

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 6

IN THE MATTER OF)	EMERGENCY ADMINISTRATIVE ORDER
)	
SEABOARD FARMS, INC.)	
Mr. Rick J. Hoffman)	
Chief Executive Officer)	
9000 West 67 th Street)	PURSUANT TO SECTION 1431(a)
Shawnee Mission, Kansas 66201)	OF THE SAFE DRINKING WATER ACT,
)	42 U.S.C. § 300i(a)
SHAWNEE FUNDING)	
LIMITED PARTNERSHIP)	DOCKET NUMBER: SDWA-06-2001-1239
Mr. Mark J. Schroeder)	
Shawnee Capital, Inc.)	
World Financial Center,)	
North Tower)	
27 th Floor, 250 Vesey Street)	
New York, New York 10281-1327)	
)	
PIC INTERNATIONAL GROUP,)	
INC.)	
Mr. Greg W. BeVier)	
President PIC Americas)	
3033 Nashville Road)	
Franklin, Kentucky 42134)	
)	
RESPONDENTS)	

I. STATUTORY AUTHORITY

1. The United States Environmental Protection Agency Region 6 (“EPA”) issues this Emergency Administrative Order (“ORDER”) pursuant to the authority granted by Section 1431(a) of the Safe Drinking Water Act (referred to as “the Act” or “SDWA”), 42 U.S.C. § 300i(a). The EPA has delegated the authority to the Regional Administrator of, Region 6 and further delegated to the Director of the Compliance Assurance and Enforcement Division.

II. DEFINITIONS

2. For purposes of this ORDER, the term “underground source of drinking water” (“USDW”) means, in part, an aquifer or its portion which contains a sufficient quantity of ground water to supply a public water system and currently supplies drinking water for human consumption, or contains fewer than 10,000 milligrams per liter (“mg/l”) total dissolved solids, and which is not an exempted aquifer. See, 40 C.F.R. § 144.3.
3. Anaerobic: life or process that occurs in, or is not destroyed by the absence of oxygen.
4. For purposes of this ORDER, an aquifer means a geological formation, group of formations or part of a formation that is capable of yielding a significant amount of water to a well or spring. See, 40 C.F.R. § 144.3.
5. Aerobic: life or process that occurs in, or is not destroyed by the presence of oxygen.
6. Blue baby syndrome: A disease that affects the oxygen carrying capacity of an infant's blood, usually resulting from the consumption of high levels of nitrate. Also, known as methemoglobinemia.
7. Contaminant: Any physical, chemical, biological, or radiological substance or matter in water. See, 42 U.S.C. 300f 4(c) (6).
8. Down-gradient: in the direction of flow of the water in the aquifer.
9. Ground water: Water that saturates subsurface formations or aquifers.
10. Hydraulic Conductivity: A coefficient of proportionality that describes the rate at which a fluid can move through a permeable medium. It is a function of both the media and of the fluid flowing through it.
11. Maximum Contaminant Level (MCL) means the maximum permissible level of a contaminant in water, which is delivered to any user of a public water system. See, 42 U.S.C. 300f(3)
12. Nitrate (NO₃): An important plant nutrient that is soluble in water and may cause health problems.
13. Nitrate-nitrogen (NO₃-N): Relates to the actual nitrogen in nitrate. Multiply NO₃-N values by 4.4 to convert to nitrate.
14. Water for human consumption is defined to include drinking, bathing, showering, cooking, dishwashing, and maintaining oral hygiene.
15. All terms not defined herein shall have their ordinary meaning, unless such terms are defined in the SDWA or its implementing regulations, in which case the statute or regulatory definitions shall apply.

III. FINDINGS OF FACT

Based on the information in its possession, particularly that contained in the Administrative Record, the EPA makes the following findings of fact.

