

In the Matter of Violations of Article 17 of
the New York State Environmental Conservation
Law including Section 17-0505, 6 NYCRR
Sections 750-2.1(e), 750-2.5(a)(1), 360-1.7(a),
and 360-4.6(b)(1), and the SPDES General
Permit for CAFOs ("GP-0-09-001"), by

**CONSENT
ORDER**

Dickson's Environmental Services, Inc.,
Philip Dickson, Jay Dickson, and
Leo Dickson and Sons, Inc.,

**DEC Case No.
R8-20110526-11**

Respondents.
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WHEREAS:

1. The New York State Department of Environmental Conservation ("DEC" or "the Department") is an executive agency of the State of New York with jurisdiction over the environmental policy and programs of the State pursuant to Articles 3, 17, 27 and 71 of the New York State Environmental Conservation Law ("ECL") and Title 6 of the Official Compilation of Codes, Rules and Regulations of the State of New York ("6 NYCRR").

2. The Department is charged with the responsibility and authority to promote and coordinate the management of water, land, fish, wildlife and air resources of the state to assure their protection, enhancement, provisions, allocation and balance utilization, pursuant to ECL § 3-0301.

CONCERNING THE SPDES PROGRAM

3. The Department is responsible for enforcement of ECL Article 17, which governs the control and prevention of water pollution; for enforcement of the regulations promulgated under ECL Article 17 at 6 NYCRR Part 700 et seq.,

including Part 750; and for enforcement of any State Pollutant Discharge Elimination System ("SPDES") permits the Department issues thereunder.

4. In 2009, pursuant to its authority under Article 17, Title 7 and Article 70 of the ECL, the Department issued SPDES General Permit No. GP-0-09-001 ("GP-0-09-001") for Concentrated Animal Feeding Operations ("CAFOs").

5. There is a Concentrated Animal Feeding Operation ("the CAFO or the facility"), as defined under GP-0-09-001 Appendix A at J, at 5226 Bonny Hill Road, Bath, New York, 14810.

6. Respondent Leo Dickson and Sons, Inc. is a domestic business corporation under New York State law, and is a person as defined in ECL §1-0303(18), ECL §17-0105(1), and 6 NYCRR 360-1.2(b)(117).

7. In December 1999, Respondent Leo Dickson and Sons, Inc. and Respondent Philip Dickson sought and obtained coverage for the facility as a medium CAFO under SPDES General Permit GP-99-01, which the Department issued in January, 2000. This coverage under GP-99-01 was maintained through June 30, 2004 when GP-99-01 expired.

8. On July 1, 2004, the Department issued SPDES General Permit GP-04-02 for CAFOs. On the same day, the CAFO became covered by GP-04-02 by operation of GP-04-02(II) (A).

9. On June 12, 2009, the Department issued SPDES General Permit GP-0-09-001 for CAFOs with effective date July 1, 2009 and expiration date June 30, 2014.

10. Respondents Philip Dickson and Jay Dickson sought and on September 3, 2010 obtained coverage for the facility as an existing medium CAFO

under GP-0-09-001. On the same day, coverage under GP-04-02 automatically terminated by operation of GP-0-09-001(II) (A). The Notice of Intent submitted to obtain such coverage identified the facility name and address as Leo Dickson and Sons, Inc., 5226 Bonny Hill Road, Bath, New York, 14810; and identified the owner/operator as Jay and Phil Dickson.

12. Since September 3, 2010, up to and including the present, the CAFO has been covered under and subject to GP-0-09-001, SPDES ID Number NYA000178 and CAFO Authorization Number 8-46-99-051.

13. Subsequent to the commencement of this case, Respondents advised that Respondent Leo Dickson and Sons, Inc. is the owner and operator of the CAFO, and that Respondents Philip Dickson and Jay Dickson are the principal officers and managers of Respondent Leo Dickson and Sons, Inc. For these reasons, Respondents requested that the Department's records be amended to clarify that the owner and operator of the CAFO, and the SPDES Permittee, is Respondent Leo Dickson and Sons, Inc.

14. The Department has reviewed the Respondents' submission referenced in the paragraph immediately above, and is prepared to amend the Department's records as requested for CAFO-related future Department actions simultaneously with the issuance of this Order. Also, hereinafter "SPDES Permittee" refers to Respondent Leo Dickson and Sons, Inc.

15. At all times relevant to the violations described in this Order, the facility is and has been an existing, medium CAFO under GP-0-09-001 Appendix A at J and Q with a herd size of 520 mature dairy cows, and 464 heifers in calendar years 2009 and 2010.

16. Pursuant to 6 NYCRR 750-2.1(e) and GP-0-09-001 Part VII (A), a permittee is required to comply with all the conditions of GP-0-09-001.

17. Further, 6 NYCRR 750-2.5(a)(1) provides in pertinent part, "[t]he permittee shall comply with all recording, reporting, monitoring and sampling requirements specified in the permit."

18. Pursuant to ECL 71-1929, a person who violates Titles one through eleven inclusive or Title nineteen of ECL Article 17 or 6 NYCRR 750 or any SPDES permit, including GP-0-09-001, is liable to pay a penalty, and for other appropriate sanctions.

19. On April 14, 2011, Department staff conducted an announced comprehensive inspection ("Comprehensive Inspection") of the CAFO while in the presence of Respondent Philip Dickson and the SPDES Permittee's agricultural planner. The Department issued a Notice of Violation dated June 28, 2011, including an enclosed inspection report ("Notice of Violation") to Respondent Philip Dickson and Leo Dickson & Sons for the SPDES Permittee which stated the unsatisfactory rating of the CAFO for the Comprehensive Inspection and described the determination in detail. The Comprehensive Inspection identified violations of GP-0-09-001. Specifically:

a. **General Permit Conditions Part III(A)(d)(ii) and Part III(C)(a)**

1. At the Bion System waste storage area of the CAFO, there are four existing clay lined, open waste storage structures, and one existing concrete lined open waste storage structure, all of which are not under-barn waste storage structures.

2. At the Heifer Facility waste storage area of the CAFO, there are two existing open waste storage structures which are not under-barn storage structures.

3. At the Comprehensive Inspection, Department staff requested the SPDES Permittee to provide any documentation supporting that the open waste storage structures described herein ("open waste storage structures") were designed or installed under the direction of a professional engineer licensed to practice in New York State or an NRCS (National Resources Conservation Service of the United States Department of Agriculture) employee with the appropriate job approval authority in accordance with applicable NRCS standards. The SPDES Permittee failed to provide Department staff with such documentation at the Comprehensive Inspection.

