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**U.S. EPA REGION 7
HEARING CLERK**

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 7
11201 RENNER BOULEVARD
LENEXA, KANSAS 66219**

BEFORE THE ADMINISTRATOR

In the Matter of

Two Rivers Cattle Feeders, Inc.

Respondent

Proceedings under Section 309(a)(3) of
the Clean Water Act, 33 U.S.C.
§ 1319(a)(3)

)
) Docket No. CWA-07-2025-0237

)
) ADMINISTRATIVE ORDER FOR
) COMPLIANCE ON CONSENT

1. This Administrative Order on Consent (“Order”) is issued pursuant to the authority vested in the U.S. Environmental Protection Agency (“EPA”) by Section 309(a)(3) of the Clean Water Act (“CWA”), 33 U.S.C. §§ 1319(a)(3), to Respondent Two Rivers Cattle Feeders, Inc. (“Respondent”). This authority has been delegated by the Administrator of the United States Environmental Protection Agency (“EPA”) to the Regional Administrator, EPA Region 7 and further delegated to the Director of Region 7’s Enforcement and Compliance Assurance Division, with concurrence of the Regional Counsel.

2. Respondent is a corporation chartered under the laws of the state of Missouri.

3. The EPA issues this Section 309(a)(3) Order for the purpose of carrying out the objective of the CWA, 33 U.S.C. § 1251 *et seq.*, to “restore and maintain the chemical, physical, and biological integrity of the Nation’s waters.”

4. It is the parties’ intent through entering into this Order to address Respondent’s alleged noncompliance with the CWA. As set forth in this Order on Consent, the parties have amicably reached agreement regarding the timeframes for Respondent to attain compliance with the CWA.

5. By entering into this Order, Respondent (1) consents to and agrees not to contest the EPA’s authority or jurisdiction to issue and enforce this Order, (2) agrees to undertake all actions required by the terms and conditions of this Order, and (3) consents to be bound by the requirements set forth herein. Respondent neither admits nor denies the specific factual or legal allegations in this Order, except that Respondent admits the jurisdictional allegations herein. Respondent waives any and all remedies, claims for relief, and otherwise available rights to judicial or administrative review that Respondent may have with respect to any issue of fact or law set forth in this Order on Consent, including any right of judicial review under Chapter 7 of the Administrative Procedure Act, 5 U.S.C. §§ 701–706

Statutory and Regulatory Framework

6. Section 301(a) of the CWA, 33 U.S.C. § 1311(a), prohibits the discharge of pollutants except in compliance with, inter alia, Section 402 of the CWA, 33 U.S.C. § 1342. Section 402 of the CWA, 33 U.S.C. § 1342, provides that pollutants may be discharged only in accordance with the terms of a National Pollutant Discharge Elimination System (“NPDES”) permit issued pursuant to that Section.

7. The CWA prohibits the discharge of “pollutants” from a “point source” into a “navigable water” of the United States, as these terms are defined by Section 502 of the CWA, 33 U.S.C. § 1362.

8. Section 502(7) of the CWA, 33 U.S.C. § 1362(7), defines “navigable waters” as the “waters of the United States.”

9. To implement Section 402 of the CWA, the EPA promulgated regulations codified at 40 C.F.R. Part 122. Under 40 C.F.R. Part 122.1, an NPDES permit is required for the discharge of pollutants from any point source into waters of the United States.

10. The Missouri Department of Natural Resources (“MDNR”) is the state agency in Missouri with the authority to administer the federal NPDES program, pursuant to Section 402 of the CWA and applicable implementing regulations.

11. Pursuant to Section 402(i) of the CWA, 33 U.S.C. § 1342(i), the EPA retains concurrent enforcement authority with authorized states for violations of the CWA.

Allegations of Fact and Conclusions of Law

12. Respondent is and was at all relevant times a corporation and is therefore a person within the meaning of Section 502(5) of the CWA, 33 U.S.C. § 1362(5).

13. Respondent owns and/or operates a concentrated animal feeding operation on a property located at 23551 Highway 11, Triplett, Missouri 65286 (the “Facility”).

14. On March 19, 2024, EPA personnel conducted a compliance evaluation inspection (“2024 Inspection”) of the Facility.

15. During the 2024 Inspection, the EPA’s inspector observed that process wastewater in Lagoons A through B/C had approximately zero feet of freeboard. The EPA inspector observed that process wastewater was overflowing from the lagoons into the secondary containment structure.

16. During the 2024 Inspection, the EPA inspector observed that there was approximately two and a half feet of freeboard in the secondary containment structure.

17. The EPA sent a copy of the inspection report to Respondent on May 1, 2024.

18. The Facility is an animal feeding operation (“AFO”) as defined by 40 C.F.R. § 122.23(b)(1) because (i) it stables, confines, feeds, or maintains cattle for a total of 45 days or more in any 12-month period and (ii) “[c]rops, vegetation, forage growth, or post-harvest residues are not sustained in the normal growing season over any portion of the [Facility].”

