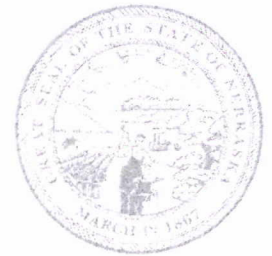


NEBRASKA

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DEPT. OF ENVIRONMENT AND ENERGY

SEP 13 2019



Pete Ricketts, Governor

Return Receipt Requested

Capital Corporate Services, Inc.
Suite 800
1125 S. 103rd Street
Omaha, NE 68124

Notice of Violation (NOV)

RE: AltEn, LLC

NDEQ ID: 84069

Program ID: NE0137634, NER910444

Dear Mr. Shaw:

This Notice of Violation is being issued to you for a violation of NDEQ Title 119, *Rules and Regulations Pertaining to the Issuance of Permits under National Pollutant Discharge Elimination System (NPDES)* and Title 123, *Rules and Regulations for the For the Design, Operation and Maintenance of Wastewater Works*. The violations were observed during a sampling event of AltEn, LLC conducted July 31, 2019. The inspection report and ISW-GP benchmark sample results are enclosed.

The Department documented the following:

A. Failure to comply with operation and maintenance requirements.

1. A rotary drum separator with aerial jetting of wastewater over the lagoon is in use at the southeast corner of the northeast lagoon and forming a white precipitant on the adjacent lagoon liners. Plans and specifications for this installation are not submitted to the department for review and no wastewater construction permit is issued authorizing the project. This is a violation of Title 123, Chapter3, Section 001.
2. An air relief vent is damaged near the northwest corner of the south lagoon resulting in the discharge of thin stillage to the ground. This is a violation of Title 123, Chapter 11, Section 001.

B. Failure to meet permit conditions of Industrial Storm Water General Permit NER910000 (ISW-GP) and NPDES Permit NE0137634.

1. Industrial storm water control best management practices (BMPs) are not in use or maintained to meet the Non-Numeric Technology-Based Effluent Limits in ISW-GP, Section 2.1.2.
 - a. Treated seed corn is visible covering the ground east of the seed receiving area and is contact with condensate discharge;



20190056042

- b. Torn and leaking bags are spilling starch. Starch is spilled on the west, south and north portion of the facility and exiting pads. The spilled starch is being transported in storm water and deposited outside of storage areas. Starch contaminated storm water is discharged via storm water outfalls;
 - c. Vehicle tracking of wet cake is not minimized, or controlled through housekeeping measures;
 - d. A leaking hypochlorite tote is not repaired or replaced; and
 - e. Controls are not implemented for all wet cake storage areas.
- 2. Industrial storm water monitoring practices are not adequately maintained or in use as required by the ISW-GP.
 - a. The facility is not monitoring at a point where discharges to waters of the State are representative of the applicable industrial sector. This does not meet the requirements of ISW-GP, Section 6.1.2;
 - b. The enclosed benchmark monitoring results show a chemical oxygen demand of 468 mg/L. The benchmark for your facility is 120 mg/L. Mathematically, it is unlikely you will meet the benchmark requirement of Subsector C5 of ISW-GP, Section 8.C.3; and
 - c. Pesticides from the use of treated seed corn feed stock in the ethanol production process is present in the wet cake. The storm water pollution prevention plan (SWPPP) does not address these pollutants as required in ISW-GP, Section 5.1.3.
- 3. The cooling tower is leaking from several points along the structure and condensate water from the ethanol process building is discharging via storm water outfalls. The discharges are encountering exposed industrial materials prior to discharge. This is not allowed under ISW-GP, Section 1.1.4.
- 4. The cooling tower discharge is forming filamentous bacteria growth and hypochlorite odor. This is not allowed under Part III.A of NPDES Permit NE0137634.
- 5. The wastewater in the treatment lagoons contains pesticides from the use of treated seed corn feed stock in the ethanol production process. These pollutants are not addressed by the Best Management Practices (BMP) plan to prevent short-term and long-term surface water and groundwater contamination as required by Part II.B.6 of NPDES Permit NE0137634.

These are violations of Title 119, Chapter 14, Section 001.01.