4. Pursuant to GP-0-09-001 Part III(A)(d)(ii), the open waste storage structures must be evaluated by a professional engineer currently licensed to practice in New York State in accordance with the "AEM Tool for Evaluation of Undesigned Waste Storage Facilities" (available at: www.nys-soilandwater.org/aem/cnmp/html) and any deficiencies and required improvements identified and implemented; following implementation of the required improvements, the professional engineer shall certify, in writing, that the required improvements were completed to his/her satisfaction; documentation of the evaluation, required improvements and certification shall be maintained by the CAFO; and existing medium CAFOs must complete this evaluation prior to permit authorization and must address any deficiencies in accordance with GP-0-09-001 Part III(C).

5. Pursuant to GP-0-09-001 Part III(C)(a) in pertinent part, the CNMP (Comprehensive Nutrient Management Plan) of a medium CAFO "shall contain a

prioritized schedule of implementation for practices to be fully operational as required for full compliance with GP-0-09-001 by March 31, 2012 unless allowed for as described below” [i.e., the remainder of GP-0-09-001 Part III(C)].

6. During the Comprehensive Inspection, and as noted in the respective Notice of Violation, the SPDES Permittee failed to document that prior to permit authorization, and up to and including the date of the Comprehensive Inspection: a professional engineer licensed to practice in New York State had evaluated the open waste storage structures in accordance with the “AEM Tool for Evaluation of Undesigned Waste Storage Facilities”, and had identified any deficiencies or required improvements for the open waste storage structures; or that the CNMP contained a schedule of implementation to address such deficiencies or required improvements.

b. **General Permit Condition Part III(A)(d)(iii)**

1. At the CAFO, permanent waste transfer structures transfer waste including but not necessarily limited to manure: from the Main Farm waste storage area to the Bion System waste storage area; from the Main Bunk silo to the Bion System waste storage area; among the four open waste storage structures at the Bion System waste storage area; and from the Heifer Facility barn to the Heifer Facility waste storage area (hereinafter collectively known as “the permanent waste transfer structures”).

2. The permanent waste transfer structures were not designed or installed under the direction of a professional engineer licensed to practice in New York State or an NRCS employee with the appropriate job approval authority in accordance with applicable NRCS standards.

3. At the Comprehensive Inspection, Department staff requested the SPDES Permittee to provide any documentation supporting that the permanent waste transfer structures were designed or installed under the direction of a professional engineer licensed to practice in New York State or an NRCS employee with the appropriate job approval authority in accordance with applicable NRCS standards. The SPDES Permittee failed to provide Department staff with such documentation at or after the Comprehensive Inspection.

4. Pursuant to GP-0-09-001 Part III(A)(d)(iii), existing BMPs (Best Management Practices) including permanent waste transfer structures that have not been designed or installed under the direction of a professional engineer currently licensed to practice in New York State or an NRCS employee with the appropriate job approval authority in accordance with applicable NRCS standards, must be evaluated by a professional engineer currently licensed to practice in New York State, and these evaluations must be complete by March 31, 2011.

5. During the Comprehensive Inspection, and as noted in the respective Notice of Violation, the SPDES Permittee failed to document that by March 31, 2011, and up to and including the date of the Comprehensive Inspection, a professional engineer licensed to practice in New York State had evaluated the permanent waste transfer structures.

c. **General Permit Conditions Part III(C)(a)(i) and Part III(C)(a)**

1. Pursuant to GP-0-09-001 Part III(C) (a) (i), existing medium CAFOs shall have all required non-structural practices fully operational prior to submitting the NOI (Notice of Intent) and CNMP certification, unless the AEM (Agricultural Environmental Management) certified planner ("the planner") and the owner and

operator determine that a structural practice that is not yet scheduled to be installed is required in order for the non-structural practice to be fully operational.

2. The SPDES Permittee submitted the NOI and the CNMP certification between January 22, 2010 and September 3, 2010.

3. By or at the time of the Comprehensive Inspection, the planner, owner and operator had not determined that a structural practice that is not yet scheduled to be installed was required in order for the non-structural practices described herein to be fully operational.

4. During the Comprehensive Inspection, and as noted in the respective Notice of Violation, all CAFO non-structural practices were not fully operational in that: recordkeeping was significantly inadequate, due especially, but not only, to lack of records demonstrating sampling of all waste streams retained and land applied in accordance with NRCS Conservation Standard NY590 ("Nutrient Management"), the applicable standard under NRCS Conservation Standard NY312; depth level markers had not been installed at waste storages, including those at the Main Farm, Bion System and Heifer Facility; the mortality composting area had not been completed; and the open waste storage structures and the permanent waste transfer structures had not been evaluated by a professional engineer currently licensed to practice in New York State.

5. Additionally, pursuant to GP-0-09-001 Part III(C) (a), the CNMP schedule for an existing medium CAFOs shall assure consistent annual progress in completion of practices set forth within the CNMP.

6. Also during the Comprehensive Inspection, and as noted in the respective Notice of Violation, the SPDES Permittee failed to assure consistent

annual progress in completion of practices set forth within the CNMP in that, while in 2006 Department staff had advised Respondent Philip Dickson, in person and by correspondence, of certain non-structural practice requirements, including but not limited to the requirement for record keeping related to non-CAFO generated waste streams land applied at the CAFO, and depth level markers to be installed at waste storages, these same practices were found to be not fully operational more than four years later, at the Comprehensive Inspection in 2011.

d. **General Permit Condition Part III(E)**

1. Pursuant to GP-0-09-001 Part III(E), the permittee shall comply with all the provisions of the CNMP.

2. During the Comprehensive Inspection, and as noted in the respective Notice of Violation, the SPDES Permittee did not operate the CAFO in accordance with the CNMP, including but not limited to spreading recommendations and evaluations by a professional engineer.

e. **General Permit Condition Part IV(B)**

1. Pursuant to GP-0-09-001 Part IV(B), the permittee shall at all times properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) which are installed or used by the permittee to achieve compliance with the conditions of the permit. Proper operation and maintenance includes the operation of backup or auxiliary facilities or similar systems only when necessary to achieve compliance with the conditions of the permit.