1. Seaboard Farms, Inc. (“Seaboard” or “Seaboard Farms”) is a State of Delaware corporation and operates swine facilities located at Lacey 1 (N/2 Section 18 T19N R8W); Lacey 3 (SE/4 Section 27 T19N R8W); Lacey 4 (NW/4 Section 2 T18N R8W); Lacey 6 (NE/4 Section 19 T18N R7W), Kingfisher County and Fairview Nursery Complex (parts of Section 30 T20N R14W), in Major County, Oklahoma. Seaboard Farm’s registered agent is The Corporation Trust Company, Corporation Trust Center, 1209 Orange Street, Wilmington, DE 19801.
2. Shawnee Funding Limited partnership (“SFLP”) is a Delaware partnership and owns swine facilities located at Lacey 1 (N/2 Section 18 T19N R8W); Lacey 3 (SE/4 Section 27 T19N R8W); Lacey 4 (NW/4 Section 2 T18N R8W); Lacey 6 (NE/4 Section 19 T18N R7W), Kingfisher County and Fairview Nursery Complex (parts of Section 30 T20N R14W), in Major County, Oklahoma. Shawnee Funding Limited partnership’s registered agent is National Corporate Research Ltd., 615 South DuPont Highway, Dover, Delaware 19901.
3. PIC International Group, Inc. (“PIC”) incorporated in the State of Delaware was the former owner and operator of the swine facilities located at Lacey 1 (NW/4 Section 18 T19N R8W); Lacey 3 (SE/4 Section 27 T19N R8W); Lacey 4 (NW/4 Section 2 T18N R8W); Lacey 6 (NE/4 Section 19 T18N R7W), Kingfisher County and Fairview Nursery Complex (parts of Section 30 T20N R14W), in Major County, Oklahoma. PIC’s registered agent is Corporation Service Company, 2711 Centerville Road, Suite 400, Wilmington, Delaware 19808.
4. Seaboard Farms, SFLP and PIC (“Respondents”) are "persons" as defined in § 1401(c)(12) of the SDWA, 42 U.S.C. § 300f(c)(12). Section 1401(c)(12) of the SDWA, 42 U.S.C. § 300f(c)(12), defines “person” as including an individual, partnership, or corporation.

Facility	Type	Location	First Populated
Lacey 1 (a.k.a. Bryan Sow & Norris Farms; F62)	Breeding	N/2 Section 18 T19N R8W	Sept. 28, 1993
Lacey 3 (a.k.a. Watson; F424)	Finishing	SE/4 Section 27 T19N R8W	May 1, 1993
Lacey 4 (a.k.a. Grimes Finisher; F425)	Finishing	NW/4 Section 2 T18N R8W	Oct. 15, 1993
Lacey 6 (a.k.a. Miller; F426)	Finishing	NE/4 Section 19 T18N R7W	Aug. 30, 1994

Fairview Nursery Complex (Fairview Nursery 1 - 4) (a.k.a. McKee & Moore Farms; F155 - 158)	Nursery	parts of Section 30 T20N R14W	Jan. 11, 1995 and June 28, 1995
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5. The Facilities consist of bio-secured, enclosed and covered buildings within fenced properties. The buildings contain an animal waste flushing system which discharges waste to a waste lagoon. The waste lagoons at each of the Facilities are anaerobic, high density polyethylene lined and are rectangular in shape, with surrounding berms. Effluent from the lagoons is land applied at each of the Facilities through a central spray pivot irrigation system to grass fields for grazing cattle.
6. Swine produce considerable amounts of nitrogenous organic waste, typically in the range of 6 to 8 pounds of manure per 100 pounds of weight per day. Swine effluent concentrations of ammonia and nitrate can be considerable, as ammonia is produced by hydrolysis of waste fluids. Due to their high solubility, ammonia and nitrate will readily leach into ground water. Where aerobic conditions are present, such as is typical in a surficial aquifer, ammonia will be converted to nitrite and then nitrate. Plants can uptake nitrate and nitrite, but only in limited quantities. Quantities of nitrate and nitrite in the soil in excess of levels which can be used by plants will often migrate to the water table where they may adversely impact ground water quality and its use as a drinking water source.
7. The substance nitrate is a "contaminant" within the meaning of Section 1401(c)(6) of the SDWA, 42 U.S.C. § 300f(c)(6).
8. The SDWA requires the EPA to publish maximum contaminant level goals ("MCLG's") for contaminants which, in the judgment of the Administrator, may have an adverse effect on the health of persons and which are known or anticipated to occur in public water systems. MCLG's are to be set at a level at which no known or anticipated adverse effects on the health of persons would occur and which allow a margin of safety. See, 40 C.F.R. § 141. At the same time the EPA publishes an MCLG, it must also promulgate a National Primary Drinking Water Regulation which includes either (1) a maximum contaminant level ("MCL") or (2) a required treatment technique. An MCL must be set as close to the MCLG as feasible taking into account economic feasibility of drinking water systems. The MCLG and MCL for nitrate under the National Primary Drinking Water Regulations are 10 mg/l as nitrogen. See, 40 C.F.R. § 141.62. The EPA has established this drinking water standard to protect against the adverse effects of nitrate. See, 40 C.F.R. § 141.32(e)(20).
9. The EPA has determined that nitrate poses an acute health concern at certain levels of exposure. Nitrate in drinking water is colorless and odorless. Ingestion of nitrate, converted to nitrite in the body, interferes with the oxygen carrying capacity of blood, potentially resulting in cyanosis and, at higher levels, asphyxia. High levels of nitrate in water can also cause a blood disorder in infants known as methemoglobinemia ("blue baby syndrome") that can be fatal if left untreated. Infants up to 3 months of age are the most susceptible with regard to nitrate. This is due to the fact that about 10 percent of ingested nitrate is transformed to nitrite in the adult and child, and 100 percent of ingested nitrate can

