

# STATE OF COLORADO

John W. Hickenlooper, Governor  
Christopher E. Urbina, MD, MPH  
Executive Director and Chief Medical Officer

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  
Located in Glendale, Colorado      (303) 692-3090

<http://www.cdphe.state.co.us>



Colorado Department  
of Public Health  
and Environment

November 8, 2011

Mr. John M. Cogswell, Registered Agent  
Rule Feedlot, Inc.  
P.O. Box 5266  
Buena Vista, CO 81211

**Certified Mail Number: 7010 2780 0002 8752 3567**

**RE: Expedited Settlement Agreement, Number: EC-111102-1**

Dear Mr. Cogswell:

Enclosed for your records you will find Rule Feedlot, Inc.'s copy of the recently executed Expedited Settlement Agreement ("ESA"). Please be advised that the first page of the ESA was changed in order to place the correct ESA Number on the final document. The ESA is now fully enforceable and constitutes a final agency action.

The Water Quality Control Division acknowledges receipt of Rule Feedlot, Inc.'s payment of the settlement amount and will move forward payment processing.

If you have any questions, please don't hesitate to contact Kelly Morgan at (303) 692-3634 or by electronic mail at [kelly.morgan@state.co.us](mailto:kelly.morgan@state.co.us).

Sincerely,

Russell Zigler  
Legal Assistant  
Clean Water Compliance Assurance Unit  
WATER QUALITY CONTROL DIVISION

- cc: Tri-County Health Department  
Lori Hawthorne, Rule Feedlot, Inc. (P.O. Box 189, Brighton, CO 80601)
- cc: Natasha Davis, EPA Region VIII  
Phyllis Woodford, CDPHE – Environmental Agriculture Program  
Sean Scott, CDPHE – Environmental Agriculture Program  
Chad Devolin, CDPHE – Environmental Agriculture Program



Colorado Department of Public Health & Environment

**EXPEDITED SETTLEMENT AGREEMENT**

Number: EC-111102-1

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, 25-8-605 and 25-8-608 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 Rule Feedlot, Inc. ("Rule Feedlot"). The Division and Rule Feedlot may be referred to collectively as "the Parties."

1. Rule Feedlot 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(24).
2. Rule Feedlot owned and/or operated a Concentrated Animal Feeding Operation ("CAFO") as defined by 5 CCR 1002-81, §81.3(5) in the vicinity of 982 Weld County Road 21, in Adams County, Colorado (the "Facility").
3. Pursuant to 5 CCR 1002-81, §81.8(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, §81.8(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.
4. In an October 6, 2009 letter, the Department required Rule Feedlot to provide self-certification documentation certifying that its impoundments meet the seepage rate standards of 5 CCR 1002-81, §81.8(2). Department records establish that Rule Feedlot failed to respond to the October 6, 2009 letter. Rule Feedlot's failure to provide documentation certifying that its impoundments were constructed and maintained to comply with the seepage rate standards by no later than April 13, 2006 constitutes violation(s) of 5 CCR 1002-81, §81.8(2).
5. The parties enter into this ESA in order to resolve the matter of civil penalties associated with the alleged violation for a civil penalty in the amount of five thousand dollars (\$5,000.00).
6. By accepting this ESA, Rule Feedlot neither admits nor denies the violation specified herein.
7. Rule Feedlot certifies that, as of the date of this ESA, the Facility has ceased feeding operations and is no longer operating as a CAFO.
8. Rule Feedlot agrees to the terms and conditions of this ESA. Rule Feedlot agrees that this ESA constitutes a notice of alleged violation and an order issued pursuant to §§25-8-602, 25-8-605 and 25-8-608, C.R.S., and is an enforceable requirement of the Act. By signing the ESA, Rule Feedlot 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.

9. 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 Rule Feedlot 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.
10. 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.
11. 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.
12. Rule Feedlot agrees that, within fifteen (15) calendar days of receiving the signed and final ESA from the Division, Rule Feedlot 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 5 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

13. Notwithstanding paragraph 6 above, the violations described in this ESA will constitute part of Rule Feedlot's 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 Rule Feedlot. Rule Feedlot agrees not to challenge the use of the cited violations for any such purpose.
14. This ESA, when final, is binding upon Rule Feedlot 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 RULE FEEDLOT, INC.:**

*Larry Rule* Date: Aug 29, 2011  
 Signature

LARRY RULE Title: PRESIDENT  
 Name (printed)

**FOR THE COLORADO DEPARTMENT OF PUBLIC HEALTH & ENVIRONMENT:**

*Lori M. Gerzina* Date: 11/2/11  
 Lori M. Gerzina, Section Manager  
 Compliance Assurance Section  
 WATER QUALITY CONTROL DIVISION