



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

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

MAR 22 2012

CERTIFIED MAIL-RETURN RECEIPT REQUESTED: 7005 1820 0003 7453 8649

Mr. Michael Cox  
d/b/a Arkansas Egg, LLC  
24185 Mill Rd.  
Summers, AR 72769-9796

Re: Administrative Order  
Docket Number: CWA-06-2012-1817  
Permit Number: 3136-WQ-AW-2

Dear Mr. Cox:

Enclosed is an Administrative Order (AO) issued to Michael Cox, d/b/a Arkansas Egg, LLC, for violation of the Clean Water Act (CWA), (33 U.S.C. § 1251 *et seq.*). The violation was identified during our March 2, 2012 inspection of your egg-layer facility located in Prairie Grove, Arkansas. The violation alleged is for an unauthorized discharge of pollutants to waters of the United States.

Effective upon receipt of this AO, you shall immediately cease and desist all discharges of pollutants into an unnamed tributary that flows into waters of the United States and comply with all provisions set forth in the enclosed AO. The EPA is committed to ensuring compliance with the requirements of the CWA and my staff will assist you in any way possible.

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

Sincerely,

  
John Blevins  
Director  
Compliance Assurance and  
Enforcement Division

Enclosure

cc: Steve Drown, Chief  
Water Division  
ADEQ



U.S. ENVIRONMENTAL PROTECTION AGENCY - REGION 6  
FINDINGS OF VIOLATION AND COMPLIANCE ORDER  
In the Matter of Arkansas Egg Company, Inc. (Respondent)  
Docket No. CWA-06-2012-1817; 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 Sections 308 and 309(a) of the Clean Water Act ("Act"), 33 U.S.C. §§ 1318 and 1319(a). The Administrator has delegated the authority to issue this Order to the Regional Administrator of EPA Region 6, who has further delegated such authority to the Director of the Compliance Assurance and Enforcement Division.

FINDINGS

1. Respondent, Arkansas Egg Company, Inc., 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, Respondent operated Summers Farm, a chicken egg-layer facility located in Section 6, Township 15 North, Range 33 West, in 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. The facility's operating procedures are such that egg wash wastewater is piped directly from the layer house into the facility's wastewater retention structure, a receiving truck known in the industry as a "honey wagon."

4. The honey wagon is located near a manmade ditch present on the property adjacent to the facility, and the manmade ditch connects to an unnamed tributary.

5. The facility's honey wagon is a "point source" as defined by Section 502(14) of the Act, 33 U.S.C. § 1362(14), and 40 C.F.R. § 122.2.

6. The egg wash wastewater generated at the facility is a "pollutant," as defined by Section 502(6) of the Act, 33 U.S.C. § 1362(6), and 40 C.F.R. § 122.2.

7. The facility is located near the Illinois River, and the Illinois River is a "navigable water," as defined Section 502(7) of the Act, 33 U.S.C. § 1362(7).

8. The facility's permit does not authorize the discharge of egg wash wastewater into the Illinois River.

9. It is 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.

10. On March 2, 2012, the EPA conducted an on-site investigation of the facility and observed the following violation: The drain valve for the honey wagon was left open and was discharging egg wash wastewater directly into a manmade ditch. The flow path of the egg wash wastewater was southward within the manmade ditch into an unnamed tributary. The egg wash wastewater continued to flow west in this tributary into Ballard Creek, which flows north and west into the Illinois River.

11. Section 301 of the Act, 33 U.S.C. § 1311 was violated in that the Respondent caused or allowed an unauthorized discharge of pollutants from the facility's honey wagon to a water of the United States.

ORDER

Based on these findings and pursuant to the authority of Sections 308 and 309(a) of the Act, 33 U.S.C. §§ 1318 and 1319(a), EPA orders that Respondent take the following actions upon receipt of this Order:

A. Upon receipt of the AO, Respondent shall immediately cease and desist all discharges of pollutants from the facility's animal waste transfer piping system.

B. Respondent shall devise a permanent solution to fix the facility's waste transfer piping system to avoid future leaks or discharges from the honey wagon's discharge pipe.

C. Within thirty (30) days of the receipt of this Order, Respondent shall submit in writing to EPA a certified summary, including photographs, to document the plugging of the honey wagon discharge pipe, or any other action or solution that Respondent has implemented to prevent further discharges of pollutants from the honey wagon to the manmade ditch. In such summary, Respondent shall certify that the discharges described in this Order's findings have 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.

3-22-12

\_\_\_\_\_  
Date

  
\_\_\_\_\_  
John Blevins

Director

Compliance Assurance and  
Enforcement Division