



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 6
1445 ROSS AVENUE, SUITE 1200
DALLAS, TX 75202-2733

MAY 31 2013

CERTIFIED MAIL-RETURN RECEIPT REQUESTED: 7011 3500 0000 0359 9564

Ms. Tami A. Tollenaar
T Bar M Ranch, LLC
6992 State Road 78
Hendrix, OK 74741

Re: Administrative Order on Consent, Docket Number: CWA-06-2013-1795
Previous NPDES Permit: OKG010337

Dear Ms. Tollenaar:

Enclosed is an Administrative Order on Consent (AOC) issued to T Bar M Ranch for failure to properly maintain its lagoon and failure to maintain adequate freeboard. The findings were identified during a July 11, 2012, inspection conducted by the Environmental Protection Agency (EPA), of the dairy identified in the enclosed AOC. These findings were discussed with the operator, Mr. Tollenaar, at the time of the inspection. A previous AOC was issued to T Bar M Ranch for these same findings on September 17, 2012, and the completion date for the compliance items, including lagoon repair, was January 15, 2013. On January 7, 2013, you requested an extension of the completion date. As such, a new AOC has been drafted which is enclosed to encompass additional action items and a new completion date of September 1, 2013.

This AOC does not assess a monetary penalty; however, it does require compliance with applicable federal regulations. As stated above, the new compliance completion date is September 1, 2013; in the interim, a progress report is due on July 1, 2013, which needs to include what items have been completed, what items are ongoing, and a current status update on achieving the September 1, 2013, deadline. The EPA is committed to ensuring compliance with the requirements of the National Pollutant Discharge Elimination System (NPDES) program, and my staff will assist you in any way possible. Please reference AO Docket Number CWA-06-2013-1795 and the previous NPDES Permit Number OKG010337 on your response.

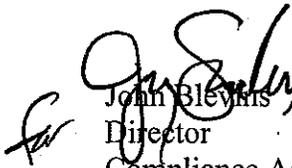
Please also find enclosed an "Information Sheet" relating to the Small Business Regulatory Enforcement Fairness Act and a "Notice of Registrant's Duty to Disclose" relating to the disclosure of environmental legal proceedings to the Securities and Exchange Commission.

Re: T Bar M Ranch
Administrative Order on Consent

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If you have any questions, please contact Mr. Carl Wills, of my staff, at (214) 665-7276.

Sincerely,


John Blevins
Director
Compliance Assurance and
Enforcement Division

Enclosures

cc: Mr. Dan Parrish, Director
Agricultural Environmental Management Services
Oklahoma Department of Agriculture, Food and Forestry
2800 N. Lincoln Blvd.
Oklahoma, OK 73105-4298



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
1445 Ross Avenue, Suite 1200, Dallas, TX 75202
FINDINGS OF VIOLATION AND COMPLIANCE ORDER ON CONSENT AND
INFORMATION DEMAND

Docket Number: CWA-06-2013-1795

STATUTORY AUTHORITY

The following findings are made and Order issued under the authority vested in the Administrator of the United States Environmental Protection Agency ("EPA"), by Sections 308 and 309(a) of the Clean Water Act ("the Act"), 33 U.S.C. §§ 1318 and 1319(a). The Administrator of EPA delegated the authority to issue this Order ("Administrative Order on Consent" or "AOC") to the Regional Administrator of EPA Region 6, who further delegated this authority to the Director of the Compliance Assurance and Enforcement Division.

FINDINGS

1. T Bar M Ranch, LLC ("Respondent") is a "person," as defined by Section 502(5) of the Act, 33 U.S.C. § 1362(5).

2. At all times relevant to this Administrative Order on Consent, Respondent owned or operated a dairy, located about three miles west of Yuba, on the north side of State Highway 78, Bryan County, Oklahoma ("facility") and was therefore an "owner or operator" within the meaning of 40 C.F.R. § 122.2. The facility operates as a Concentrated Animal Feeding Operation ("CAFO") as identified by Section 502(14) of the Act, 33 U.S.C. § 1362(14).

