



State of Utah

GARY R. HERBERT  
Governor

SPENCER J. COX  
Lieutenant Governor

Department of  
Environmental Quality

Alan Matheson  
Executive Director

DIVISION OF WATER QUALITY  
Erica Brown Gaddis, PhD  
Director

FILE COPY

AUG 07 2017

**CERTIFIED MAIL,  
(Return Receipt Requested)**

Rulon Van Tassell  
Rulon Van Tassell Feedlot  
1340 South 1000 West  
Tremonton, UT 84337

Dear Mr. Van Tassell:

Subject: Public Notice of Proposed Settlement Agreement Docket No UT-I17-04 SA,  
Rulon Van Tassell Feedlot

Enclosed is a copy of the Public Notice of the proposed Settlement Agreement between the Division of Water Quality and Rulon Van Tassell Feedlot.

If you have any questions with regards to this matter, please contact Don Hall at (801) 801-536-4492 or [dghall@utah.gov](mailto:dghall@utah.gov). This information will also be made available on-line at <http://www.deq.utah.gov/NewsNotices/notices/water/index.htm>.

Sincerely,

Kim Shelley, Manager  
Permitting, Engineering, and Compliance Branch

KS:ev:smm

Enclosures: PN Document

cc: Craig Anderson, Attorney General Office (w/encl)  
Grant Koford, Bear River Health Department  
Jay Olsen, Utah Department of Agriculture

DWQ-2017-007443



DWQ-2017-007443



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August 9, 2017

The Herald Journal  
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Logan, UT 84321

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Email: [legals@hjnews.com](mailto:legals@hjnews.com)

This letter will confirm authorization to publish the attached NOTICE in The Herald Journal in the first available edition. Please mail the invoice and affidavit of publication to:

Department of Environmental Quality  
Division of Water Quality  
Attn: Emily Canton  
P.O. Box 144870  
Salt Lake City, Utah 84114-4870

If there are any questions, please contact Edith VanVleet at (801) 536-4397. Thank you for your assistance.

Sincerely,

Kim Shelley, Manager  
Permitting, Engineering, and Compliance Branch

KS:ev:smm



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August 9, 2017

Box Elder News Journal  
55 South 100 West  
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UTAH DEPARTMENT OF ENVIRONMENTAL QUALITY  
DIVISION OF WATER QUALITY

PUBLIC NOTICE OF STIPULATED COMPLIANCE ORDER, DOCKET NO. UT- I17-04

PURPOSE OF PUBLIC NOTICE

This notice is to declare that the State of Utah has reached a settlement agreement with Rulon Van Tassell Feedlot. This Public Notice is issued pursuant to Utah Administrative Code R317-8-1.9, to provide opportunity for public comment on the proposed settlement of a Stipulated Compliance Order. The proposed order is for the purpose of resolving alleged violations of Utah Code Annotated 19-5 (Water Quality Act), and is a resolution of enforcement proceedings brought against Rulon Van Tassell Feedlot.

PUBLIC COMMENTS

Public comments are invited any time prior to close of business September 8, 2017. Comments may be directed to the Department of Environmental Quality, Division of Water Quality, 195 North 1950 West, P.O. Box 144870, Salt Lake City, Utah 84114-4870.

FURTHER INFORMATION

The settlement agreement is available for public review under "Public Notices" at <https://deq.utah.gov/Divisions/dwq/info/notices.htm>. If internet access is not available, a copy may be obtained by calling Don Hall at 801-536-4492. Written public comments can be submitted to: Don Hall, P.O. Box 144870, Salt Lake City, Utah 84114-4870 or by email at: [dghall@utah.gov](mailto:dghall@utah.gov). The deadline to receive comments is close of business September 8, 2017. After considering public comment the Director of the Division of Water Quality may execute the settlement agreement, revise it, or abandon it.

UTAH DIVISION OF WATER QUALITY

<b>IN THE MATTER OF Rulon Van Tassell Feedlot 1340 South 1000 West Tremonton, Utah 84337</b>	<b>DOCKET NUMBER. UTI- 17-04  STIPULATED COMPLIANCE ORDER</b>
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**A. PURPOSE**

1. This **Stipulated Compliance Order (AGREEMENT)** is entered into voluntarily by and among the Director of the Utah Division of Water Quality (**DIRECTOR**) and Van Tassell Feedlot (**FEEDLOT**). The **DIRECTOR** and **FEEDLOT** are jointly referred to hereafter as the (**PARTIES**). The purpose of this **AGREEMENT** is to resolve the illicit discharge of manure water to Bear River Canal which connects to wetlands and Pintail Lake several miles from the feedlot. The canal, wetlands, and Pintail Lake are waters of the State. The discharge was observed on February 8, 2017, but likely occurred for at least ~~10 days~~ 10 hours *12*