2. During the Comprehensive Inspection, and as noted in the respective Notice of Violation, overflows were occurring or had recently occurred between the recirculation pond and the irrigation pond (two of the open waste storage structures)

in the Bion System, from the same irrigation pond onto the ground, and from the Main Bunk silage leachate tank to the road-side ditch; and freeboard also was inadequate in the digester pond, another open waste storage structure in the Bion System.

f. General Permit Condition Part V(B)

1. Pursuant to GP-0-09-001 Part V(B) in pertinent part, if, for any reason, the permittee knows or has reason to believe, there is an overflow of manure, litter, or process wastewater from a waste storage structure, the permittee shall notify the DEC regional office orally within twenty-four hours from the time that the permittee becomes aware of the overflow and submit a written CAFO Incident Report to the DEC Regional Office within five business days from the time that the permittee becomes aware of the overflow.

2. During the Comprehensive Inspection, and as noted in the respective Notice of Violation, DEC staff observed sand previously placed on top of the berm of the overflowing irrigation pond described in paragraph 63 herein, demonstrating the SPDES Permittee knowledge of overflow from this structure; and the SPDES Permittee representatives confirmed to DEC staff that the Main Bunk silage leachate tank had been overflowing as described in paragraph 19(f)(2) herein because a pump could not keep up during rain events.

3. Additionally, Department staff observed dead vegetation resulting from the Main Bunk silage leachate tank overflow, evidencing that overflow had commenced and/or recurred well prior to the Comprehensive Inspection.

4. Further, during the Comprehensive Inspection, and as noted in the respective Notice of Violation, and up to and including the date of the February 1,

2012 administrative complaint in this case, the SPDES Permittee did not notify the regional office orally within twenty-four hours or submit a written CAFO Incident Report to the DEC Regional Office within five business days concerning the overflows described herein.

g. General Permit Condition Part (V)N

1. Pursuant to GP-0-09-001 Part (V)N, all CAFOs must analyze each individual land-applied waste source at least once annually for nitrogen and phosphorus in accordance with applicable NRCS standards unless a more frequent sampling is deemed appropriate by the AEM certified planner.

2. During the Comprehensive Inspection, and as noted in the respective Notice of Violation, and up to and including the date of the February 1, 2012 administrative complaint in this matter, the SPDES Permittee failed to document each individual land-applied waste source – including but not limited to solid food wastes, liquid biosolids, composted biosolids, and every form of manure - is analyzed for nitrogen and phosphorus in accordance with applicable NRCS standards at least once annually in 2009, 2010, and 2011 up to the date of the Comprehensive Inspection. As a result, the planner was not able to use these required analyses in the CNMP calculated land application recommendations for 2010 and 2011.

h. General Permit Condition Part V(O)

1. Pursuant to GP-0-09-001 Part V(O) in pertinent part, all medium CAFOs must conduct and keep records of facility inspections as follows: [b] perform and record weekly inspections of the depth marker reading for manure and process wastewater in any open liquid storage structures to ensure adequate volume exists

to maintain the minimum freeboard necessary as per NRCS standard and GP-0-09-001 plus the capacity necessary to contain the 25-year, 24-hour rainfall event; [d] records of all manure, litter and process wastewater applications; and [e] records of inspections of manure storage and containment structures.

2. The open waste storage structures (described earlier in this Order) store liquid waste including process wastewater and liquid manure, and are thus also open liquid storage structures.

3. During the Comprehensive Inspection, and as noted in the respective Notice of Violation, the SPDES Permittee: failed to provide records of any weekly inspections of depth marker readings for manure and process wastewater in all of the open liquid storage structures; failed to provide complete records of all process wastewater applications, because there were no records of analytical data of all process wastewater applications including bunk silage leachate and milk house wastewater; and failed to provide records of any manure storage structure inspections.

i. **General Permit Condition Part VI(A)**

1. Pursuant to GP-0-09-001 Part VI(A),

“All releases to retention facilities and transfer structures shall be composed entirely of process wastewaters from the proper operation and maintenance of a CAFO and the precipitation run-off from the production area. The disposal of any materials other than those associated with proper operation and maintenance of a CAFO, including sanitary waste and unused pesticides, into the retention facilities and transfer structures are prohibited by this permit. The retention and disposal of

incidental food processing wastewater is authorized only if it is specified in the CNMP and done in accordance with 6 NYCRR Part 360.

The retention or storage and disposal or land application of incidental food processing wastewater and/or recognizable food processing waste as defined in 6 NYCRR 360-1.2(b)70 is authorized only if it is specified in the CNMP and done in accordance with 6 NYCRR Part 360-4.2(A)(2). Additions of all other non agriculturally generated waste to the CAFO process waste stream must be done in accordance with 6 NYCRR Part 360-4.”

2. During the Comprehensive Inspection, and as noted in the respective Notice of Violation, the SPDES Permittee failed to document that the CNMP specifies the storage of food processing wastewater not generated at or by the CAFO which wastewater is being stored in various CAFO retention facilities.

3. The food processing wastewater described herein is not considered recognizable food processing waste under Part 360.

j. General Permit Condition Part VI (C)

1. Pursuant to GP-0-09-001 Part VI (C) in pertinent part, land application rates shall be in accordance with the CNMP.

2. During the Comprehensive Inspection, and as noted in the respective Notice of Violation, the CNMP indicated that in 2010 CAFO field Q13 should receive no manure, but the SPDES Permittee landspreading records indicated that the CNMP landspreading rate was exceeded when about 4,500 gallons of manure per acre were land applied to CAFO field Q13 in 2010.

k. General Permit Condition Part VI (E)

1. Pursuant to GP-0-09-001 Part VI (E) in pertinent part, the following BMPs shall be used by all CAFO owners/operators:

a. Retention facilities and structures must be designed, constructed, and operated to prevent the discharge of all process wastewater, including leachate, and the contaminated runoff from a 25-year, 24-hour rainfall event for the location of the production area. Calculations may also include allowances for surface retention, infiltration, and other site-specific factors. Retention facilities and structures must be constructed, maintained and managed so as to retain all contaminated rainfall runoff from open lots and associated areas, process wastewater, and all other wastes which will enter or be stored in the retention facilities or structure(s).

b. The maximum operating level for open waste storage structures, earthen and fabricated, shall be indicated by a depth marker and be the level that provides for the design storage volume less the volume contribution of precipitation and runoff from the 25-year, 24-hour storm event plus one foot of freeboard for all earthen waste storage structures and all fabricated waste storage structures with a contributing drainage area. The design storage volume includes the volume needed for manure storage according to the CNMP in accordance with the NRCS NY313 Standard Design criteria.

