



U.S. ENVIRONMENTAL PROTECTION AGENCY - REGION 6  
FINDINGS OF VIOLATION AND COMPLIANCE ORDER

In the Matter of Jeff Scheiber  
d/b/a Newkirk Livestock Auction, Respondent  
Docket No. CWA-06-2012-1797  
Facility Number OKU000755

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 Section 309(a) of the Clean Water Act (Act), 33 U.S.C. § 1319(a). The Administrator has 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. Jeff Scheiber ("Respondent") is an individual doing business as Newkirk Livestock Auction, and as such 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.
2. At all times relevant to the violation alleged herein ("relevant time period"), Respondent operated a livestock auction facility, located on east First Street which is north of Newkirk, on Highway 77, Kay County, Oklahoma ("facility"). The facility is a Concentrated Animal Feeding Operation ("CAFO") as defined and identified by Section 502(14) of the Act, 33 U.S.C. § 1362(14), and assigned facility number OKU000755.
3. The facility's animal waste holding pond acts as "point source," as defined by Section 502(14) of the Act, 33 U.S.C. § 1362(14).
4. It was unlawful under Section 301(a) of the Act, 33 U.S.C. § 1311(a), for any person to discharge a pollutant from a point source to waters of the United States without a permit issued under Section 402 of the Act, 33 U.S.C. § 1342.

5. On January 27, 2012, an Oklahoma Department of Agriculture, Food, and Forestry "ODAFF" inspector conducted an on-site investigation of the facility, and observed the following violation:

- a) Section 301 of the Act, 33 U.S.C. § 1311, was violated in that Respondent caused or allowed an unauthorized discharge of pollutants from the Newkirk Livestock Auction holding pond to a water of the United States.

The facility's holding pond was overflowing with animal waste on 1/26/2012 and on 1/27/12. The flow path of the animal waste is northwest from the auction along the railroad tracks right of way to a culvert under the railroad tracks and through the culvert to the west. The contaminated storm water runoff flowed westward to an unnamed tributary, then to Spring Creek, then to Bois d' Arc Creek, and the Arkansas River, which is considered a water of the U.S. Additional rainfall events will result in more unauthorized discharges unless the facility's holding pond is corrected.

ORDER

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

- a) immediately cease and desist all discharges of pollutants from the facility's holding pond;
- b) within thirty (30) days of the receipt of this Order, Respondent shall submit to EPA and ODAFF a certified summary, including photographs, to document that the discharge has been stopped.

## GENERAL PROVISIONS

Issuance of this Order 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 Order 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.

**FEB 15 2012**

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Date



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John Blevins  
Director  
Compliance Assurance  
and Enforcement Division