be transformed to nitrite in the infant. Thus, infants with a weight of less than 4 kilograms (8.8 pounds) represent a high risk subpopulation. At 10 mg/l or higher concentrations, nitrate-nitrogen poses a health threat to the population in general, and an acute health threat to children under 6 months of age. This level was based on human case studies in which fatal poisonings have occurred following ingestion of well water containing nitrate-nitrogen concentrations greater than 10 mg/l. Therefore, at the concentration of 10 mg/l in drinking water, nitrate presents an imminent and substantial endangerment to the health of persons.

10. Pregnant or lactating women, adults with reduced stomach acidity, and individuals deficient in the enzyme that changes methemoglobin back to normal hemoglobin are all susceptible to nitrite-induced methemoglobinemia. Some individuals with certain diseases, or through antioxidant medications or chemicals, have an increased susceptibility of methemoglobinemia.¹
11. There is some evidence that pregnant women who drink water contaminated with nitrate are at risk for adverse birth outcomes. A recent study showed that nitrate levels above 20 mg/l may be associated with increased spontaneous abortions². Another study showed a significant increase in birth defects associated with nitrate in drinking water at 5-15 mg/l³. The latter association could not be attributed solely to nitrate exposure since other chemicals including pesticides were likely present in the drinking water.⁴
12. Prolonged intake of high levels of nitrate is linked to gastric problems due to the formations of nitrosamines in the stomach, colon and bladder, which have been shown to cause cancer in test animals, including higher primates. An Iowa study, verified this increased risk of cancer related nitrate intake for bladder cancer in women⁵. A women resident, down-gradient of one of the Facilities, has experienced five miscarriages.

¹Natural Resources Cornell Cooperative Extension – Nitrate: Health Effects in Drinking Water; M. McCasland, N. M. Trautmann & K. S. Porter, Center for Environmental Research et al; <http://pmep.cce.cornell.edu/factsheets/nit-heef-grw85.html>

²LaGrange County Health Department, Indiana. Spontaneous abortions possibly related to ingestion of nitrate-contaminated well water--LaGrange County, Indiana, 1991-1994. *Morb. Mortal. Wkly. Rep.* (1996) 45(26):569-72

³Dorsch MM, Scragg RK, McMichael AJ, Baghurst PA and Dyer KF. Congenital malformations and maternal drinking water supply in rural south Australia: A case-control study. *Am. J. Epidemiol.* (1984) 119(4):473-86.