2. Each of the open waste storage structures, including those at the Main Farm, Bion System and Heifer Facility, are either earthen waste storage structures or are fabricated waste storage structures with a contributing drainage area.

3. During the Comprehensive Inspection, and as noted in the respective Notice of Violation, the SPDES Permittee failed to maintain and manage retention facilities and structures so as to contain all the wastes stored therein, instead

allowing the recirculation pond and the irrigation pond (two of the open waste storage structures) in the Bion System, and the Main Bunk silage leachate tank to overflow; failed to indicate by depth markers the maximum operating levels for all open waste storage structures, including those at the Main Farm, Bion System and Heifer Facility; and exceeded the maximum operating level by failing to maintain adequate freeboard in the recirculation pond, irrigation pond, and another waste storage structure in the Bion System.

I. **General Permit Condition Part VI (E)**

1. Pursuant to GP-0-09-001 Part VI (E) in pertinent part, the following BMPs shall be used by all CAFO owners/operators:

k. Dead animals shall be properly disposed of within three (3) days unless otherwise provided for by the Department. Animals shall be disposed of in a manner to prevent contamination of waters of the State or creation of a public health hazard. Facilities shall refrain from disposal of animal mortalities in any liquid manure or process wastewater treatment systems. Composting of dead animals must be made in accordance with the 2002 Cornell Waste Management Institute recommendations "Natural Rendering: Composting Livestock Mortality & Butcher Waste" (available at <http://compost.css.cornell.edu/naturalrenderingFS.pdf>) or the applicable NRCS standard.

2. During the Comprehensive Inspection, and as noted in the respective Notice of Violation, while the CNMP depicted a new mortality compost area and stated that mortalities are "composted", in fact Department staff observed that mortalities are not composted but rather are improperly disposed by being buried under gravel in a former gravel pit. This burial is not composting in accordance with

the 2002 Cornell Waste Management Institute recommendations "Natural Rendering: Composting Livestock Mortality & Butcher Waste", nor is it burial in compliance with NRCS Conservation Practice Standard 316, and it has significant potential to contaminate surface water and groundwater.

m. General Permit Condition Part VI (E)

1. Pursuant to GP-0-09-001 Part VI (E) in pertinent part, the following BMPs shall be used by all CAFO owners/operators:

m. In cases where CAFO-generated manure, litter, process wastewater or other wastes is exported, sold or given away to any one recipient in amounts greater than 50 tons annually, the permittee must comply with the following conditions:

1. Maintain records showing the date and amount of manure, litter, and/or process wastewater that leaves the permitted operation.
2. Record the name and address of the recipient.
3. Provide the recipient(s) with representative information on the nutrient content of the manure, litter, and/or process wastewater.
4. These records shall be retained on-site, for a period of five years, and shall be submitted to the Department upon request.

Any applications not meeting the definition of export, as defined in Appendix A, must be made in accordance with the CNMP of the permit holder.

2. During the Comprehensive Inspection, and as noted in the respective Notice of Violation, Respondent Philip Dickson stated that all pressed manure solids are transferred off site, and Department staff observed that the CNMP showed no planned use at the CAFO for the pressed manure solids, but the SPDES Permittee

failed to provide any records showing the date and amount of manure leaving the permitted CAFO operation in the past five years, and the name and address of the recipient(s). Respondent Philip Dickson has further stated that these pressed manure solids are sent outside New York State to be used as a bulking agent for non-CAFO waste, which together are ultimately disposed in a landfill located outside New York State.

3. More than 50 tons per year of pressed manure solids are transferred from the CAFO to the landfill where they are ultimately disposed.

4. Neither the CAFO nor the SPDES Permittee have any direct control of the handling or disposal of the pressed manure solids at the landfill described herein.

20. Based on the foregoing paragraph 19 including all its subparagraphs, Respondent Leo Dickson and Sons, Inc. has violated 6 NYCRR 750-2.1(e) and GP-0-09-001 in regard to subparagraphs a through f and i through l, and has violated 6 NYCRR 750-2.1(e) 750-2.5(a) (1) and GP-0-09-001 in regard to subparagraphs g, h, and m.

21. In January, 2010, pursuant to its authority under Article 17, Titles 7 and 8, and Article 70 of the ECL, the Department issued SPDES General Permit No. GP-0-10-001 ("GP-0-10-001") for Stormwater Discharges From Construction Activity.

22. Pursuant to ECL 17-0505, "The making or use of an outlet or point source discharging into the waters of the state, and the operation or construction of disposal systems, without a valid SPDES permit as provided by section 17-0701 or title 8 hereof are prohibited."

23. A construction activity involving soil disturbance of one or more acres, including disturbance of less than one acre that is part of a larger common plan of development or sale that will ultimately disturb one or more acres of land, and excluding routine maintenance that is performed to maintain the original line and grade, hydraulic capacity or original purpose of a facility (hereafter, "construction activity"), constitutes construction of a point source.

24. No later than December 6, 2011, Respondent Dickson's Environmental Services, Inc., as owner and/or operator, commenced a construction activity planned to disturb seven and four tenths acres of soil to construct a new pad at 5226 Bonny Hill Road in the Town of Thurston, Steuben County.

25. On December 6, 2011, during an inspection related to Part 360 governed activity, Department Division of Materials Management staff observed soil disturbance in the vicinity of the CAFO. On December 8, 2011, in relationship to the observed disturbed soil, Department Division of Materials Management staff advised Respondent Philip Dickson that Department Division of Water staff had indicated coverage under GP-0-10-001 was required prior to the commencement of soil disturbances of one or more acres, including disturbances of less than one acre which are part of a larger common plan of development or sale that will ultimately disturb one or more acres of land. Further, on January 5, 2012, during a phone call, Department Division of Water staff directly advised Respondent Phillip Dickson that soil disturbance over one acre required coverage under GP-0-10-001.

26. Prior to January 11, 2012, no permit coverage pursuant to ECL Article 17 had been sought from the Department for the construction activity described in paragraph 24 herein.