Regulations that have been referenced are available online at the Department's website:

<http://deq.ne.gov>

In order to cease and/or mitigate these violations the Department requests that you:


1. **Violation A.1 – Immediately** cease use of the rotary drum and aerial jetting of wastewater into the lagoon. You must apply for and receive Department authorization under Title 123 before placing the rotary drum and jetting back into use.
2. **Violation A.2 – Within 30 days from the receipt of this notification**, submit written documentation to the Department the air relief vent is repaired.
3. **Violations B.1, B.2, and B.3 – Within 14 days from the receipt of this notification**, implement and document the corrective actions taken to eliminate the deficiencies. **Within 30 days of the date of this notification**, provide a corrective action report to the Department in accordance with Section 3.4 of the ISW-GP.
4. **Violation B.4 – Within 30 days of the date of this notification**, provide to the Department a written report for this violation. The report must include the description of the noncompliance and its cause and include steps taken to prevent reoccurrence of the noncompliance. The report must include the results of a grab sample of the effluent for total residual chlorine (TRC). The sample collection must be documented in accordance with Appendix A of NPDES Permit NE0137634. The sample and analysis must meet the requirements of 40 CFR 136.
5. **Violation B.5 – Immediately**, cease land application of lagoon wastewater. **Within 30 days of the date of this notification**, submit a BMP for the land application of wastewater that includes sampling and analysis for Azoxystrobin, Clothianidin, Glyphosate, Thiabendazole, and Thiamethoxam. The BMP must include how the agronomic rate for each of these compounds will be met to protect ground and surface water contamination. This request does not preclude you from the requirements of NPDES Permit NE0137634. In addition to lowering the lagoon liquid levels for the purpose of maintenance and repair, solids removal from the lagoons may be required. Lagoon solids may contain pesticides or other pollutants. Prior to removal and disposal, the solids must be analyzed for the above pesticides and Toxicity Characteristic Leaching Procedure (TCLP); and the results must be reported to the Department. The Department must provide prior approval of the disposal method.

The Department requests that you voluntarily comply with these corrective measures. These violations may be considered for further enforcement action. We will evaluate your prompt compliance and will consider your efforts to determine if enforcement action is warranted. Enforcement action may include issuance of an administrative order, or referral to the Attorney General for penalties of up to \$10,000 per day per violation, and/or injunctive relief.

Please direct all contacts and any written response to this NOV to:

Mark Pomajzl, Program Specialist
NDEQ Water Quality Division
1200 N Street, Suite 400
P.O. Box 98922
Lincoln, NE 68509-8922
Phone 402-471-8330

Sincerely,

A handwritten signature in cursive script that reads "Shelley Schneider".

Shelley Schneider, Administrator
Water Permits Division

MAP/rsa

enclosure(s)

cc: Tanner Shaw, AltEn, LLC
Scott Tingelhoff, AltEn, LLC
Brett Anderson, NDEQ
Jeff Edwards, NDEQ

NEBRASKA

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Public Health
Environmental Lab**Nebraska Public Health Environmental Lab**3701 S 14th St
Lincoln, NE 68502
(402) 471-2122
(402) 471-2080 (fax)**KIM BUBB****NDEQ****1200 N ST, STE 400****PO BOX 98922****LINCOLN, NE 68509-8922****ANALYTICAL RESULT QUALIFIERS**

Workorder: 7896 DEQ24107312019

Profile: 09-013-0000, RTN:09-013-0000 P&C

Lab ID: **629361**
Sample ID: **SOUTH 1**
Sample By: **POMAJZL, MARK**
Location: **ALT EN**Date Received: **8/1/2019** Matrix: **Water**
Date Collected: **7/31/2019 15:48**
Date Reported: **8/23/2019**

Parameters	Results	Units	Qual	Report Limit	MCL or AL	Analyzed	By
Analytical Method: EPA 160.2 - TSS							
TSS (Non-Filterable Residue)	74.0	mg/L		5		8/2/2019	SEP
Analytical Method: EPA 350.1 - Ammonia							
Ammonia as N, Distilled	3.66	mg/L		0.05		8/15/2019	SKH
Analytical Method: Hach8000 - COD							
Chemical Oxygen Demand	468	mg/L		12		8/12/2019	SKH

REMARKS: See reverse side of report for description of acronyms and data qualifiers. For inquiries on result interpretation call: (402) 471-6435.www.dhhs.ne.gov/lab

Report ID: 629361 - 3679937

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ACRONYMS

- MCL = Maximum Contaminant Level – The concentration of the analyte which has been determined by the EPA to put the public health at risk. Concentrations below this level are considered acceptable.
- AL = Action Levels (AL) apply only to lead and copper and are not based on known or expected health effects. An Action Level is the concentration of a contaminant in a sample which, if exceeded and grouped with other samples, triggers treatment techniques or other requirements which a water system must follow.
- <RL = Less than Reporting Limit. The lowest amount of the analyte that can be accurately reported by the method used.
- NG = Not Given. The information was not supplied by the collector on the request form or the information was not readable.
- ND or NT = Not determined or not tested.

