



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 6
1201 ELM STREET, SUITE 500
DALLAS, TEXAS 75270-2102

November 4, 2021

Mr. Aaron Patsch
RLF Clayton Farms, LLC
1400 Sixteenth Street, Suite 320
Denver, Colorado 80202

Re: Consent Agreement and Final Order

Docket Number: CWA-06-2021-1751
NPDES Number: NMG010018

Dear Mr. Patsch:

This is to acknowledge receipt of your letter dated October 5, 2021 transmitting the signed "Consent Agreement and Final Order" (CAFO). As no comments were received from the general public during the thirty (30) day public notice period, the Environmental Protection Agency hereby issues this CAFO.

The CAFO shall become effective thirty (30) days after the date of issuance. Penalty payment is due on the effective date of the Order.

If you have any questions regarding this matter, please contact Mr. Lucas Bomar of my staff, at 214-665-2182 or bomar.lucas@epa.gov.

Sincerely,

A handwritten signature in cursive script that reads "Cheryl T. Seager".

Digitally signed by CHERYL SEAGER
DN: c=US, o=U.S. Government,
ou=Environmental Protection Agency,
cn=CHERYL SEAGER,
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Cheryl T. Seager, Director
Enforcement and
Compliance Assurance Division

Enclosure(s)

cc: w/CAFO - Regional Hearing Clerk

cc: Susan Lucas Kamat, Acting Program Manager
Point Source Regulation Section
New Mexico Environment Department
Surface Water Quality Bureau
susan.lucaskamat@state.nm.us

UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION 6

FILED

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REGIONAL HEARING CLERK
EPA REGION VI

In the Matter of

RLF Clayton Farms, LLC

Respondent

Permit No. NMG010018

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DOCKET NO. CWA-06-2021-1751

CONSENT AGREEMENT AND FINAL ORDER

I. PRELIMINARY STATEMENT

1. This Consent Agreement and Final Order (CAFO) is issued under the authority vested in the United States Environmental Protection Agency (EPA) pursuant to Section 309(g) of the Clean Water Act (herein "the Act"), 33 U.S.C. § 1319(g). This CAFO is issued in accordance with 40 C.F.R. § 22.18, as described in the "Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits."

2. On August 25, 2021, EPA Region 6 issued to Respondent an administrative complaint (Complaint) under Section 309(g) of the Act, 33 U.S.C. § 1319(g), which proposed to assess a civil penalty against Respondent, and gave notice of Respondent's opportunity to request a hearing on the proposed administrative penalty assessment.

3. EPA and Respondent (Parties) agree that settlement of the relevant matters without litigation will save time and resources, that it is in the public's interest, and that the entry of this CAFO is the most appropriate means of resolving such matters. Compliance with all the terms and conditions of this CAFO resolves only those violations alleged by EPA in the Complaint issued on August 25, 2021.

4. The Respondent admits the jurisdictional allegations of the Complaint; however, the Respondent neither admits nor denies the specific factual allegations and conclusions of law contained in the complaint or this CAFO. This CAFO states a claim upon which relief may be granted.

5. Respondent expressly waives any right to contest the factual allegations or conclusions of law contained in the Complaint and this CAFO and waives its right to appeal the Final Order set forth herein.

6. Before the taking of any testimony, and without adjudication of any issue of law or fact, the Parties agree to the terms of this CAFO and to its issuance. Respondent consents to the assessment and payment of a civil penalty in the amount and by the method stated.

II. FINDINGS OF FACT AND CONCLUSIONS OF LAW

7. The Respondent, RLF Clayton Farms, LLC, is a "person," as defined by Section 502(5) of the Act, 33 U.S.C. § 1362(5), and 40 C.F.R. § 122.2.

8. At all times relevant (relevant time period), to the violations alleged herein, and within the meaning of 40 C.F.R. § 122.2, Respondent owned or operated a feed yard facility located at 76 Feeders Road in Clayton, Union County, New Mexico (herein "the facility"), which was the subject of the Complaint.

9. The Complaint specified findings of fact and conclusions of law that are hereby incorporated by reference and alleged, among other things, that at the relevant times: Respondent was a "person" that "owned or operated" a facility that was a "point source" subject to a "discharge" of "pollutants" to identified "waters of the United States" within the meaning of Section 502 of the Act, 33 U.S.C. § 1362, and 40 C.F.R. § 122.2; Respondent and the facility were subject to the provisions of the Act, 33 U.S.C. § 1251 et seq., and the National Pollutant

Discharge Elimination System (NPDES) program; and Respondent violated the facility's permit by failing to submit annual reports.

10. With the issuance of the Complaint, the State of New Mexico was notified and given an opportunity to consult with EPA regarding the proposed assessment of an administrative penalty against Respondent.

11. EPA notified the public of the Complaint via the internet at www.epa.gov/region6/publicnotice and afforded the public thirty (30) days to comment on the complaint and proposed penalty. At the expiration of the notice period, EPA received no comments from the public.

III. TERMS OF SETTLEMENT

A. PENALTY PROVISIONS

12. Based on the foregoing Findings of Fact and Conclusions of Law, EPA Region 6, considering the relevant criteria pursuant to Section 309(g)(3) of the Act, 33 U.S.C. § 1319(g)(3), and acting pursuant to the authority of Section 309(g) of the Act, 33 U.S.C. § 1319(g), hereby orders that Respondent shall pay to the United States a civil penalty in the amount of thirty thousand dollars (\$30,000) to settle the violations as alleged in the Complaint, in accordance with 40 C.F.R. § 22.18(c).