27. On January 11, 2012, Respondent Dickson's Environmental Services, Inc. submitted a Notice of Intent dated January 9, 2012, to obtain coverage under GP-0-10-001 for the construction activity described in paragraph 117 herein ("January 11th NOI"). The January 11th NOI identifies Respondent Phillip Dickson as the owner/operator contact person, and is signed by Respondent Phillip Dickson.

28. Based upon the foregoing paragraphs 21 through 27, Respondent Dickson's Environmental Services, Inc. has violated ECL Article 17, including ECL 17-0505.

CONCERNING THE PART 360 SOLID WASTE PROGRAM

29. The Department is responsible for enforcement of Titles 3 and 7 of ECL Article 27 and the regulations promulgated thereunder at 6 NYCRR Part 360 ("Part 360"), which govern the construction and operation of solid waste management facilities in the State of New York, and for enforcement of any permit the Department issues thereunder.

30. Respondent Dickson's Environmental Services Inc. is a domestic business corporation under New York State law; is a person as defined in ECL §1-0303(18), ECL §17-0105(1), and 6 NYCRR 360-1.2(b)(117); and its principal executive office is located at 5226 Bonny Hill Road in the Town of Bath, Steuben County, New York, 14810.

31. Pursuant to 6 NYCRR 360-1.8(h), certain regulated solid waste management facilities may be eligible for registration rather than the permit requirements of Part 360, under prescribed thresholds and conditions specified in this subdivision and under each appropriate Subpart of Part 360.

32. Pursuant to 6 NYCRR 360-4.2, a land application facility involving nonrecognizable food processing waste is eligible for the registration provisions of 6 NYCRR 360-1.8(h) if it is operated in compliance with the applicable requirements of 6 NYCRR 360-1.8(h) and 360-4.2(b), including that the facility complies with the operational requirements of 6 NYCRR 360-4.6(a) and (b), excluding (b) (10) and (12). Also, any eligible or registered facility which is not operated in compliance with these conditions requires a permit pursuant to this Part and will be subject to the applicable enforcement provisions.

33. Additionally, 6 NYCRR 360-4.6 states in pertinent part that its requirements apply to all land application facilities.

34. On or about August 27, 2008, as president of Respondent Dickson Environmental Services, Inc., Respondent Philip Dickson completed a "Registration Form for a Solid Waste Management Facility" for a solid waste management facility at 5226 Bonny Hill Road in the Town of Bath, Steuben County, New York State, for the land application of food processing waste pursuant to 6 NYCRR 360-4.2(b)(1) on fields located in the Towns of Cameron, Thurston, and Bath ("the Part 360 registered facility"). The entity name entered on that form as "Dicksons Environmental SVC Inc." was meant to identify Dickson's Environmental Services, Inc. As a result, the Part 360 registered facility was at that time registered to Respondent Dickson's Environmental Services, Inc. (referred to herein as "Registrant"). By its acknowledgement of receipt of the Registration Form described in this paragraph, the Department assigned the number 51L05 to the Part 360 registered facility.

35. Pursuant to ECL 71-2703(1)(a) and (b), a person who violates any provision of Part 360 is liable to pay a penalty, and for other appropriate sanctions.

36. On April 1, 2011, and on dates in June and August in 2011, Department staff observed violations of Part 360 at or related to the Part 360 registered facility. Thereafter, the Department issued a Notice of Violation dated January 23, 2012 to Respondent Dickson's Environmental Services, Inc., including enclosed inspection reports and other materials related to the violations, which described the determination in detail. This Notice of Violation identified violations of Part 360. Specifically:

a. **6 NYCRR 360-4.6(b) (1)**

1. Pursuant to 6 NYCRR 360-4.6(b) (1) in pertinent part, the minimum horizontal distance from the perimeter of the land application area must meet or exceed the values in the following table:

<i>Item</i>	<i>Minimum horizontal separation distance (in feet)</i>
Property line	50
Drainage swale	25

2. On April 1, 2011, at the Part 360 registered facility, Respondent Dickson's Environmental Services, Inc. land applied, or caused to be land applied food processing waste less than fifty horizontal feet from the property line and less than twenty-five horizontal feet from a drainage swale, in the Town of Thurston, Steuben County, New York.

3. The land application described herein constituted a release of solid waste to the environment.

b. **6 NYCRR 360-1.7(a) (1)**

1. Pursuant to 6 NYCRR 360-1.7(a) (1) in pertinent part, except as otherwise provided in the applicable Subpart pertaining to the type of solid waste management facility in question, no person shall operate a solid waste management facility except in accordance with a valid permit issued pursuant to Part 360.

2. For all times relevant to this subparagraph, no permit pursuant to Part 360 has been issued by the Department concerning the fields described herein, and no registration pursuant to Part 360 has been submitted to the Department concerning these same fields.

3. On or about June 9, 2011, Respondent Dickson's Environmental Services, Inc. land applied, or caused to be land applied, food processing waste on fields south of Covell Road, near to and east of Bald Hill Road, in the Town of Cameron, Steuben County, New York.

4. The land application described herein constituted a release of solid waste to the environment.

c. **6 NYCRR 360-4.6(b) (1)**

1. Pursuant to 6 NYCRR 360-4.6(b) (1) in pertinent part, the minimum horizontal distance from the perimeter of the land application area must meet or exceed the values in the following table:

<i>Item</i>	<i>Minimum horizontal separation distance (in feet)</i>
Potable water well	200

2. On or about August 31, 2011, at the Part 360 registered facility, Respondent Dickson's Environmental Services, Inc. land applied, or caused to be land applied food processing waste less than two hundred feet from a residential well, a potable water well, near the southeast corner of Field W9 in the Town of Thurston, Steuben County, New York.

3. The land application described herein constituted a release of solid waste to the environment.

37. Based upon the foregoing paragraph 36 including all of its subparagraphs, Respondent Dickson's Environmental Services, Inc. has violated 6 NYCRR 360-4.6(b) (1) in regard to subparagraphs a and c, and has violated 6 NYCRR 360-1.7(a)(1) in regard to subparagraph b.