⁴This section is taken from “Public Health Assessment; Bertrand Creek Area Properties (a/k/a North Whatcom County Groundwater Contamination) Lynden, Whatcom County, Washington; http://www.atsdr.cdc.gov/HAC/pubs/bertrand/ber_p2.html

⁵Nitrate In Drinking Water Increases Risk for Bladder Cancer; University of Iowa release April 16, 2001. www.eurekalert.org/releases/uio-nid041601.html

13. High levels of nitrate in drinking water have also been associated with spontaneous abortions and have been linked with non-Hodgkin's lymphoma and gastro-intestinal cancers.⁶
14. In some cases, harmful bacteria and viruses from concentrated animal wastes can move through the soil and enter the ground water. This is especially a problem where ground water is shallow and soils are sandy or have high hydraulic conductivity, as in the terrace deposits on which the Facilities are situated. A recent 2-year study of two unlined swine waste lagoons in Illinois showed extensive contamination by fecal coliform and fecal streptococcus bacteria in ground water near the lagoons and extending outward over 100 meters⁷.
15. Due to their small size, viruses can travel more easily than bacteria through the pore spaces in the ground. Also, some harmful viruses may have a longer life span underground than do bacteria. However, according to the EPA estimates viruses do not survive more than two years in ground water, which means that in many cases viral contamination does not spread more than a few hundred feet from its source.
16. Pharmaceutical compounds, commonly used as feed additives in commercial swine operations, may enter ground water and surface water with as yet undetermined consequences.
17. The Lacey Facilities, north of the Cimarron River in Oklahoma, are located on an aquifer known as the Cimarron Terrace, which consists of sand and gravel with some clay and sandy clay. This aquifer (referred to as the surficial aquifer) is hydrologically connected to alluvial deposits along the course of the Cimarron River.⁸ The overlying soil is characterized in the National Resource Conservation Services' STATSGO database as ranging from sandy clay to coarse sandy loam, with fine sand to fine sandy loam also occurring at Lacey Farms 2. Permeability ranges from .6 to 20 inches per hour.
18. The Fairview Nursery Complex, north of the North Canadian River in Oklahoma, is located on sand and gravel with some clay and sandy clay. Thin dune sands cover much of the area above the water table⁹. This aquifer (referred to as the surficial aquifer) is hydrologically

⁶Nitrate in Drinking Water Associated with Increased Risk for Non-Hodgkin's Lymphoma; http://cis.nci.nih.gov/fact/3_55.htm

⁷A Tale of Two Lagoons: Risk of Pollution Depends on Geology; I. Krapac, Aug. 16, 1999; University of Illinois at Urbana-Champaign.

⁸Hydrologic Data For The Alluvium and Terrace Deposits of the Cimarron River From Freedom to Guthrie, Oklahoma; USGS Open-file Report 94-504.

⁹Geohydrology and Numerical Simulation of The Alluvium and Terrace Aquifer Along the Beaver-North Canadian River from the Panhandle to Canton Lake, northwestern Oklahoma; USGS Open-file Report 81-483; Davis, R. E. and S. C. Christenson.

connected to alluvial deposits along the course of the North Canadian River. The overlying soil is characterized in the National Resource Conservation Services' STATSGO database as ranging from fine sand to loamy fine sand with permeability ranging from 6 to 20 inches per hour.