13. Payment shall be made by one of the following methods within thirty (30) days of the effective date of this CAFO:

- a. By mailing a bank check, cashier's check or certified check, payable to "Treasurer of the United States," to the following address:

U.S. Environmental Protection Agency
Fines and Penalties
Cincinnati Finance Center
PO Box 979077
St. Louis, MO 63197-9000

b. By wire transfer to:

Federal Reserve Bank of New York
ABA: 021030004
Account Number: 68010727
SWIFT address: FRNYUS33
33 Liberty Street
New York NY 10045
Field Tag 4200 of the Fedwire message should read:
"D 68010727 Environmental Protection Agency"

c. By overnight mail (Express, FedEx, DHL, etc.):

U.S. Bank
1005 Convention Plaza
SL-MO-C2GL
St. Louis, MO 63101
Phone: 314-418-4087

d. By credit card payments to <https://www.pay.gov>
(Insert sfo 1.1 in the search field)

In the Matter of RLF Clayton Farms, LLC. Docket No. CWA-06-2021-1751, should be clearly marked on the check to ensure credit for payment.

14. Respondent shall send simultaneous notice of payment, including a copy of the check, to each of the following:

- (a) Regional Hearing Clerk (6RC-D)
U.S. EPA, Region 6
1201 Elm Street, Suite 500
Dallas, TX 75270
- (b) Chief, Analysis & Assessment Section (6ECD-WA)
U.S. EPA, Region 6
1201 Elm Street, Suite 500
Dallas, TX 75270
- (c) Chief, Water Legal Branch (6RC-EW)
U.S. EPA, Region 6
1201 Elm Street, Suite 500
Dallas, TX 75270

Respondent's adherence to these procedures will ensure proper credit when payment is received by EPA.

15. Respondent agrees not to claim or attempt to claim a federal income tax deduction or credit covering all or any part of the civil penalty paid to the United States Treasurer.

B. GENERAL PROVISIONS

16. To execute this Agreement, Respondent shall (1) sign and email a signed pdf copy to bomar.lucas@epa.gov and (2) mail a copy of the CAFO, with original signature, to:

Mr. Lucas Bomar
U.S. EPA Region 6 (ECD-WA)
1201 Elm Street, Suite 500
Dallas, TX 75270


17. Issuance of this CAFO does not relieve Respondent from responsibility to comply with all requirements of the Act and the requirements of any permits issued thereunder, as described in Section 309(g)(7) of the Act, 33 U.S.C. § 1319(g)(7), nor does it constitute a waiver by EPA of its right to enforce compliance with the requirements of Respondent's permits or other requirements of the Act by actions pursuant to Section 309 of the Act, 33 U.S.C. § 1319.

18. The provisions of this CAFO shall be binding upon Respondent, its officers or officials, managers, employees, and their successors or assigns, in their capacity on behalf of Respondent.

19. Each party agrees to bear its own costs and attorneys' fees in this matter, except to the extent that Respondent may be responsible for reasonable costs and expenses of enforcement and collection proceedings for failure to comply with the terms of this CAFO.

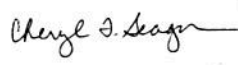
20. Each undersigned representative of the parties to this agreement certifies that he or she is fully authorized by the party represented to enter into the terms and conditions of this agreement and to execute and legally bind that party to it.

21. In recognition and acceptance of the foregoing:



RLF Clayton Farms, LLC
Aaron Patsch, Authorized Representative

October 5, 2021
Date:



Cheryl T. Seager, Director
Enforcement and
Compliance Assurance Division

Digitally signed by CHERYL SEAGER
DN: c=US, o=U.S. Government,
ou=Environmental Protection Agency,
cn=CHERYL SEAGER,
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November 4, 2021
Date:

FINAL ORDER

Pursuant to the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties, 40 C.F.R. Part 22, the foregoing Consent Agreement is hereby ratified. This Final Order shall not in any case affect the right of EPA or the United States to pursue appropriate injunctive or other equitable relief or criminal sanctions for any violations of law. This Final Order shall resolve only those causes of action alleged in the Complaint. Nothing in this Final Order shall be construed to waive, extinguish, or otherwise affect Respondent's (or its officers', agents', servants', employees', successors', or assigns') obligation to comply with all applicable federal, state, and local statutes and regulations, including the regulations that were the subject of this action. The Respondent is ordered to comply with the terms of settlement and the civil penalty payment instructions as set forth in the Consent Agreement. This CAFO shall become effective thirty (30) days after the issuance date specified below pursuant to Section 309(g)(5) of the Clean Water Act, 33 U.S.C. § 1319(g)(5).

Issuance Date: _____

**THOMAS
RUCKI**

Regional Judicial Officer
U.S. EPA, Region 6

Digitally signed by THOMAS RUCKI
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ou=Environmental Protection Agency,
cn=THOMAS RUCKI
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CERTIFICATE OF SERVICE

I hereby certify that on the 9th day of November, 2020¹, the original of the foregoing Consent Agreement and Final Order was hand delivered to the Regional Hearing Clerk, U.S. EPA, Region 6 (6RC-D), 1201 Elm Street, Suite 500, Dallas, Texas 75270, and that a true and correct copy was placed in the United States mail, by certified mail, return receipt requested, addressed to the following:

RLF Clayton Farms, LLC
c/o Aaron Patsch
1400 16th Street, Suite 320
Denver, Colorado 80202

with a copy, first class postage prepaid, to:

Susan Lucas Kamat, Acting Program Manager
Point Source Regulation Section
New Mexico Environment Department
Surface Water Quality Bureau
susan.lucaskamat@state.nm.us

Ellen Chang