38. The Department is in the process of modifying the existing Part 360 solid waste management facility permit issued to Respondent Leo Dickson and Sons, Inc. for its land application facility. One result of the proposed modification would be that the Part 360 registration submitted by Dickson's Environmental Services, Inc. for land application of non-recognizable food processing waste will be considered to be terminated and of no further legal effect; and thereafter, the land application of all food processing waste formerly regulated under the registration will be regulated by the modified permit issued to Respondent Leo Dickson and Sons, Inc. Additionally, Respondent Leo Dickson and Sons, Inc. has submitted an application to renew the land application permit described above; and an application to modify its existing Part 360 solid waste management facility permit for composting. The Department has considered these applications, and is prepared to

modify and renew the land application permit, and to modify the composting permit, all simultaneously with the issuance of this Order (the "modified permits")

39. Respondents have reviewed the modified permits and are prepared to accept the terms stated therein.

40. By executing this Order, Respondents waive the right to request a hearing or to otherwise challenge the terms of the modified permits.

41. Representatives of Respondents and the Department have conferred and have agreed to execute this consent order in settlement of Respondents' civil liability for the violations described herein or described in the Department's Complaint dated February 1, 2012.

42. Respondents affirmatively waive the right to a hearing in this matter, consent to the issuance of this consent order and agree to be bound by its provisions, terms, and conditions.

NOW, being duly advised and having considered the matter, **IT IS ORDERED THAT:**

I. CIVIL PENALTY. Relative to and in settlement of the violations stated herein, Respondents Leo Dickson and Sons, Inc. and Dickson's Environmental Services, Inc. are hereby assessed a civil penalty in the amount of Forty-Six Thousand Five Hundred Dollars (\$46,500). Respondents Leo Dickson and Sons, Inc. and Dickson's Environmental Services, Inc. are jointly and severally liable for the penalty assessed under this paragraph. The penalty assessed under this paragraph shall be paid to the Department when Respondents Leo Dickson and Sons, Inc. and Dickson's Environmental Services, Inc. sign this Order and return it to the Department.

II. SUSPENDED PENALTY. Relative to and in settlement of the violations stated herein and to aid in ensuring Respondents' compliance with the terms and conditions of this Order, Respondents Leo Dickson and Sons, Inc. and Dickson's Environmental Services, Inc. are hereby assessed an additional civil penalty in the amount of Thirteen Thousand and Five Hundred Dollars (\$13,500). This is in addition to the penalties already assessed pursuant to the terms of this Order, and shall be suspended and not payable provided that Respondents Leo Dickson and Sons, Inc. and Dickson's Environmental Services, Inc. fully and in a timely fashion comply with all the deadlines and requirements of this Order. If Respondents Leo Dickson and Sons, Inc. and Dickson's Environmental Services, Inc. fail in any respect to comply with this Order, the full amount of the suspended penalty will become due and payable within fifteen (15) days following receipt by Respondents Leo Dickson and Sons, Inc. and Dickson's Environmental Services, Inc. of a written notice of noncompliance and demand by the Department. Respondents Leo Dickson and Sons, Inc. and Dickson's Environmental Services, Inc. shall be jointly and severally liable for payment of any penalty which becomes due and payable under this paragraph.

III. COMPLIANCE ACTION. Respondents have been informed of the compliance actions required under this Order. Respondents Leo Dickson and Sons, Inc. and Dickson's Environmental Services, Inc. shall implement all compliance actions set forth in the attached compliance actions schedule, attached as "Schedule A", by the deadlines indicated therein. Schedule A is hereby incorporated into and made an enforceable part of this Order. Should representatives of the Department and Respondents Leo Dickson and Sons, Inc. and Dickson's Environmental Services, Inc. have good faith differences of opinion as to the interpretation or sufficiency of submissions pursuant to Schedule A, Respondents

Leo Dickson and Sons, Inc. and Dickson's Environmental Services, Inc. and the Department shall use best efforts to resolve any differences cooperatively. The Department anticipates a return to compliance upon completion of the requirements contained in Schedule A and ongoing, continued compliance under the SPDES program and the Part 360 solid waste program.

IV. COMMUNICATIONS. All communications between the Department and Respondents Leo Dickson and Sons, Inc. and Dickson's Environmental Services, Inc. related to this Order shall be made in writing and transmitted to the addresses in this paragraph below by the United States Postal Service, Federal Express or a comparable courier service, or hand-delivered as directed, except that the submissions required under Schedule A, item 10 by fax or email must be made as directed therein.

a. One copy of all communications related to Schedule A items 1 through 9, inclusive, from Respondents Leo Dickson and Sons, Inc. and Dickson's Environmental Services, Inc. to the Department, shall be sent to Nancy Rice, New York State Department of Environmental Conservation, Region 8 Division of Water, 6274 East Avon-Lima Road, Avon, New York, 14414.

b. One copy of all communications related to Schedule A item 9, from Respondents Leo Dickson and Sons, Inc. and Dickson's Environmental Services, Inc. to the Department, shall be sent to Scott Foti, New York State Department of Environmental Conservation, Region 8 Division of Materials Management, 6274 East Avon-Lima Road, Avon, New York, 14414.

c. One copy of all communications related to the Order, from Respondents Leo Dickson and Sons, Inc. and Dickson's Environmental Services, Inc. to the Department, shall be sent to Lisa Schwartz Esq., New York State Department of

Environmental Conservation, Region 8 Office of General Counsel, 6274 East Avon-Lima Road, Avon, New York, 14414.

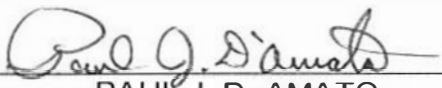
d. One copy of all communications related to this Order, from the Department to Respondents Leo Dickson and Sons, Inc. and Dickson's Environmental Services, Inc., shall be sent to: Philip Dickson, 5226 Bonny Hill Road, Bath, New York, 14810, with a copy by email to dicksonfarms@hotmail.com.

e. One copy of all communications related to this Order, from the Department to Respondents Leo Dickson and Sons, Inc. and Dickson's Environmental Services, Inc., shall be sent to: Alan J. Knauf Esq., Knauf Shaw LLP, 1125 Crossroads Building, 2 State Street, Rochester, New York, 14614, with a copy by email to aknauf@nyenvlaw.com.

V. STANDARD PROVISIONS. Respondents Leo Dickson and Sons, Inc. and Dickson's Environmental Services, Inc. shall further comply with the standard provisions recited on the attached blue cover, which constitute material and integral terms and conditions of this consent order and are hereby incorporated into this consent order by reference.