19. Given the shallow depth of the ground water (generally less than 22 feet at the Lacey sites and less than 40 feet at the Fairview Nursery Complex), its movement toward the river, and the absence of barriers, contaminants entering the ground water at the Facilities would become a part of the ground water which moves toward and into the Cimarron or North Canadian Rivers.
20. Pursuant to the signed Memorandum of Agreement, dated May 8, 1997, between the EPA and PIC in conjunction with the EPA's National Environmental Policy Act (NEPA) review process, an annual ground water monitoring report was submitted to the EPA Region 6. Additional lagoon monitor wells were required by the Oklahoma Department of Agriculture (ODA) at Lacey 3, Lacey 4, Lacey 6 and the Fairview Nursery Complex in late 1999 to comply with Oklahoma confined animal feeding operations statute 35:17-3.
21. Ground water sampling for nitrate concentrations in the monitor wells has been carried out since March 1997 by PIC, since 1999 by ODA, and since 2000 by Seaboard. Analysis results have been provided to the EPA.
22. In December 2000, the EPA collected on-site samples from the monitor wells, irrigation wells, barn supply, and manager's house wells. Laboratory analysis of the samples showed nitrate concentrations (nitrate-nitrogen) as high as 90.4 mg/l.
23. In March 2001, the EPA Region 6's Water Programs Enforcement Branch conducted an initial site screening by collecting water samples from water wells surrounding the Lacey Facilities listed in paragraph 19. Some sites could not be sampled because residents were absent or wells were inaccessible. Laboratory analysis showed some of the wells to have nitrate-nitrogen over the safety standard for human health.
24. In May 2001, the EPA Region 6's Water Programs Enforcement Branch conducted a validation sampling event of the water wells surrounding the Lacey Facilities to confirm the results of the earlier sampling. At this time residents were warned if the earlier sample from their wells contained nitrates exceeding the MCL.
25. The EPA has consulted with various agencies of the State of Oklahoma regarding contamination at swine facilities, including the Facilities named here, on numerous occasions.
26. Lacey 1
 - a. The trailer house occupied by the Rangels is located at a down-gradient site from the Lacey 1 facility. Ana Rangel was expecting imminent delivery of her child, when the EPA enforcement investigation team visited her home in May 2001. The trailer supply well tested 15.7 mg/l nitrate-nitrogen in March 2001 and between 14.5 and 15.0 mg/l in

May 2001. Ms. Rangel was warned by the EPA to drink only bottled water on May 30, 2001.

- b. The only sample for the irrigation wells, reported by Seaboard for December 11, 2000, had a high fecal coliform count (62.5 colony forming units /100 ml). This sample point is for all four irrigation wells combined. It is within the land application area, immediately east, up-gradient of the house well mentioned above. Presence of fecal coliform is a violation of National Primary Drinking Water Regulations.
- c. The data from the site show changes in the compounds of nitrogen consistent with the nitrogen cycle as waste moves from the waste lagoon to ground water at the facility. A sample of the waste lagoon taken by the EPA in December 2000, revealed levels of ammonia at 475 mg/l, nitrite-nitrogen at 98.5 mg/l and nitrate-nitrogen at 0.39 mg/l. Also in December 2000, the northern lagoon monitoring well located 84 feet north of the lagoon screened from 20 to 30 feet below land surface showed 0.0 mg/l of ammonia, 0.0 nitrite-nitrogen and 44.4 mg/l of nitrate-nitrogen. At the same location, the water table was 17 feet below surface.
- d. The regional ground water flow direction of the surficial aquifer is to the west - southwest. The local ground water flow direction ranges from south to west-northwest at different places beneath the facility and continues toward the private residence located adjacent to Lacey Farms 1.
- e. There are other potential water supply wells within the vicinity of the facility which may not have been sampled for possible contamination. In addition, there may be wells in the vicinity of the facility which have not been identified for sampling.
- f. The EPA has no record of any ground water cleanup or remedial activities at Lacey Farms 1. The nitrate contamination is moving through the surficial aquifer, and the facility continues to contaminate the surficial aquifer via spray irrigation activities and/or waste lagoon leakage.

27. Lacey 3

- a. No waste lagoon samples have been taken at this site. It is expected that the lagoon will contain high levels of ammonia, nitrite-nitrogen and very little nitrate-nitrogen, consistent with the findings at Lacey 1 (475 mg/l, 98.5 mg/l and 0.39 mg/l respectively). The southern lagoon monitoring well screened from 20 to 30 feet below land surface has consistently tested 0.0 mg/l of ammonia, 0.0 nitrite-nitrogen and 31 to 35 mg/l of nitrate-nitrogen, since completion in December 1999.
- b. The northern lagoon monitor well was reported by Seaboard as containing nitrate-nitrogen 69.7 mg/l on December 4, 2000.
- c. The barn supply well, located immediately south of the lagoon, has consistently tested at 10 to 13 mg/l of nitrate-nitrogen (except the suspect 0 mg/l reading in December 2001).