3. Pursuant to Section 402 of the Act, EPA issued NPDES general Permit and Reporting Requirements for Discharges from CAFOs (58 Fed. Reg. 7610) ("general permit"), which became effective on March 10, 1993, and is defined in part by 40 C.F.R. Part 122. Respondent was previously covered under the CAFO general permit number OKG010337.

4. Because the Respondent owns and operates the facility and the facility is a CAFO, within the meaning of 40 C.F.R. Part 122, Respondent is required by Section 402(p) of the Act and 40 C.F.R. Part 122 to make application for permit coverage for the facility, and to comply with each applicable permit condition in the operation of the facility.

5. At all times relevant to this Order, the facility acted as a "point source" of a "discharge" of "pollutant[s]" to the receiving waters of Island Bayou, which is considered a "water of the United States," as defined by 40 C.F.R. § 122.2. As a result, the Respondent and the facility were subject to the Act and the National Pollutant Discharge Elimination System ("NPDES") permit.

6. On July 11, 2012, the facility was inspected by the EPA. It was observed that lagoon #4 was full of wastewater and had very little freeboard. Lagoon #4 also had severe slumping and was in danger of its sidewall collapsing. With the combination

of the lagoon being full and the severe slumping, the lagoon was in danger of imminent overflow. In addition, if the sidewall in lagoon #4 collapsed, there was danger of lagoon #3 overflowing as well.

7. On September 7, 2012, the parties entered into an Administrative Order on Consent for Respondent's failure to maintain its lagoon and failure to maintain adequate freeboard. Respondent agreed to repair lagoon #4 by January 15, 2013.

8. On January 7, 2013, Respondent submitted a request for an extension of the lagoon repair deadline.

9. On February 21, 2013, Respondent submitted a letter via e-mail and hard copy to EPA that included a proposed schedule of action items to repair the slumping of lagoon #4.

SECTION 309(a)(3) COMPLIANCE ORDER

Based on these findings and pursuant to the authority of Section 309(a)(3) of the Act, 33 U.S.C. § 1319(a)(3), EPA orders that, upon receipt of this Order, Respondent take the following actions regarding the items noted in your February 21, 2013 letter:

- a. Collect soil samples from the fields owned and/or operated by Respondent and update the nutrient management plan to include the soil analysis and which fields will receive an application of sludge from lagoon #3.
- b. Install a floating pump to begin de-watering lagoon #4.
- c. Install the valve on the connection pipe from lagoon #3 to the connection pipe on lagoon #4.
- d. Commence de-watering and sludge removal from lagoons #3 and #4 as soon as possible.
- e. Begin lagoon berm slumping restoration and liner repair to restore integrity to lagoons #3 and #4.
- f. Obtain certification by a professional engineer, or equivalent, that the liner repair, the slumping repair, and the certification of no hydrological connection to groundwater has been completed.

All lagoon repairs shall be completed by September 1, 2013.

SECTION 308 INFORMATION DEMAND

Based on the foregoing Findings and pursuant to the authority of Section 308 of the Act, 33 U.S.C. § 1318, Respondent is required to do the following:

- a. By July 1, 2013, submit to EPA and the Oklahoma Department of Agriculture, Food and Forestry ("ODAFF") via hardcopy or e-mail, a progress report indicating what items have been completed and what items are ongoing, and include a current status update on achieving the September 1, 2013 deadline.
- b. Within thirty (30) days following the completion of lagoon #4 repairs, the Respondent shall submit a written report to EPA and ODAFF detailing repair activities, along with certification of compliance with this Administrative Order on Consent. All correspondence should be addressed to:

Ms. Mary Simmons
 Water Enforcement Branch (6EN-WR)
 EPA, Region 6
 1445 Ross Ave., Suite 1200
 Dallas, TX 75202-2733

Mr. Dan Parrish, Director
 Agricultural Environmental Management
 Services (AEMS)
 Oklahoma Department of Agriculture,
 Food and Forestry
 2800 North Lincoln Blvd.
 Oklahoma City, OK 73105-4298

GENERAL PROVISIONS

This Administrative Order on Consent is effective upon the signatures of representatives of the Respondent and the EPA. This Administrative Order on Consent will remain in effect until all the action items listed within have been completed and no later than within the timeframes set forth.

