



Colorado Department of Public Health & Environment

EXPEDITED SETTLEMENT AGREEMENT

Number: EC-080619-2

The Colorado Department of Public Health and Environment (the "Department"), through the Water Quality Control Division (the "Division"), issues this Expedited Settlement Agreement ("ESA"), pursuant to the Division's authority under §§25-8-602 and 25-8-605, C.R.S. of the Colorado Water Quality Control Act (the "Act") §§25-8-101 to 703, C.R.S., and its implementing regulations, with the express consent of Contreras Feedlots, Inc. The Division and Contreras Farms, Inc. may be referred to collectively as "the Parties."

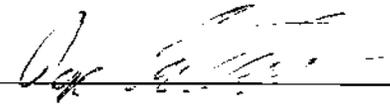
1. Contreras Farms, Inc. ("Contreras Farms") is a "person" as defined under the Water Quality Control Act, §25-8-103(13), C.R.S. and 5 CCR 1002-81, §81.3(20).
2. Contreras Farms operates a Concentrated Animal Feeding Operation ("CAFO") as defined by 5 CCR 1002-81, §81.3(4) in the vicinity of 30189 County Road 78, in Weld County, Colorado.
3. Pursuant to 5 CCR 1002-81, §81.5(2)(b), CAFO operators shall have available documentation prepared by a professional engineer, registered in Colorado, certifying that the impoundment liner provisions of 5 CCR 1002-81, §81.5(2) have been met, and stating what constitutes each constructed liner (e.g., synthetic, clay). For impoundments constructed prior to June 30, 2004, such documentation shall be available no later than April 13, 2006. (*See Attachment A*)
4. In documentation provided to the Department by Contreras Farms, dated January 8, 2008, Contreras Farms advised the Department that it did not have documentation prepared by a professional engineer certifying that the facility's impoundments meet the seepage rate standards of 5 CCR 1002-81, §81.5(2). Contreras Farms' failure to maintain such documentation constitutes violation(s) of 5 CCR 1002-81, §81.5(2). (*See Attachment B*)
5. Pursuant to 5 CCR 1002-81, §81.5(3), CAFO operators shall submit to the Division for approval, by no later than December 31, 2004, a Standard Operating Procedure ("SOP") that demonstrates how manure, including sludge, will be removed such that the liner integrity of impoundments is not damaged. The SOP also shall indicate the expected frequency with which manure will be removed from impoundments. (*See Attachment A*)
6. Department records establish that Contreras Farms has not submitted its impoundment SOP to the Division in violation of 5 CCR 1002-81, §81.5(3).
7. The parties enter into this ESA in order to outline an enforceable compliance schedule to resolve the violations identified herein and to resolve the matter of civil penalties associated with the alleged violations for a civil penalty in the amount of six thousand dollars (\$6,000.00).
8. Contreras Farms agrees to submit to the Department within two hundred and ten (210) calendar days of receipt of the final signed ESA documentation prepared by a professional engineer, registered in Colorado, certifying that the impoundment liner provisions of 5 CCR 1002-81, §81.5(2) have been met, and stating what constitutes each constructed liner (e.g., synthetic, clay). Contreras Farms further agrees to submit to the Department within two hundred and ten (210) calendar days of receipt of the final signed ESA a Standard Operating Procedure, developed in accordance with 5 CCR 1002-81, §81.5(3), that demonstrates how manure, including sludge, will be removed such that the liner integrity of its impoundments is not damaged. (*See Attachment C, SOP Examples*)
9. By accepting this ESA, Contreras Farms neither admits nor denies the violation specified herein.

10. Contreras Farms agrees to the terms and conditions of this ESA. Contreras Farms agrees that this ESA constitutes a notice of alleged violation and an order issued pursuant to §§25-8-602 and 25-8-605, C.R.S., and is an enforceable requirement of the Act. By signing the ESA, Contreras Farms waives: (1) the right to contest the finding(s) specified herein; and (2) the opportunity for a public hearing pursuant to §25-8-603, C.R.S.
11. This ESA is subject to the Division's "Public Notification of Administrative Enforcement Actions Policy," which includes a thirty-day public comment period. The Division and Contreras Farms each reserve the right to withdraw consent to this ESA if comments received during the thirty-day period result in any proposed modification to the ESA.
12. This ESA constitutes a final agency order or action upon the date when the Department's Executive Director or his designee signs the ESA and effectively imposes the civil penalty.
13. Nothing in this ESA shall preclude the Department from imposing additional requirements in the event that new information is discovered that indicates such requirements are necessary to protect human health or the environment.
14. Contreras Farms agrees that, within fifteen (15) calendar days of receiving the signed and final ESA from the Division, Contreras Farms shall submit a certified or cashier's check drawn to the order of the "Colorado Department of Public Health and Environment," for the civil penalty amount specified in paragraph 7 above, to:

Ms. Kelly Morgan
 Colorado Department of Public Health and Environment
 Water Quality Control Division
 Mail Code: WQCD-CADM-B2
 4300 Cherry Creek Drive South
 Denver, Colorado 80246-1530

15. Notwithstanding paragraph 9 above, the violations described in this ESA will constitute part of Contreras Farms' compliance history for purposes where such history is relevant. This includes considering the violations described above in assessing a penalty for any subsequent violations against Contreras Farms. Contreras Farms agrees not to challenge the use of the cited violations for any such purpose.
16. This ESA, when final, is binding upon Contreras Farms and its corporate subsidiaries or parents, their officers, directors, employees, successors in interest, and assigns. The undersigned warrant that they are authorized to legally bind their respective principals to this ESA.

ACCEPTED BY CONTRERAS FARMS, INC.:


 Signature _____ Date: 02/12/08
Jorge Contreras Title: owner
 Name (printed) _____

FOR THE COLORADO DEPARTMENT OF PUBLIC HEALTH & ENVIRONMENT:


 _____ Date: 06/19/08
 Lori M. Gerzina, Section Manager
 Compliance Assurance and Data Management Section
 WATER QUALITY CONTROL DIVISION

STATE OF COLORADO

Bill Ritter, Jr., Governor
Martha E. Rudolph, Executive Director

Dedicated to protecting and improving the health and environment of the people of Colorado

4300 Cherry Creek Dr. S. Laboratory Services Division
Denver, Colorado 80246-1530 8100 Lowry Blvd.
Phone (303) 692-2000 Denver, Colorado 80230-6928
TDD Line (303) 691-7700 (303) 692-3090
Located in Glendale, Colorado
<http://www.cdphs.state.co.us>



Colorado Department
of Public Health
and Environment

September 10, 2010

Jorge Contreras, Registered Agent
Contreras Farms, Inc.
30189 County Road 78
Eaton, Colorado 80615

RE: Compliance Schedule Extension #1/ Contreras Farms, Inc., Expedited Settlement Agreement Number EC-080619-2

Dear Mr. Contreras:

In a letter from AGPROfessionals on behalf of Contreras Farms, Inc. ("Contreras Farms") dated June 2, 2010, the Water Quality Control Division (the "Division") received a request to extend the compliance date required under paragraph 8 of the Expedited Settlement Agreement Number EC-080619-2 (the "ESA"). Paragraph 8 requires Contreras Farms to submit, within two hundred and ten (210) calendar days of receipt of the final signed ESA, documentation prepared by a professional engineer, registered in Colorado, certifying that the impoundment liner provisions of 5 CCR 1002-81, §81.5(2) have been met. The final signed ESA was received by Contreras Farms on June 26, 2008, which meant that the documentation required by paragraph 8 of the ESA was due to the Division no later than January 21, 2009.

In late summer 2008, Contreras Farms hired a contractor to enlarge and install a liner in its impoundment with the expectation that the impoundment would meet the required seepage rate upon completion of liner installation. The work was completed in August 2009, however a subsequent evaluation performed by AGPROfessionals revealed that the liner installed by the contractor did not meet the seepage rate requirements in Regulation No. 81. The Division understands that AGPROfessionals is currently developing a plan of work that will result in the contractor re-working the impoundment to meet the regulatory requirements. Based on these circumstances, Contreras Farms requested additional time to complete the requirements of Paragraph 8 of the ESA.

The Division hereby approves the request and formally revises Paragraph 8 of the ESA to read as follows:

By no later than December 31, 2010, Contreras Farms agrees to submit to the Department documentation prepared by a professional engineer, registered in Colorado, certifying that the impoundment liner provisions of 5 CCR 1002-81, §81.8(2) have been met, and stating what constitutes each constructed liner (e.g., synthetic, clay).

Please note that the Regulation No. 81 citations have changed since the ESA was issued to Contreras Farms.

Should you or representatives of Contreras Farms have any further questions regarding these matters, please do not hesitate to contact Kelly Morgan at (303) 692-3634 or by electronic mail at kelly.morgan@state.co.us.

Sincerely,



Lori M. Gerzina
Section Manager
Compliance Assurance Section
WATER QUALITY CONTROL DIVISION

cc: Janine Baratta, AGPROfessionals, LLC (4350 Highway 66, Longmont, CO 80504)

cc: Erin Kress, Environmental Agriculture Program