- d. The regional ground water flow direction of the surficial aquifer is to the south. The local ground water flow direction ranges from the east to the south at different places beneath the facility.
- e. There are potential water supply wells within the vicinity of the facility which have not been sampled for possible contamination. In addition, there may be wells in the vicinity of the facility which have not been identified for sampling.
- f. The EPA has no record of any ground water cleanup or remedial activities at Lacey Farms 3. The nitrate contamination is moving through the surficial aquifer, and the facility continues to contaminate the surficial aquifer via spray irrigation activities and/or waste lagoon leakage.

28. Lacey 4

- a. No waste lagoon samples have been taken at this site. It is expected that the lagoon will contain high levels of ammonia, nitrite-nitrogen and very little nitrate-nitrogen, consistent with the findings at Lacey 1 (475 mg/l, 98.5 mg/l and 0.39 mg/l respectively). The monitoring well located 102 feet south of the lagoon, screened from 22 to 32 feet depth below land surface, tested 0.0 mg/l of ammonia, 0.0 nitrite-nitrogen and 90.8 mg/l of nitrate-nitrogen on December 13, 2000.
- b. The regional ground water flow direction of the surficial aquifer is to the south-southwest. The local ground water flow direction ranges from the east-southeast to the west-southwest at different places beneath the facility.
- c. Two off-site, down-gradient windmill water wells, owned by Bobby Cox, tested 13.2 to 14.0 mg/l nitrate-nitrogen in May 2001.
- d. The off-site cross-gradient (due east) house well of an unknown resident, tested at 7.9 to 8.5 mg/l nitrate-nitrogen in May 2001.
- e. The off-site trailer house well of Bobby Cox, to the east-southeast of Lacey 4 lagoon, tested a high of 11.2 mg/l in March 2001, and 9.2 to 9.74 mg/l nitrate-nitrogen in May 2001.
- f. The off-site trailer house well of Ricky Cox, to the east-southeast of Lacey 4 land application area tested at a high of 9.5 mg/l in March 2001 and 5.4 to 6.89 mg/l nitrate-nitrogen in May 2001.
- g. There are other potential water supply wells within the vicinity of the facility which may not have been sampled for possible contamination. In addition, there may be wells in the vicinity of the facility which have not been identified for sampling.
- h. The EPA has no record of any ground water cleanup or remedial activities at Lacey Farms 4 within the last year and a half. The nitrate contamination is moving through the surficial aquifer, and the facility continues to contaminate the surficial aquifer via spray irrigation activities and/or waste lagoon leakage.

29. Lacey 6

- a. No waste lagoon samples have been taken at this site. It is expected that the lagoon will contain high levels of ammonia, nitrite-nitrogen and very little nitrate-nitrogen, consistent with the findings at Lacey 1 (475 mg/l, 98.5 mg/l and 0.39 mg/l respectively). The western lagoon monitoring well screened from 26 to 36 feet below land surface tested 0.0 mg/l of ammonia, 0.0 nitrite-nitrogen and 70.7 mg/l of nitrate-nitrogen, on December 14, 2000.
- b. The regional ground water flow direction of the surficial aquifer is to the south-southwest. The local ground water flow direction ranges from east to south to the west at different places beneath the facility.
- c. The well of the Hobbs household, located southwest of the Lacey 6 lagoon and west of the land application area, tested 5.5 mg/l in March 2001 and 8.0 to 8.67 mg/l nitrate-nitrogen in May 2001.
- d. There are other potential water supply wells within the vicinity of the facility which may not have been sampled for possible contamination. In addition, there may be wells in the vicinity of the facility which have not been identified for sampling.
- e. The EPA has no record of any ground water cleanup or remedial activities at Lacey Farms 6. The nitrate contamination is moving through the surficial aquifer, and the facility continues to contaminate the surficial aquifer via spray irrigation activities and/or waste lagoon leakage.

