



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 6

1445 ROSS AVENUE, SUITE 1200
DALLAS, TEXAS 75202-2733

JUN 27 2013

CERTIFIED MAIL—RETURN RECEIPT REQUESTED: 7011 3500 0000 0359 9748

Mr. Todd Walters
VP of Operations
Cal-Maine Foods, Inc.-Complex II
748 County Road 422
Waelder, TX 78959

Re: Administrative Order, Docket Number: CWA-06-2013-1794
NPDES Permit Number: TXG921056

Dear Mr. Walters:

Enclosed is an Administrative Order (AO) issued to Cal-Maine Foods, Inc., for violation of the Clean Water Act (CWA) (33 U.S.C. § 1251 et seq.). Violations were identified during an inspection of your Complex II egg-laying facility, conducted by the Environmental Protection Agency (EPA) on January 15 and 16, 2013. The violations alleged include, but are not limited to, failure to follow specific design criteria for the poultry barn flush system.

This AO does not assess a monetary penalty; however, it does require compliance with applicable federal regulations. The first compliance deadline is within thirty days of receipt of this AO. The AO also contains other compliance deadlines and information demands. 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-06-2013-1794 and NPDES Permit TXG921056 on your response.

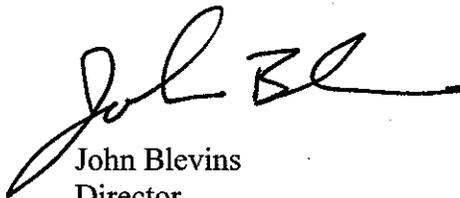
Also enclosed is an "Information Sheet" related to the Small Business Regulatory Enforcement Fairness Act and a "Notice of Registrant's Duty to Disclose" relating to the disclosure of environmental legal proceedings to the Securities and Exchange Commission, that you may find useful.

Re: Administrative Order
Cal-Maine Foods, Inc.-Complex II

2

If you have any questions, please contact Mr. Jeremy Seiger, of my staff,
at (214) 665-6498.

Sincerely,

A handwritten signature in black ink, appearing to read "John Blevins". The signature is fluid and cursive, with a long horizontal stroke at the end.

John Blevins
Director
Compliance Assurance and
Enforcement Division

Enclosure

cc: Ms. Susan Johnson, Manager
Enforcement Section I (MC169)
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, TX 78711-3087



U.S. ENVIRONMENTAL PROTECTION AGENCY - REGION 6
FINDINGS OF VIOLATION AND COMPLIANCE ORDER
In the Matter of Cal-Maine Foods, Inc., Respondent
Docket No. CWA-06-2013-1794; TPDES Permit No. TXG921056

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 delegated the authority to issue this Order to the Regional Administrator of EPA Region 6, who further delegated such authority to the Director of the Compliance Assurance and Enforcement Division.