19. At the times relevant to this action, the Facility confined greater than 1,000 head of cattle.

20. The Facility is a large Concentrated Animal Feeding Operation (“CAFO”) as that term is defined in 40 C.F.R. § 122.23(b)(4), and a point source as that phrase is used in Section 502(14) of the CWA, 33 U.S.C. § 1362(14), because the number of cattle other than mature dairy cows or veal calves confined and fed at the Facility is greater than 999 head.

21. On May 1, 2025, the EPA conducted sampling inspection (“Sampling Inspection”) at the Facility. The EPA sampled discharges from the Facility at multiple locations. The EPA sampled unnamed tributaries of Salt Creek receiving discharge and Salt Creek itself. Sampling documented the presence of feedlot-related pollutants in Salt Creek.

22. Inspectors observed during the Sampling Inspection that discharge from the Facility flow approximately 0.75 miles to Salt Creek. Salt Creek is a perennial stream with year-round flow.

23. Salt Creek is relatively permanent water that flows approximately seven miles to the Grand River, a traditionally navigable water.

24. Salt Creek is a navigable water pursuant to CWA Section 502(7), 33 U.S.C. § 1362(7.)

25. Respondent does not and, at all relevant times, did not have an NPDES permit authorizing discharges of pollutants from the Facility.

26. Discharges of process wastewater from the Facility to Salt Creek constitute unauthorized discharges of pollutants from a point source to waters of the United States in violation of Section 301 of the CWA, 33 U.S.C. § 1311, and its implementing regulations.

Findings of Violation

27. The facts and allegations stated above are herein incorporated.

28. Respondent discharged pollutants from a point source into a navigable water of the United States as described herein.

29. Respondent’s unauthorized discharge of pollutants from a point source to waters of the United States is a violation of Section 301 of the CWA, 33 U.S.C. § 1311.

Order for Compliance on Consent

30. Based on the Findings of Fact and Conclusions of Law set forth above, and pursuant to 309(a)(3) of the CWA, 33 U.S.C. § 1319(a)(3), the EPA hereby orders the Respondent, and the Respondent hereby agrees, to take the actions described below.

31. Respondent shall immediately cease all discharges of manure, litter, or process wastewater from the Facility to waters of the United States and comply with all requirements of the CWA.

32. Within fifteen (15) days of the effective date of this Order, Respondent shall submit to the EPA an Interim Measures Plan informing the EPA the actions Respondent is taking to immediately cease and prevent future discharges at the Facility. The Plan shall also include a schedule for implementation of the interim measures subject to EPA approval. The interim measures shall remain in place and operated until Respondent's Facility is operated in a manner that complies with the CWA and an NPDES permit. The Interim Measure Plan, among other actions, shall include the following:

a. Respondent shall ensure that adequate freeboard, the distance between the liquid level and top of the storage structure, is maintained in all liquid waste storage structures to protect their integrity and prevent discharge to waters of the United States. Furthermore, Respondent shall properly operate and maintain all storage structures at the Facility.

b. On an ongoing basis, Respondent shall remove wastewater from storage structures on days suitable for land application. Land application activities shall be conducted in a manner that prevents the discharge of feedlot related waste from the Facility to waters of the United States. Respondent shall not apply liquid livestock wastes during a precipitation event, apply in quantities above agronomic rates or apply when the ground is saturated.

33. Respondent shall apply for an NPDES permit for the Facility within thirty (30) days of the effective date of this Order. Upon issuance of the NPDES Permit, Respondent shall comply with all terms contained therein, including terms related to the construction, maintenance and operation of livestock waste controls.

34. Respondent shall contact the EPA in the event of any spill, overflow or discharge from the facility as soon as practicable but no more than 24 hours after the discovery of the discharge. Respondent shall provide the date, time, cause, duration, and approximate volume of the discharge.

35. Commencing upon the effective date of this Order and continuing for one year, respondent shall maintain operational records of all lagoon, secondary containment and confinement barn waste levels. Levels shall be documented at a minimum of weekly and daily when adequate freeboard is exceeded. Additionally, the facility shall maintain records of weekly visual inspections of all waste control structures, soil conditions, precipitation and land application activity. Respondent shall submit copies of these records to the EPA for each calendar month by the 10th day of the following month.

36. Beginning thirty (30) days after receipt of this Order and continuing monthly until Respondent submits documentation signed by a professional engineer certifying the structural integrity of the secondary containment basin or a Notice of Construction Completion to the EPA, Respondent shall submit written progress reports to the EPA on the evaluation, construction and/or rehabilitation of the secondary containment at the Facility. The monthly reports shall

describe the related activities that occurred at the Facility during the reporting period, evaluation, construction and related activities anticipated during the upcoming reporting period, any problems encountered or anticipated, and how these problems were/will be addressed.

37. Within fifteen (15) days of the effective date of this Order, Respondent shall inform the EPA, in writing, of all actions that Respondent has taken to comply with the CWA and the terms of this Order.

