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. This information will also be made available on-line at http://www.deq.utah.gov/NewsNotices/notices/water/index.htm.

Sincerely,

[Signature]

Kim Shelley, Manager  
Permitting, Engineering, and Compliance Branch

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

195 North 1950 West • Salt Lake City, UT  
Mailing Address: P.O. Box 144870 • Salt Lake City, UT 84114-4870  
Telephone (801) 536-4300 • Fax (801) 536-4301 • T.D.D. (801) 536-4284  
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August 9, 2017

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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
August 9, 2017

Box Elder News Journal
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Brigham City, UT 84302

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Kim Shelley, Manager
Permitting, Engineering, and Compliance Branch

KS:ev:smm
August 9, 2017

UTAH DEPARTMENT OF ENVIRONMENTAL QUALITY
DIVISION OF WATER QUALITY

PUBLIC NOTICE OF STIPULATED COMPLIANCE ORDER, DOCKET NO. UT-117-04

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. 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.
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 discharge was observed on February 8, 2017, but likely occurred for at least 10 days.

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.”
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 40-days of discharge.

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,
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.

[Signature]
Rulon Van Tassell, Owner
Van Tassell Feedlot

Date: 7/25/17

IT IS SO ORDERED.

[Signature]
Erica Brown Gaddis, PhD, Director
Utah Division of Water Quality

Date: _______________