Respondent waives any and all claims for relief and otherwise available rights or remedies to judicial or administrative review which the Respondent may have with respect to any issue of fact or law set forth in this Administrative Order on Consent, including, but not limited to, any right of judicial review of the Section 309(a)(3) Compliance Order on Consent under the Administrative Procedure Act, 5 U.S.C. §§ 701-706.

Issuance of this Section 309(a)(3) Compliance Order and the Section 308 Information Demand shall not be deemed an election by EPA to waive any administrative or judicial, civil, or criminal action to seek penalties, fines, or other relief under the Act for the violations cited herein, or other violations that become known to EPA. EPA reserves the right to seek any remedy available under the law that it deems appropriate.

Failure to comply with this Section 309(a)(3) Compliance Order, or the Section 308 Information Demand, or the Act can result in further administrative action, or a civil judicial action initiated by the United States Department of Justice.

Compliance with the terms and conditions of this Administrative Order on Consent does not relieve the Respondent of its obligation to comply with all applicable federal, state, or local laws or regulations.

This Administrative Order on Consent constitutes final agency action.

Date	T Bar M Ranch

Date	John Blevins Director Compliance Assurance and Enforcement Division

T Bar M Ranch

6992 State Road 78 - Hendrix, OK - 74741 - Ph: 580-916-6383

April 9, 2013

Ms Ellen Chang Vaughan
Assistant Regional Counsel
U.S. Environmental Protection Agency Region 6
Office of Regional Counsel (6RC-EW)
1445 Ross Ave. Suite 1200
Dallas, TX 75202-2733

Re: Administrative Order Docket Number: CWA-06-2012-1878
NPDES General Permit OKGO-10337

Dear Ms Chang Vaughan:

This letter is to provide a schedule of action items to repair the sloughing of Lagoon #4, at the T Bar M Ranch Dairy located in Bryan County, Oklahoma. These items were outlined on a conference call that took place on February 8, 2013.

Site Inspection: CRA

Conestoga Rovers and Associates did the engineered drawings of the lagoon #4. They did a site visit on February 11, 2013. A conference call was held on February 20, following the site to discuss why there may have caused the sloughing and their input on the lagoon.

Field Soil Sampling: Bryan County Extension

T Bar M Ranch owned and operated field will be used for the Lagoon #3 application through Durk's Farm Service. The initial fields targeted will be "virgin" fields that have never had any commercial or natural fertilizer since our ownership in 2008. These will be soil sampled on March 7, as we have done annually and submitted to ODAFF for approval prior to application.

ARI owned and operated fields have had their annual soil sampling done and we wait for the results for their annual submission and approval through ODAFF. These fields will be used for the Lagoon #4 effluent and if during repair Lagoon#3 would need water removed to maintain adequate levels for construction safety.

EQIP Funding – 2012/2013

We had been approved for EQIP funding in 2012 to make improvements to the sand separation area of the dairy. Due to the lagoon repair, we have had to put this project on hold. It is not possible to adjust the EQIP 2012, but we had applied for EQIP 2013 funding and have adjusted the application to make it for lagoon repair. Today, February 21, I had the Regional NRCS Engineer and the Bryan County Conservationist out to review the lagoon area and see if there other options to assist with the repair of the lagoon.

Our target completion date for the entire project is September 1, 2013. As the project moves forward we will keep everyone posted of our progress. We appreciate your consideration for an extension of this repair project.

Sincerely,

Tami A. Tollenaar

Cc: Jeremy Seiger, EPA
Carl Wills, EPA
Dan Parrish, ODAFF