**B. AUTHORITY**

1. The **DIRECTOR** of the Utah Division of Water Quality (**DIVISION**) is authorized to issue, continue in effect, renew, revoke, modify or deny discharge permits and to issue orders in accordance with *Section 19-5-106*, and to specify a schedule of compliance in a permit leading to compliance with the Utah Water Quality Act (**ACT**) and Administrative Code.
2. The **DIVISION** was created to administer the **ACT** under the immediate direction and control of the **DIRECTOR** pursuant to *Section 19-1-105* of the Utah Code Annotated.
3. The State of Utah has been delegated authority by the U.S. Environmental Protection Agency (EPA) to administer the National Pollutant Discharge Elimination System (**NPDES**) permit program under the Federal Clean Water Act (CWA), known in Utah as the Utah Pollution Discharge Elimination System (**UPDES**).
4. *Utah Code Ann. § 19-5-107(1)(a)*. "Except as provided in this chapter or rules made under it, it is unlawful for any person to discharge a pollutant into waters of the state or to cause pollution which constitutes a menace to public health and welfare, or is harmful to wildlife, fish or aquatic life, or impairs domestic, agricultural, industrial, recreational, or other beneficial uses of water, or to place or cause to be placed any wastes in a location where there is probable cause to believe it will cause pollution."
5. *UAC R317-8-10.3(4)*. "No AFO or CAFO shall discharge except as authorized under a current UPDES permit."

## UTAH DIVISION OF WATER QUALITY

### C. FINDINGS OF FACT

1. The **FEEDLOT** operates a beef feedlot in Thatcher, Utah, less than 50 feet from a canal that flows to wetlands and Pintail Lake. The **FEEDLOT** is a Large Concentrated Animal Feeding Operation (**CAFO**) confining an estimated 2,000 animals on February 8, 2017, the day of the observed discharge.
2. The **FEEDLOT** has insufficient storage capacity to properly store wastewater during periods of high precipitation and snow melt even though the main runoff pond was designed by Natural Resources Conservation Service.
3. The **FEEDLOT** allowed discharge of runoff pond overflow to a canal. The canal connects to other state waters. Snow melt and rain overwhelmed the runoff pond which was designed for a 25-year, 24-hour event. The **FEEDLOT** does not have storage capacity for chronic precipitation such that as occurred this winter.
4. The **FEEDLOT** notified the **DIVISION** of the discharge while the pond was overflowing, as required.
5. On March 3, 2017, Don Hall of the **DIVISION** observed a significant discharge of manure wastewater to the canal. It is estimated that approximately 50 gallons per minute was overtopping the pond. It is likely that the pond discharged for at least 10 days which would result in an estimated discharge of about 504,000 gallons over ~~10~~ days of discharge. 10 hours - RT
6. The canal, wetlands, and Pintail Lake are waters of the State per *Utah Administrative Code R317-8-1.5(59)* and *R317-8-10.2*. The discharge observed on February 8, 2017 was to waters of the State in violation of *Utah Code Ann. § 19-5-107(1)(a)* and *Utah Administrative Code R317-8-10.3(4)*, shown in paragraphs of B.4 and B.5 above.
7. Large **CAFOs** that discharge to waters of the State, such as the **FEEDLOT** on February 8, 2017, are required to obtain a **UPDES CAFO** permit per *UAC R317-8-10.3(4)*.
8. The water discharged and the type of discharged do not meet the definitions of agriculture water or agriculture discharge in *UCA § 19-5-102(1) and (2)*.
9. The **DIVISION** has determined a penalty for this incident according to the guidelines found in *Utah Administrative Code R317-1-8*, Penalty Criteria for Civil Settlement Negotiations. The criteria considers such factors as the nature, severity and extent of the violations, history of noncompliance, degree of willingness, negligence, good faith efforts to comply, and economic benefit of the **FEEDLOT's** delayed compliance.

## UTAH DIVISION OF WATER QUALITY

### **D. VIOLATIONS**

Based on the foregoing Findings of Fact, the **FEEDLOT** has violated the following:

1. Utah Code Ann. § 19-5-107(1)(a) for causing pollution which could be harmful to wildlife, fish or aquatic life, or impairs domestic, agricultural, industrial, recreational, or other beneficial uses of water and described in the Findings of Fact, paragraph C.4.
2. UAC R317-8-10.3(4) for a Large **CAFO** that discharges without a current **UPDES** permit (**CAFO** permit) described in Findings of Fact, paragraph C.4.

