



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

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

DEC 13 2011

CERTIFIED MAIL - RETURN RECEIPT REQUESTED: (7005 1820 0003 7453 9653)

Mr. Michael Cox
Arkansas Egg, Company, LLC - Summers Farm
24185 Mill Road
Summers, AR 72769-9796

Re: Administrative Order, Docket Number: CWA-06-2011-1911
ADEQ Permit Number: 3136-WG-AW-2

Dear Mr. Cox:

Enclosed is an Administrative Order (AO) issued to Arkansas Egg, Company, LLC, for violation of the Clean Water Act (CWA), (33 U.S.C. § 1311). The violation was identified during an inspection of your chicken egg-layer facility, conducted by the Environmental Protection Agency (EPA) on April 8, 2011. EPA inspectors noted that the facility's waste lagoon was filled to capacity with liquids and solids. The violation alleged is for failure to empty the waste lagoon as required by the facility's state-approved closure plan.

The AO does not assess a monetary penalty; however, it does require compliance with applicable federal regulations. The EPA is committed to ensuring compliance with the requirements of the National Pollutant Discharge Elimination System program, as administered by the Arkansas Department of Environmental Quality (ADEQ), and my staff will assist you in any way possible. Please reference AO Docket Number CWA-06-2011-1911 and ADEQ Permit Number 3136-WG-AW-2 in your response.

Please also find enclosed 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 Security and Exchange Commission.

If you have any questions regarding the AO, please contact Dennis Falk, of my staff, at (214) 665-8340.

Sincerely,

A handwritten signature in black ink, appearing to read "John Blevins".

John Blevins
Director
Compliance Assurance and
Enforcement Division

Enclosures

Re: Administrative Order 2
Arkansas Egg Company, LLC – Summers Farm

cc: Steve Drown
Chief, Water Division
Arkansas Department of Environmental Quality
5301 Northshore Dr.
North Little Rock, AR 72118-5317

U. S. ENVIRONMENTAL PROTECTION AGENCY-REGION 6
FINDINGS OF VIOLATION AND COMPLIANCE ORDER
In the Matter of Arkansas Egg, LLC, Respondent
Docket No. CWA-06-2011-1911; ADEQ Permit No. 3136-WG-AW-2

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 ("the Act"), 33 U.S.C. § 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. The Respondent, Arkansas Egg Company, Inc. ("Arkansas Egg Co.") is a "person," as defined by Section 502(5) of the Act, 33 U.S.C. § 1362(5).

2. At all times relevant to the violation alleged herein, Respondent operated Summers Farm, a chicken egg-layer facility located in Section 6, Township 15 North, Range 33 West, in Summers, Washington County, Arkansas ("facility"). The facility is designated as a Concentrated Animal Feeding Operation ("CAFO") with the Arkansas Department of Environmental Quality ("ADEQ"), and assigned permit number 3136-WG- AW-2 ("permit").

3. On April 15, 2008, at the request of Arkansas Egg Co., the United States Department of Agriculture's Natural Resources Conservation Service ("USDA-NRCS") provided a closure plan, Closure Plan CSN 72-0231, to Arkansas Egg Co. for its Summers Caged Layer Farm. In providing this closure plan, USDA-NRCS required, among other things, the Arkansas Egg Co. to (1) send copies of the closure plan to ADEQ along with a letter expressing intention to close the facility and cease operations until further notice; and (2) have USDA-NRCS do a final inspection to complete the closure plan when the facility was to be closed. USDA-NRCS further specified that as a part of closure, the holding ponds ("lagoons") would remain without the presence of any animal waste and would be converted to fresh water ponds.

4. On May 22, 2008, ADEQ received a closure plan from Arkansas Egg Co., CSN 72-0231, proposing to close its Summers Cage Layer Operation at the facility. As part of this plan, Arkansas Egg Co. expressed intent to convert the operation to organic egg production. As a result of the conversion, Arkansas Egg Co. would remove waste from in-house storage pits and place it into lagoons, which were to be

subsequently emptied in accordance with the closure plan. Once the lagoons were emptied, and the contents disposed of in accordance with the closure plan, the closure plan states that they would be converted to freshwater ponds and USDA-NRCS would provide certification to Arkansas Egg Co. that the lagoons were completely cleaned out.

