



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 6

1201 ELM STREET, SUITE 500

DALLAS, TEXAS 75270

December 17, 2020

TRANSMITTED VIA EMAIL

Mr. Larry Ogle, Owner
Ogle Cattle Co.
P.O. Box 1449
Bowie, Texas 76230

Re: Consent Agreement and Final Order
Docket Number: CWA-06-2020-1779
Facility No. TXG920157

Dear Mr. Ogle:

This is to acknowledge receipt of the \$12,000 check that you mailed to the Environmental Protection Agency (EPA) office in Cincinnati, Ohio. As no comments were received from the general public during the thirty (30) days public notice period, EPA is now ready to issue the attached Consent Agreement and Final Order (CAFO). Please print and sign the attached CAFO. Make a pdf copy of the signed document and email it to senkayi.abu@epa.gov. Also, please mail the signed document, with the original signature, to the attention of Dr. Abu Senkayi (EWD-WA) within ten (10) days of receipt of the CAFO, for final processing and issuance. EPA will email you a copy of the CAFO after it has been signed and issued.

If you have any questions regarding this matter, please contact Dr. Abu Senkayi, of my staff, at (214) 665-8403.

Sincerely,

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

Digitally signed by CHERYL SEAGER
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Protection Agency, cn=CHERYL SEAGER,
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Cheryl T. Seager, Director
Enforcement and
Compliance Assurance Division

Enclosure

Ec: Winona Henry, P.E., Regional Director
Texas Commission on Environmental Quality, Region 3
Winona.henry@tceq.texas.gov

UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION 6

In the Matter of	§	
	§	
Ogle Cattle Co.	§	
	§	
	§	DOCKET NO. CWA-06-2020-1779
	§	
Respondent	§	
	§	
Permit No. TXG920157	§	

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 September 15, 2020, 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 September 15, 2020.

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, Ogle Cattle Co., 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 312 Cattle Pen Rd., Bowie, Montague County, Texas (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 Texas Commission on Environmental Quality (TCEQ) issued permit by failing to maintain the normal wastewater operating level of the facility's lagoon (Retention Control Structure [RCS] #1) which resulted in the overflow of the lagoon and unauthorized discharge of process wastewater into Brier Creek. Facility irrigation records reviewed by EPA inspectors indicated that there was no attempt made to dewater RCS #1 between October 25th, 2019, and February 21st, 2020.

10. With the issuance of the Complaint, the State of Texas 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 twelve thousand dollars (\$12,000) to settle the violations as alleged in the Complaint, in accordance with 40 C.F.R. § 22.18(c).

13. Respondent has paid the \$12,000 penalty by mailing a cashier's check to the following address:

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

14. 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

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

Abu Senkayi, Ph.D.
U.S. EPA Region 6 (ECD-WA)
1201 Elm Street, Suite 500
Dallas, TX 75270

16. 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.

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: 1/20/2021

**Rucki,
Thomas**

Regional Judicial Officer
U.S. EPA, Region 6

Digitally signed by Rucki,
Thomas
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email=Rucki.Thomas@epa.gov
Date: 2021.01.20 12:28:15 -06'00'

CERTIFICATE OF SERVICE

I hereby certify that on the 20th day of January, 2020, the original of the foregoing Consent Agreement and Final Order was hand delivered to the Regional Hearing Clerk, U.S. EPA, Region 6 (6ORC-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:

Larry Ogle, Owner
Ogle Cattle Co.
P.O. Box 1449
Bowie, TX 76230

with a copy, first class postage prepaid, to:

Winona Henry, P.E., Regional Director
Texas Commission on Environmental Quality, Region 3
1977 Industrial Blvd.
Amarillo, TX 79602-7833
Winona.henry@tceq.texas.gov

Ellen Chang Vaughan