### **E. AGREEMENT**

Based on the foregoing **FINDINGS OF FACT** and **VIOLATIONS**, the **DIRECTOR** hereby orders, and the **FEEDLOT** agrees to, comply with the requirements and conditions of the **AGREEMENT** below. The **FEEDLOT** is ordered and agrees to:

1. Immediately initiate all action required to come into compliance with all applicable provisions of the Utah Water Quality Act and the Water Quality rules in the Utah Administrative Code.
2. Immediately cease all feed and manure discharge to waters of the State from the **FEEDLOT's** production area, waste storage areas, and fields.
3. Prevent future discharges to waters of the State from the **FEEDLOT**.
4. Report any future discharges to waters of the State to the **DIVISION** within 24-hours of any discharge.
5. As soon as possible and no later than the deadlines in this **AGREEMENT** and any compliance schedule, comply with the requirements of the **AGREEMENT**.
6. Obtain the **CAFO** permit by **December 31, 2017**. The deadline includes the 30-day public notice period for public comment.
7. Cooperate with **DWQ** in preparing a compliance schedule until the **NMP** and **CAFO** permit can be fully implemented at the **FEEDLOT**. A compliance schedule should be complete by **August 15, 2017**.
8. Prepare or revise the **FEEDLOT's** **NMP** according to **DIVISION** comments and requirements, **CAFO** permit requirements, and all applicable Natural Resources Conservation Service (**NRCS**) practices and standards.
9. The new or revised **NMP** must be approved by a **NRCS** certified planner if available, or a planner from a conservation district or the Utah Department of Agriculture and Food (**UDAF**). The **NMP** must be submitted to **DWQ** for review by **September 15**,

## UTAH DIVISION OF WATER QUALITY

2017 and revised thereafter as needed to comply with the **CAFO** permit.

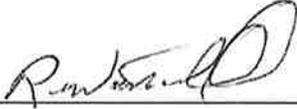
10. The NMP must be approved by the **DIVISION** prior to full implementation of the NMP.
11. The NMP must be implemented prior to receiving permit coverage on or before **December 31, 2017**.
12. The **FEEDLOT** may request a deadline extension to any deadline within this **AGREEMENT** for conditions beyond the reasonable control of the **FEEDLOT** and at a minimum of 30 days prior to the respective deadline. The **DIVISION** must approve the deadline for the extension to be granted.
13. The **FEEDLOT** agrees to pay a penalty in the amount of **\$1,817**. The penalty will be held in abeyance if the **FEEDLOT** complies with the requirements of this **AGREEMENT**. The **FEEDLOT** will not be required to pay the penalty unless it fails to comply with this **AGREEMENT** by the deadline **December 31, 2017** or a **DIVISION** approved deadline extension.
14. Should the **DIVISION** determine that the **FEEDLOT** did not fully comply with the deadlines and requirements of the **AGREEMENT**, the **FEEDLOT** must pay **\$1,817** as notified by the **DIVISION**.
15. In addition to the penalty requirements in 13 and 14 above, the **FEEDLOT** will be required to pay reimbursement costs to the **DIVISION** if the **FEEDLOT** fails to comply with the **AGREEMENT**. Any reimbursement costs will be determined after the final **December 31, 2017** deadline or any **DIVISION**-approved extension. The **DIVISION** will track the hours spent on the enforcement case and bill the **FEEDLOT** after the final deadline, should the **FEEDLOT** fail to comply. Reimbursement cost will be determined by multiplying the number of **DIVISION** hours by \$90 per hour.
16. By executing this **AGREEMENT**, the **FEEDLOT** makes no admissions concerning the findings and denies liability for the findings made within. The **PARTIES** understand and agree that this **AGREEMENT** is being entered into in an effort to resolve any dispute between the parties and avoid further dispute, discussion, or action concerning the matters related thereto.
17. Any future disputes arising hereunder are subject to Utah Code Ann. 19-5-112, 19-1-301 and 19-1-301.5; and R305-7 of the Utah Administrative Code, and other applicable law.
18. Neither execution of this **AGREEMENT**, nor the **FEEDLOT's** compliance to the conditions and requirements of this **AGREEMENT**, shall relieve the **FEEDLOT** of any future enforcement actions and penalties for future non-compliance to Utah's water quality statutes and administrative code by the **FEEDLOT**.

UTAH DIVISION OF WATER QUALITY

19. The undersigned representatives certify that they are fully authorized to enter into the terms and conditions of this **AGREEMENT** and to bind the party they represent to this **AGREEMENT**.

20. This **AGREEMENT** is effective upon signature by the **FEEDLOT** and **DIRECTOR**.

**IT IS SO AGREED.**



\_\_\_\_\_  
Rulon Van Tassell, Owner  
Van Tassell Feedlot

Date: 7/25/17

**IT IS SO ORDERED.**

\_\_\_\_\_  
Erica Brown Gaddis, PhD, Director  
Utah Division of Water Quality

Date: \_\_\_\_\_