5. On July 3, 2008, ADEQ notified Respondent that the closure plan for the waste management system at the facility had been reviewed and approved. As specified in the closure plan, all liquids and solids must be removed from the in-house storage pits and lagoons and applied only to the land application sites approved for this facility. Respondent was ordered to adhere to the conditions of its State Water Permit and Waste Management Plan regarding the land application of waste from this facility. Application records were required for all waste that was land-applied.

6. On January 7, 2009, EPA issued Administrative Order ("AO") Docket Number CWA-06-2009-1758 and ordered, among other things, that Respondent provide to EPA copies of the animal waste lagoon's original liner certification and subsequent 5-year liner re-certifications. Respondent was also ordered to address the seepage problem from the lagoon and to submit a plan of action to EPA with written timelines and work plans for addressing the seepage problem.

7. EPA never received from Arkansas Egg Co. a plan of action or other assurance that Arkansas Egg Co. had addressed the seepage problem as required by the January 7, 2009 AO.

8. On April 8, 2011, EPA conducted an inspection of the facility and noted that the lagoon was still full of liquids and solids. The lagoon had not been emptied as specified in Respondent's state-approved closure plan.

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. Within thirty (30) days of the effective date of this Order, the Respondent shall provide the following information to EPA Region 6:

1. a copy of the USDA-NRCS closure certificate verifying that the waste management system has been properly closed;
2. copies of all records indicating that the waste was disposed of according to the approved closure plan and that the in-house storage pits and lagoons have been converted into freshwater ponds as set out in the approved closure plan;
3. a copy of the notification to ADEQ Permits Branch asserting that closure is complete and requesting that the permit be voided due to the completion of the closure process;
4. a copy of any current permit(s) for your facility issued by ADEQ;
5. copies of the lagoon's original liner certification and subsequent 5-year liner re-certifications, as previously requested in EPA AO Docket Number CWA-06-2009-1758;
6. records indicating that the seepage of the lagoon was addressed and has ceased including, but not limited to, a copy of the plan of action for addressing the seepage problem, which was previously requested in EPA AO Docket Number CWA-06-2009-1758; and
7. a description of the current state of the in-house storage pits, the lagoons, and your operations at the facility including, but not limited to, your current use of the lagoons.

Respondent shall provide certification to EPA Region 6, that these activities have been completed.

B. Any written report sent to EPA in accordance with this Order shall include the following statement:

I certify under the penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system or those persons directly responsible for gathering the information, I certify that the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of a fine and imprisonment for knowing violations.

C. If Respondent would like to arrange a meeting with EPA to discuss the allegations in this Order, it should contact EPA within forty-five (45) days of the effective date of this Order. The meeting will be held at the Region 6 offices, 1445 Ross Ave., Dallas, Texas, and the Respondent can provide any

information it believes is relevant to this Order. Respondent shall submit to EPA all information or materials it considers relevant to EPA at least ten (10) days prior to the meeting.

To arrange a meeting, to ask questions or comment on this matter, please contact Mr. Dennis Falk, of my staff, at (214) 665-8340.

D. Any information or correspondence submitted by the Respondent to EPA under this Order shall be addressed to the following:

Ms. Nancy Williams
Water Enforcement Branch (6EN-WC)
EPA, Region 6
1445 Ross Ave., Suite 1200
Dallas, TX 75202-2733

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.

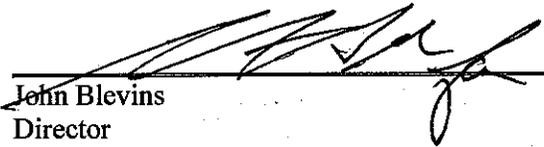
Failure to comply with this Order or the Act may result in the initiation of an administrative penalty action by EPA or a civil judicial penalty action by the U. S. Department of Justice.

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.

12/13/11

Date


John Blevins
Director

Compliance Assurance and
Enforcement Division