DATA QUALIFIERS

- A = The value given is an average value; determined by analyzing aliquots of the same sample two or more times
- B = The results are based upon colony counts outside the acceptable range. Fecal coliform results require that the plate count be in the range of 20-60. Fecal strep results require that the plate count be in the range of 20-100 colonies.
- C = The result given is a calculated value; it was not determined by direct analysis.
- E = Indication of possible interference.
- F = The sample was received in improper condition (container, temperature, preservative, sample container broken, paperwork discrepancies, air bubbles, insufficient volume, excess turbidity, chlorine smell, etc.)
- H = The sample was beyond the maximum holding time when received by the laboratory. It was therefore, not analyzed.
- J = The associated numerical value is an estimated quantity.
- K = The actual value is less than the value given.
- L = The actual value is greater than the value given.
- M = The analysis was inconclusive due to matrix interferences. The sample needs to be recollected.
- Q = The sample was beyond the maximum holding time prior to analysis.
- R = The sample was delivered to the lab, but due to laboratory accident, it was unable to be analyzed.
- S = Not all of the associated quality control criteria were met for this analyte.

TOTAL COLIFORM TERMINOLOGY (DRINKING WATER)

Total coliform / E.coli Routine Compliance Monitoring – Required monitoring samples which are sent to each PWS System monthly or quarterly.

Repeat Samples – The method used for repeat samples, EPA 9223B-QT, provides the number of organisms in colony forming units (CFU) instead of presence or absence.

OR – ORIGINAL – One repeat sample must be taken from the same tap as the original positive.

DN – DOWNSTREAM – One repeat sample must be collected within 5 service connections downstream of the original positive sample site.

UP – UPSTREAM – One repeat sample must be collected within 5 service connections upstream of the original positive sample site.

TG – TRIGGERED – This water sample is to be collected from a source well (or a common or representative sample point for multiple wells) for systems required to conduct triggered sampling under the Ground Water Rule. If more than one well is being used by the system, additional samples should be collected using sample kits and submission forms designated as "TG". The system must request additional TG sample kits if needed.

Additional Routines – Systems collecting samples on a quarterly schedule must collect additional routine monitoring samples the month following one or more total coliform positive samples. Systems must collect at least three (3) routine samples during the next month.

Special – These samples are non-compliance samples and may be used to determine the presence of total coliform after a pressure loss, repairs, or routine maintenance.

Units – cfu/100ml – Colony Forming Units per milliliters – A unit of bacteria that will form one colony in 100 milliliters of sample.

Excessive Age – The sample was received at least 30 hours after it was collected. This test was not performed.

Insufficient Amount – The amount of samples the lab received was less than the 100 ml required to perform the test.

Improper Container – The container used to collect the sample was inappropriate for the test required.

Damage – Something damaged the sample before it could be tested. The bottle may have been broken or sample contaminated.

Insufficient Sample Information – The sample collector failed to include the laboratory request form with the sample, date of samples on the request form or the collector may have put the same lab number on multiple samples.

Excess Chlorine Interference – The results can not be determined due to excess chlorine in the sample.

Total Coliform Present – The test detected the presence of total coliform. The sample **does not** meet bacteriological standards.

Total Coliform Absent – The test did not detect the presence of any total coliform. The sample **meets** bacteriological standards.

E. Coli Present – The test detected the presence of E. Coli in the sample. The sample **does not** meet bacteriological standards.

E. Coli Absent – The test did not detect the presence of any E. Coli in the sample. The sample **meets** bacteriological standards.

0 – The test did not detect the presence of any Total Coliform or E. Coli in the sample. The sample **meets** bacteriological standards.

Any Number over 0 – The test detected Total Coliform or E. Coli present in the sample. The number indicated the total number of colony forming units present in 100 ml of the sample. The sample **does not** meet bacteriological standards.

MPN-Most Probable Number. An index of the number of bacteria that, more probably than any other number, would give the results shown by the lab examination; it is not an actual enumeration.

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Workorder: 7896 DEQ24107312019

Profile: 09-013-0000, RTN:09-013-0000 P&C

Lab ID:	629362	Date Received:	8/1/2019	Matrix:	Water
Sample ID:	OUTFALL1	Date Collected:	7/31/2019 16:15		
Sample By:	POMAJZL, MARK	Date Reported:	8/23/2019		
Location:	ALT EN				

Parameters	Results	Units	Qual	Report Limit	MCL or AL	Analyzed	By
Analytical Method: EPA 160.2 - TSS							
TSS (Non-Filterable Residue)	<RL	mg/L		5		8/2/2019	SEP
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Ammonia as N, Distilled	<RL	mg/L		0.05		8/15/2019	SKH
Analytical Method: Hach8000 - COD							
Chemical Oxygen Demand	<RL	mg/L		12		8/12/2019	SKH

REMARKS: See reverse side of report for description of acronyms and data qualifiers. For inquiries on result interpretation call: (402) 471-6435.

www.dhhs.ne.gov/lab

Report ID: 629362 - 3679938

Page 1 of 2 3004.2.0.0

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