FINDINGS

1. Cal-Maine Foods, Inc. ("Respondent") is a company incorporated under the laws of the State of Delaware, and is therefore, a "person," as defined by Section 502(5) of the Act, 33 U.S.C. § 1362(5), and 40 C.F.R. § 122.2.
2. At all times relevant to the violation alleged herein ("relevant time period"), Respondent operated the Complex II egg-laying production facility, located at 748 County Road 422, Waelder, Gonzales County, Texas ("facility"). The facility is a Concentrated Animal Feeding Operation ("CAFO") as identified by Section 502(14) of the Act, 33 U.S.C. § 1362(14) and 40 C.F.R. § 122.23(b)(3).
3. At all times relevant to this Order, the facility acted as a "point source" of a "discharge" of pollutant[s]" to an unnamed tributary of Elm Creek that is a water in the state. As a result, the Respondent and the facility were subject to the Texas Pollutant Discharge Elimination System ("TPDES") permit.
4. Respondent applied for and was issued a permit by the Texas Commission on Environmental Quality ("TCEQ") and was assigned CAFO general permit number TXG921056, which became effective on May 14, 2008. The National Pollutant Discharge Elimination System ("NPDES") program was delegated to TCEQ in 1998 and included the CAFO program. Pursuant to Section 402 of the Act, 33 U.S.C. § 1342, EPA may authorize a state to administer the NPDES permitting and enforcement program.
5. When a state is authorized to administer an NPDES permit program pursuant to Section 402(b) of the Act, 33 U.S.C. § 1342(b), the Administrator retains the authority, concurrent with the authorized state, to enforce state-issued permits and to take enforcement action under Section 309(a) and (b) of the Act, 33 U.S.C. §§ 1319(a) and (b). According to Section 26.001(10) of the Texas Water Code ("TWC"), "Agricultural Waste" means "waterborne liquid, gaseous, or solid substances that arise from the agricultural industry and agricultural activities, including without limitation agricultural animal feeding pens and lots, structures for housing and feeding agricultural animals and processing facilities for agricultural products."
6. According to Section 26.001(21) of the TWC, "point source" includes any "concentrated animal feeding operation . . . from which pollutants or waste are or may be discharged into or adjacent to any water in the state."
7. According to Section 26.001(2) of the TWC, "to discharge" includes "to deposit, conduct, drain, emit, throw, run, allow to seep, or otherwise release or dispose of, or to allow, permit, or suffer any of these acts or omissions."
8. According to Section 26.001(13) of the TWC, "pollutant" includes "agricultural waste discharged into any water in the state."
9. On January 15 and 16, 2013, EPA conducted a compliance evaluation inspection of the facility and observed the following:
 - a) During the inspection, EPA inspectors were informed that the facility had a discharge from one of the poultry houses the week before. Facility representatives stated that, during the flushing process from one of the poultry houses, the effluent/litter transfer pipe to the lagoon pit became clogged with feathers, which resulted in effluent backing up in the piping and discharging from the poultry barn out onto the ground. The effluent flowed east, across approximately 1,000 feet of ground surface and then south, approximately 1,000 feet into an unnamed tributary to Elm Creek.
 - b) Part III.A.1(a)(2) of the CAFO general permit requires that the permittee develop a Pollution Prevention Plan that shall "include measures

necessary to limit discharges of pollutants to surface water in the state.”

- c) Part III.A.10.a of the Permit requires CAFOs that are designed with flush/scrape systems to be flushed/scraped in accordance with design criteria.

The facility was not in compliance with these requirements of the TCEQ CAFO general permit.

10. Each violation of the conditions of the permit or regulations described above is a violation of Section 301 of the Act, 33 U.S.C. § 1311.

SECTION 309(a)(3) COMPLIANCE ORDER

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

- a) Within thirty (30) days of the receipt of this Order, prepare a pollution prevention plan (“PPP”) element to establish proper flushing procedures which will ensure that flushing procedures will be followed to limit the likelihood of future discharges from the facility production area during the barn flushing process.

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) Within forty-five (45) days of receipt of this Order, Respondent shall submit to EPA and TCEQ a copy of the PPP element and a training/implementation plan showing that specific corrective procedures have been implemented.

GENERAL PROVISIONS

Respondent may seek federal judicial review of the Order pursuant to Chapter 7 of the Administrative Procedure Act, 5 U.S.C. §§ 701-706. Section 706, set forth at <http://uscode.house.gov/download/pls/05C7.txt>, states the scope of such review.

Issuance of this Section 309(a)(3) Compliance Order and 308 Information Demand shall not be deemed an election by EPA to waive any administrative, judicial, civil, or criminal action to seek penalties, fines, or other relief under the Act for the violation alleged herein or other violations which may become known to EPA.

EPA reserves the right to seek any remedy available under the law which it deems appropriate.

Failure to comply with this Section 309(a)(3) Compliance Order, Section 308 Information Demand, or the Act may result in the initiation of an administrative penalty action by EPA or a civil judicial penalty action by the U.S. Department of Justice.

Compliance with this Order does not relieve Respondent of its obligation to comply with all applicable federal, state, and local laws.

The effective date of this Order is the date it is received by the Respondent.

6.27.13

Date



John Blevins

Director

Compliance Assurance and
Enforcement Division