DATED: January 7, 2013
Avon, New York

JOSEPH J. MARTENS, Commissioner
New York State Department of
Environmental Conservation

By 
PAUL J. D-AMATO
Regional Director

CONSENT BY RESPONDENT DICKSON'S ENVIRONMENTAL SERVICES, INC.

Respondent hereby consents to the issuance of the foregoing order, waives its right to a hearing herein, and agrees to be bound by the terms, provisions, and conditions contained herein. Respondent also hereby consents to waive the right to a hearing or otherwise challenge the terms of the modified permits.

DICKSON'S ENVIRONMENTAL SERVICES, INC.

BY Philip M. Dickson

TITLE pres.

DATE 1-4-2013

STATE OF)
) SS.:
 COUNTY OF)

On the 4th day of January in the year 2013, before me, the undersigned, personally appeared Philip M. Dickson, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he/she executed the same in his/her capacity, and that by his/her signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

William C. Francisco

Notary Public, State of New York

WILLIAM C FRANCISCO
 Notary Public, State of New York
 No. 4609146
 Qualified in Steuben County
 Commission Expires August 31, 2013

CONSENT BY RESPONDENT PHILIP DICKSON

Respondent hereby consents to the issuance of the foregoing order, waives its right to a hearing herein, and agrees to be bound by the terms, provisions, and conditions contained herein. Respondent also hereby consents to waive the right to a hearing or otherwise challenge the terms of the modified permits.

PHILIP DICKSON

Philip M Dickson

DATE 1-4-2013

STATE OF)
) SS.:
COUNTY OF)

On the 4th day of JANUARY in the year 2013, before me, the undersigned, personally appeared Philip M Dickson, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he/she executed the same in his/her capacity, and that by his/her signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

William C Francisco

Notary Public, State of New York

WILLIAM C FRANCISCO
Notary Public, State of New York
No. 4609146
Qualified in Steuben County
Commission Expires August 31, 2013

CONSENT BY RESPONDENT JAY DICKSON

Respondent hereby consents to the issuance of the foregoing order, waives its right to a hearing herein, and agrees to be bound by the terms, provisions, and conditions contained herein. Respondent also hereby consents to waive the right to a hearing or otherwise challenge the terms of the modified permits.

JAY DICKSON

L. Jay Dickson

DATE Jan. 4th 2013

STATE OF)
) SS.:
COUNTY OF)

On the 4th day of JANUARY in the year 2012¹³, before me, the undersigned, personally appeared L. Jay Dickson, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he/she executed the same in his/her capacity, and that by his/her signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

William C Francisco

Notary Public, State of New York

WILLIAM C FRANCISCO
Notary Public, State of New York
No. 4609146
Qualified in Steuben County
Commission Expires August 31, 2013

CONSENT BY RESPONDENT LEO DICKSON AND SONS, INC.

Respondent hereby consents to the issuance of the foregoing order, waives its right to a hearing herein, and agrees to be bound by the terms, provisions, and conditions contained herein. Respondent also hereby consents to waive the right to a hearing or otherwise challenge the terms of the modified permits.

LEO DICKSON AND SONS, INC.

BY *Philip M Dickson*

TITLE *President*

DATE *1-4-2013*

STATE OF _____)
) SS.:
COUNTY OF _____)

On the *4th* day of *January* in the year 20*13*, before me, the undersigned, personally appeared *Philip M Dickson*, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he/she executed the same in his/her capacity, and that by his/her signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

William C Francisco

Notary Public, State of New York
WILLIAM C FRANCISCO
Notary Public, State of New York
No. 4609146
Qualified in Steuben County
Commission Expires August 31, *2013*

CONSENT ORDER SCHEDULE A
Dickson's Environmental Services, Inc. et al
DEC Case No. R8-20110526-11

1. Within thirty days of the effective date of this Order, Respondents (Respondents Leo Dickson and Sons, Inc. and Dickson's Environmental Services, Inc., hereinafter in this Schedule A collectively referred to as "Respondents") must install in all open liquid waste storage facilities permanent depth markers with three dimensional markers at one-half structure volume, three-quarters structure volume, two foot freeboard, and one foot plus a 25 year, 24-hour storm event freeboard (i.e., approximately one foot four inches freeboard.)

2. Within ninety days of the effective date of this Order, Respondents must provide to the Department engineering certifications for all manure transfer lines, including but not limited to (1) the line from the main farm to the processing facility, (2) the lines installed from the pump house which carry material to both the north and west for irrigation purposes, (3) internal lines between the ponds in the former Bion system, (4) the line between the bunk silo leachate collection tank and the irrigation pond.

3. Within thirty days of the effective date of this Order, Respondents must provide to the Department engineering plans and engineering construction certification of the bunk silo leachate collection system documenting that it meets all applicable NRCS standards.

4. Immediately upon the effective date of this Order, Respondents must commence all record keeping as required by the SPDES CAFO permit, including but not limited to weather conditions, land application volumes of all wastes in each separate field, mortality numbers, all storage depths, manure import and export volumes, except that Respondents must commence such record keeping for storage depths which require depth marker installation within thirty days of the effective date of this Order. For purposes of the suspended penalty provisions of this consent order, this consent order requirement shall expire upon DEC staff's first verification after the consent order effective date of Respondents' full compliance with this requirement. Respondents' obligations to comply with record keeping requirements of the SPDES CAFO permit shall thereafter continue in accordance with applicable law and regulation.

5. Respondents must immediately comply with spreading recommendations made by a Certified Agricultural Environmental Management (AEM) Planner (hereinafter, "Certified Planner") with regard to all waste streams which are land applied. For purposes of the suspended penalty provisions of this consent order, this consent order requirement shall expire upon DEC staff's first verification after the consent order effective date of Respondents' full compliance with this requirement. Respondents' obligations to comply with requirements of the SPDES CAFO permit related to the spreading recommendations of a Certified Planner shall thereafter continue in accordance with applicable law and regulation.

6. Within thirty days of the effective date of this Order, Respondents must implement the non-structural practice of mortality composting in a suitable area; add the new location of the practice to the CNMP; and submit to the Department a

revised Operations and Maintenance Manual which narratively describes the practice, and identifies its location.

7. Within thirty days of the effective date of this Order, Respondents must commence sampling as directed in the SPDES CAFO permit of all waste streams to ensure that the Certified Planner can calculate appropriate application rates. For purposes of the suspended penalty provisions of this consent order, this consent order requirement shall expire upon DEC staff's first verification after the consent order effective date of Respondents' full compliance with this requirement.

