed varieties used, the product label associated with each type of seed, and the safety data sheet (SDS) for each product and/or chemicals used to treat the seed. Provide a copy of this information to the Department within 30 days of receiving this letter. You must provide updated copies of this information to the Department quarterly.
 - d. AltEn must maintain copies of receipts and/or scale tickets for waste material removed from the site. Receipts and/or scale tickets must include dates,

weights/quantities, and type of waste. Each receipt must include the name of the permitted facility receiving the waste.

- e. If you want to propose alternative management methods for the waste, you may submit detailed explanations and any supporting data for review and approval. Alternative management practices may not be used until the Department provides written approval.

Because these violations are High Priority Violations, as defined by the Department, a request for enforcement may be referred to the Department Legal Services Division for appropriate action. Such action may include civil penalties pursuant to Neb. Rev. Stat. §81-1508.02(2) of up to \$10,000 per violation, per day.

The Department would also like to follow-up on a telephone conversation you had with Daniel LeMaistre on August 8 regarding composting activities at AltEn. You had questions regarding the amount of carbon necessary for turning frequency. As noted during the call, the Department recommends consulting an agronomist and/or composting specialist to assist you with developing a composting plan. These specialists will have the expertise to develop a process specific to your facility that will consider the source materials specific to your operation, volume inputs, moisture content, ration of carbon to nitrogen, optimum temperature range and the proper turning frequency for windrows to successfully compost at the AltEn site.

Additionally, you indicated that you need and intend to repair the compost pad prior to starting any new composting actions. The Department wants to ensure that it is clear what steps AltEn must take prior to Department review and potential approval to operate the composting facility.

1. AltEn must repair the composting pad. Enclosed is a copy of the October 24, 2018, letter from Morgan Leibrandt outlining the work necessary to bring the composting pad into conformance with your permit and Department regulations.
2. The Department must visually inspect the composting pad. Once all work is complete, contact the Department to arrange for an inspection prior to beginning composting.
3. The Department will provide written confirmation if the repairs are satisfactorily completed.

If you wish to make any changes to the existing design, a modification to the existing permit will be necessary. Any permit modification will require a 30-day public notice of the intent to modify the permit.

Furthermore, permit modification may also be necessary in order to resume composting operations. To determine if a permit modification is necessary, a third party agronomist or other composting specialist must review the existing permit and site conditions to determine if the methods of operation qualify as a composting process and accurately represents actual future operations at the composting facility.

Composting is the **controlled aerobic, thermophilic, microbial degradation of solid organic material** such as raw or treated sewage sludge, animal manure, paunch manure, plant or food residue or their mixtures, to a stabilized, humus-like material (Title 132, Chapter 1, Section 018). Facilities compost solid waste to turn it into a usable product or to reduce the volume of the waste for more effective disposal at a permitted solid waste disposal facility.

When reviewing their process AltEn must consider the following factors in the review of their process: source material input volume, moisture content, ratio of carbon to nitrogen, optimum temperature range and duration, method and frequency of compost windrow turning, the equipment necessary to compost, and the ability to safely create and handle compost. AltEn must evaluate the types and concentration of all pesticides, herbicides, fungicides, and any other chemicals contained in the compost source materials and finished compost product. The evaluation of pesticide concentrations must be at detection levels acceptable to the Department as well as the Nebraska Department of Agriculture.

Once the review of the existing permit is complete AltEn must submit the results to the Department for review in a permit application. The Department will then review the application and determine what permit modifications, if any, are necessary to operate the compost facility. If a modification is necessary the Department will process the application in accordance with the requirements of Title 132. Composting may not resume until the Department approves all necessary permit modifications, issues a modified permit, and inspects the composting pad.

Failure to adequately address this matter may result in referral to the Legal Services Division for possible enforcement. If you have any questions regarding this letter, please feel free to contact Jeff Edwards at (402) 471-8309 or Daniel LeMaistre at (402) 471-4495.

Sincerely,

A handwritten signature in black ink, appearing to read 'D. B. Haldeman', with a long horizontal flourish extending to the right.

David B. Haldeman, Administrator
Land Management Division

DBH/jph

Enclosures