38. Commencing upon the Effective Date of this Order and until its termination, Respondent shall submit written progress reports to EPA on a quarterly basis.. These reports must describe all significant developments during the preceding reporting period, including the actions performed and any problems encountered, analytical data received during the reporting period, and the developments anticipated during the next reporting period, including a schedule of actions to be performed, anticipated problems, and planned resolutions of past or anticipated problems.

Submittals

39. All submittals to EPA that are required of Respondent by this Order shall, where possible, be made by electronic submission to *Leibowitz.Zachary@epa.gov*.

Zachary Leibowitz
U.S. Environmental Protection Agency – Region 7
Enforcement and Compliance Assurance Division
11201 Renner Boulevard
Lenexa, Kansas 66219

40. Electronic submissions to the EPA will be deemed submitted on the date they are transmitted electronically. Any report, notification, certification, or other communication that cannot be submitted electronically shall be submitted in hard-copy to the mailing addresses provided above.

41. All submissions to the EPA pursuant to the requirements of this Order shall contain the following certification signed by an authorized official, as described in 40 C.F.R. 122.22:

I certify that Two Rivers Cattle Feeders, Inc. has complied with all the applicable requirements of the Order for Compliance. I also certify under 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, 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 fine and imprisonment for knowing violations.

General Provisions

Effect of Compliance with the Terms of this Order for Compliance

42. Compliance with the terms of this Order shall not relieve Respondent of liability for, or preclude EPA from, initiating an administrative or judicial enforcement action to recover penalties for any violations of the CWA, or to seek additional injunctive relief, pursuant to Section 309 of the CWA, 33 U.S.C. § 1319.

43. This Order does not constitute a waiver or a modification of any requirements of the CWA, 33 U.S.C. § 1251 *et seq.*, all of which remain in full force and effect. EPA retains the right to seek any and all remedies available under Sections 309(b), (c), (d), or (g) of the CWA, 33 U.S.C. § 1319(b), (c), (d) or (g), for any violation cited in this Order. Issuance of this Order shall not be deemed an election by EPA to forgo any civil or criminal action to seek penalties, fines, or other appropriate relief under the CWA for any violation whatsoever.

44. This Order shall not constitute a permit under the CWA. Compliance with the terms of this Order shall not relieve Respondents of his responsibility to obtain any required local, state, and/or federal permits.

Access and Requests for Information

45. Nothing in this Order shall limit the EPA's right to obtain access to and/or to inspect the facility and/or to request additional information from Respondent pursuant to the authority of Section 308 of the CWA, 33 U.S.C. § 1318, and/or any other authority.

Effective Date

46. This Order shall be effective upon signature by the EPA. Any amendments shall become effective and enforceable on the date that the amendment is signed by all parties. Unless otherwise stated, all time periods stated herein shall be calculated in calendar days from the effective date.

Severability

47. If any provision or authority of the Order or the application of the Order to Respondent is held by federal judicial authority to be invalid, the remainder of this Order shall remain in full force and effect and shall not be affected by such a holding.

Modification

48. At the EPA's sole discretion, extensions of the compliance schedule/deadlines required by this Order may be made by the EPA by written notice to Respondent, without further formal amendment to the Order. The EPA will not unreasonably withhold consent for a requested extension. All other modifications to this Order may only be made by mutual agreement of the parties, pursuant to a written amendment signed by each party.

49. In the event of any such subsequent amendment to this Order, all requirements for performance of this Order not affected by the amendment shall remain as specified by the original Order.

Termination

50. This Order shall remain in effect until a written notice of termination is issued by an authorized representative of the EPA.

Signatories

51. The undersigned for each party has the authority to bind each respective party to the terms and conditions of this Order. This Order may be signed in part and counterpart by each party.

Electronic Service

52. Respondent consents to receiving service electronically at the following email address:
tworiverscattlefeeders@yahoo.com

For the U.S. Environmental Protection Agency, Region 7:

David Cozad
Director
Enforcement and Compliance Assurance Division

Adam Hilbert
Attorney/Advisor
Office of Regional Counsel

For Respondent:

Two Rivers Cattle Feeders, Inc.

10/6/25
Date

Chad Duncan
Name

owner
Position


Signature

Certificate of Service

I certify that on the date noted below I delivered a true and correct copy of this Administrative Order for Compliance on Consent by electronic mail, to:

Regional Hearing Clerk:

U.S. Environmental Protection Agency Region 7
R7_Hearing_Clerk_Filings@epa.gov

For Complainant:

Adam Hilbert
Office of Regional Counsel
U.S. Environmental Protection Agency Region 7
Hilbert.adam@epa.gov

Zachary Leibowitz
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Carrie Venerable
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U.S. Environmental Protection Agency Region 7
Venerable.Carrie@epa.gov

For Respondent:

Chad Duncan
Two Rivers Cattle Feeders, Inc.
23551 Highway 11
Triplett, Missouri 65286
tworiverscattlefeeders@yahoo.com

Date

Signature