This SETTLEMENT AGREEMENT (hereinafter "AGREEMENT") is between WADELAND DAIRY (hereinafter “OPERATOR”) and the DIRECTOR OF THE UTAH DIVISION OF WATER QUALITY (hereinafter the “DIRECTOR”), concerning violations of the Utah Water Quality Act (the Act), Utah Code Annotated, and the Utah Administrative Code.

1. The DIRECTOR has authority to administer the Utah Water Quality Act, as amended 1953, as specified in UCA 19-5-106(2)(d) (hereinafter the "ACT").

2. The DIRECTOR has been delegated authority by the U.S. Environmental Protection Agency (EPA) to administer the National Pollutant Discharge Elimination System (NPDES) permit program under the Federal Clean Water Act (CWA).

3. The parties now desire to resolve this matter fully without further administrative proceedings except to the extent provided herein by entering into this AGREEMENT. Entering into this AGREEMENT is not an admission of liability or factual allegation set out in the NOTICE, nor is it an admission of or an agreement to any disputed facts or disputed legal theories, nor is it an admission of any violation of any law, rule, regulation or permit by the OPERATOR.

4. The DIRECTOR will administer the terms and provisions of this AGREEMENT.

5. This AGREEMENT resolves the NOTICE OF VIOLATION and ORDER, Docket Number 115-06 (hereinafter the "NOTICE"), between the OPERATOR and the DIRECTOR, issued to the OPERATOR on January 20, 2016, by the DIRECTOR. It does not in any way relieve the OPERATOR from any other obligation imposed under the ACT or any other State or Federal laws.

6. In resolution of said NOTICE referenced in Paragraph 5 of this AGREEMENT;

   a. The DIRECTOR agrees to hold in abeyance the penalty in the amount of $10,064 which was calculated in conformance with the penalty policy outlined in UAC 317-1-8. The penalty will be held in abeyance until September 1, 2018, at which point it will be waived dependent on the timely compliance of the OPERATOR with the requirements outlined in Paragraphs 6.b through 6.h of this AGREEMENT.

   b. The OPERATOR, to the extent possible, agrees to immediately implement the dairy’s Nutrient Management Plan (NMP) as approved by the DIRECTOR. The Division of Water Quality will public notice the current NMP approved for permitting and settlement agreement purposes, on or about February 15, 2018.

   c. The OPERATOR agrees to prepare a final NMP that will include the design
and construction requirements of any new wastewater or evaporation pond(s), and other controls as needed and implemented. The NMP must demonstrate facility compliance NRCS practices and standards. The Final NMP must be submitted to the DIRECTOR for approval and must be fully implemented by September 1, 2018. NMP implementation is not limited to, but includes construction and operation of any new storage structures at the dairy. The OPERATOR also agrees to update the NMP on an ongoing basis as needed to reflect actual and planned practices and waste management facilities at the dairy. The NMP and all updates to the NMP, must demonstrate facility compliance with Natural Resources Conservation Service (NRCS) practices and standards. Any NMP updates must be submitted to the DIRECTOR for approval.

d. The OPERATOR agrees to fully implement the final DIRECTOR approved NMP, as referenced in 6.c, prior to September 1, 2018. Prior to July 1, 2018, the OPERATOR may request an extension of the September 1, 2018 NMP deadline for delays in implementation beyond the control of the OPERATOR. Any NMP deadline extension approval will be at the discretion of the DIRECTOR and granted only for good cause. At any time prior to, or soon after the September 1, 2018 NMP implementation deadline, the DIRECTOR may determine that the OPERATOR is out of compliance with this AGREEMENT. If the OPERATOR is determined to be out of compliance due to lack of progress, failing to meet the September 1, 2018 NMP deadline, or failing to complete any new construction of facilities, the DIRECTOR may require that the penalty be remitted. For significant lack of progress, the DIRECTOR may require penalty payment prior to the September 1, 2018 deadline at which time an invoice will be sent to the OPERATOR with a penalty payment due date.

e. Upon issuance, the OPERATOR agrees to fully implement the CAFO permit. The OPERATOR acknowledges that any discharge of pollutants to waters of the State is an illegal discharge unless allowed under the CAFO permit.

f. The OPERATOR agrees to immediately cease all discharges to waters of the State. The OPERATOR agrees that the dairy and cropland in operational control of the dairy will not have discharges that contaminate waters of the State with manure, wastewater, runoff, feed, or other pollutants.

g. The OPERATOR agrees to notify Don Hall with the Division of Water Quality at 801-536-4492, within 24-hours of any discharge of pollutants to waters of the State.

h. The OPERATOR agrees to pay a stipulated penalty in the amount of $200 per day for every day of non-payment or partial payment of the penalty as specified in 6.a.
8. Nothing contained in this AGREEMENT shall preclude the DIRECTOR from taking additional actions or issuing additional penalties against the OPERATOR for violations not resolved by this AGREEMENT.

9. If an agreement between the OPERATOR and the DIRECTOR cannot be reached in a dispute arising under any provision of this AGREEMENT, then the OPERATOR or the DIRECTOR may commence a proceeding with the Board under the Administrative Procedures Act to resolve the dispute. A final decision in any adjudicative proceeding shall be subject to judicial review under applicable state law.

10. Nothing in this AGREEMENT shall constitute a waiver by the OPERATOR to raise in defense any legal or factual contention for future allegations of noncompliance.

11. Nothing in this AGREEMENT shall constitute or be considered as a release from any claims, to include natural resource damage claims, cause of action, or demand in law or equity which the STATE may have against the OPERATOR, or any other person, firm, partnership or corporation for any liability arising out of or relating in any way to the release of pollutants to waters of the State.

AGREED to this ___ day of ______________, 2018.

WADELAND DAIRY

By: [Signature]
Authorized Agent

UTAH DIVISION OF WATER QUALITY

By: [Signature]
Director