Respondents' obligations to comply with the sampling requirements of the SPDES CAFO permit shall thereafter continue in accordance with applicable law and regulation.

8. Within ninety days of the effective date of this Order, Respondents must provide to the Department engineering certification of all permanent manure storage facilities not previously certified. In regard to the bedded pack storage area at the heifer facility, Respondents have advised that a watertight, temporary, thirty (30) cubic yard hopper is currently placed on the concrete pad at the heifer facility, and that the bedded pack is brought to the mortality compost pile when the hopper is full; this temporary hopper storage does not require engineering certification hereunder. Any future use of the former bunk, including the concrete pad and side walls at the heifer facility, for feed or waste storage, would require an engineered proposal approved by the Department prior to use.

9. Respondents must provide to the Department a study that researches available technology (e.g., use of GPS guidance system, range finders, detailed maps) to determine or track, accurately and in real time, the position of land application equipment in relationship to land application restricted areas and

applicable separation distances. Respondents must also provide to the Department an operational plan that explains how the technology chosen to determine or track equipment position will be incorporated into the land application operations to insure compliance with applicable separation distances and prevent land application in restricted areas. Respondents must provide the study and plan required by this item ten within sixty days of the effective date of this Order.

10. In addition to reporting required of any of Respondents under any Department permit or registration, Respondents must, by the close of business Monday following the end of the first full week after the effective date of this Order and each week thereafter, submit to the Department Region 8 Division of Materials Management, Attention: Scott Foti, by fax to (585) 226-2909 and/or by email to sfoti@gw.dec.state.ny.us and/or gmmaslan@gw.dec.state.ny.us, a land application report for the immediately previous week. If Monday is a legal holiday, the report must be received by 4:45 pm on Tuesday. The report must contain the following information for each day of the week. This consent order requirement shall be effective for two years from the effective date of this consent order, except that if Respondents fully comply with this provision for a full calendar year from the effective date of the consent order, this consent order requirement shall expire fourteen days after the end of that calendar year. Respondents' obligations to comply with similar requirement in the Leo Dickson and Sons, Inc. land application permit shall thereafter continue in accordance with applicable law and regulation.

- 1) Weather conditions for all seven (7) days for the week being reported, including high and low temperature, precipitation type and amount, and wind direction and speed.

- 2) The freeboard of all liquid waste storage structures containing the following material or any mixture of the following materials: manure, food processing waste and biosolids.
- 3) A list of all biosolids, or food processing waste received, including waste type, source, amount, and the immediate destination for the material (for example, was it immediately land applied, taken to the compost building, or was it placed in a storage lagoon?).
- 4) A list of all waste land-applied. The waste type, source, amount and field to which the waste was applied must be identified. The list must indicate how the waste was applied, and when it was incorporated into the soil.
- 5) A list of any manure imported or exported, including the source, volume and destination of the manure.
- 6) A copy of any analytical data received for biosolids or food processing waste received during the week.

STANDARD PROVISIONS

Payment. Any penalty assessed pursuant to the terms and conditions of this order shall be paid by submitting a certified or cashier's check or money order, payable to the Department of Environmental Conservation, to the Regional Director of the Region 8 Office located at 6274 East Avon-Lima Road, Avon, New York 14414. Unpaid penalties imposed by this order shall bear interest at the rate of 9 percent per annum for each day the penalty, or any portion thereof, remains unpaid. Payments received shall first be applied to accrued interest charges and then to the unpaid balance of the penalty.

Communications. Except as otherwise specified in this order, any reports, submissions, and notices herein required shall be made to the Regional Director of the Region 8 office of the Department, located at 6274 East Avon-Lima Road, Avon, New York 14414.

Access. For the purpose of monitoring or determining compliance with this order, employees and agents of the Department shall be provided access to any facility, site, or records owned, operated, controlled or maintained by Respondent, in order to inspect and/or perform such tests as the Department may deem appropriate, to copy such records, or to perform any other lawful duty or responsibility.

Force Majeure. Respondent shall not suffer any penalty under any of the provisions, terms and conditions hereof, or be subject to any proceedings or actions for any remedy or relief, if Respondent cannot comply with any requirements of the provisions hereof because of an act of God, war, riot or other catastrophe as to which negligence or willful misconduct on the part of Respondent was not foreseen or a proximate cause, provided, however, that the Respondent shall immediately notify the Department in writing, when it obtains knowledge of any such condition and shall request an appropriate extension or modification of the provisions hereof; Respondent will adopt all reasonable measures to prevent or minimize any delay.

Indemnity. Respondent shall indemnify and hold the Department, the State of New York, and their representatives, employees, agents and contractors harmless for all claims, suits, actions, damages and costs of every nature and description arising out of or resulting from the fulfillment or attempted fulfillment of this order by the Respondent, its employees, servants, agents, successors (including successors in title) and assigns.

Modifications. No change in this order shall be made or become effective except as specifically set forth by written order of the Commissioner, being made either upon written application of Respondent, or upon the Commissioner's own findings after notice and opportunity to be heard have been given to Respondent. Respondent shall have the burden of proving entitlement to any modification requested pursuant to this Standard Provision or the "Force Majeure" provision, *supra*. Respondent's requests for modification shall not be unreasonably denied by the Department, which may impose such additional conditions upon Respondent as the Department deems appropriate.

Other Rights. Nothing contained in this order shall be construed as barring, diminishing, adjudicating or in any way affecting any right of the Department to directly perform, to engage others to perform on its behalf, or to direct others including Respondent to perform, any additional measures that are authorized by law to protect human health, safety or the environment, including the summary abatement powers of the Department, either at common law or as granted pursuant to statute or regulation.

Entire Agreement. This order shall constitute the entire agreement of the Department and Respondent with respect to settlement of those violations specifically referenced herein.

Binding Effect. The provisions, terms, and conditions of this order shall be deemed to bind Respondent and Respondent's heirs, legal representatives, receivers, trustees in bankruptcy, successors and assigns.

Service. If Respondent is represented by an attorney with respect to the execution of this order, service of a duly executed copy of this order upon Respondent's attorney by ordinary mail shall be deemed good and sufficient service.

Multiple Respondents. If more than one Respondent is a signatory to this order, use of the term "Respondent" in these Standard Provisions shall be deemed to refer to each Respondent identified in the order.