30. Fairview Nursery Complex

- a. No waste lagoon samples have been taken at this site. It is expected that the lagoons will contain high levels of ammonia, nitrite-nitrogen and very little nitrate-nitrogen, consistent with the findings at Lacey 1 (475 mg/l, 98.5 mg/l and 0.39 mg/l respectively).
- b. The complex includes four separate barn and lagoon systems with a shared central land application area. The monitoring well for the southern most lagoon (Fairview Nursery 1), screened from 37 to 47 feet below land surface has consistently tested 0.0 mg/l of ammonia, 0.0 nitrite-nitrogen and 33.1 mg/l of nitrate-nitrogen, since completion in November 2, 2000.
- c. The regional ground water flow direction of the surficial aquifer is to the south. The local ground water flow direction ranges from south-southeast to south-southwest at different places beneath the facility.
- d. The Oklahoma Department of Wildlife Conservation has installed three off-site monitor wells: one up-gradient; one down-gradient of three of the four sites and one south of the land application field. The facility is located about 3/4 of a mile above a protected wetland. The up-gradient well tested 5 mg/l nitrate-nitrogen and the down-gradient wells 14 and 32 mg/l respectively.

- e. The EPA R. S. Kerr Research Facility at Ada, is conducting a study of the effects of swine effluent land application (LA) on the ground water. They have installed eight pairs of monitoring wells; screened from 21 to 31 feet and 36 to 46 feet respectively; two pairs up-gradient and six down-gradient of the land application area. The up-gradient shallow screened wells tested less than one mg/l, with the deeper screened wells testing up to 7 mg/l nitrate-nitrogen. The shallow screened wells down-gradient, nearest the LA area tested 30 to 41 mg/l, while the deeper screened wells 600 yards down-gradient of the LA tested 12 to 18 mg/l nitrate-nitrogen.
 - f. There are potential water supply wells within the vicinity of the facility which may not have been sampled for possible contamination. In addition, there may be wells in the vicinity of the facility which have not been identified for sampling.
 - g. The EPA has no record of any ground water cleanup or remedial activities at the Fairview Nursery Complex. The nitrate contamination is moving through the surficial aquifer, and the facility continues to contaminate the surficial aquifer via spray irrigation activities and/or waste lagoon leakage.
31. On April 8, 1999, based on review of submitted annual ground water monitoring reports, the EPA requested additional information from PIC needed for a more complete evaluation, including when operations started at each site, depth to ground water and elevation of monitoring wells, dates of land application, data on rainfall events, analyses on Total Kjeldahl Nitrogen rather than nitrate.
 32. On November 19, 1999, the EPA provided written notice to PIC that the EPA was concerned about seventeen facilities operated by PIC, including all the Facilities addressed in this ORDER, because of the "high percentage of lagoons and land application areas adding to nitrate levels..." and further stated "immediate corrective measures are needed to address the highest nitrate levels, particularly at Lacey Farm L4."
 33. On January 4, 2000, representatives from PIC and Seaboard Farms met with the EPA in Dallas to discuss alleged ground water impacts from leaking lagoons at the same seventeen PIC facilities. During PIC's presentation of various monitoring results from wells located on various sites, all of the Facilities in this ORDER were discussed. Based, in part on nitrogen isotope tests, PIC argued that the results showed on-site nitrate contamination was not from the Swine lagoon. PIC also stated that ground water contamination present in on-site wells was the result of the over application of anhydrous-ammonia by wheat farmers. The EPA was concerned that only 1 or 2 samples were taken and the results were not definitive. The nitrogen isotope test, by itself, is not conclusive of the nitrate source but only provides an indication of the source. The EPA concluded that on-site contamination was resulting from lagoon leakage and presented a document summarizing these concerns.
 34. On January 31, 2000, PIC filed Notices of Termination for the National Pollutant Discharge Elimination System (NPDES) permit coverage for the seventeen PIC facilities. The EPA had expressed ground water concerns at these facilities. PIC's Notice of Terminations stated "As a breeding stock supplier, PIC was capable of absorbing the extra costs involved

in maintaining coverage under the general permit. The facility is being sold to a terminal market producer and economics dictate a more cost-effective operation.”

35. On or about January 31, 2000, Shawnee Funding Limited Partnership purchased the seventeen facilities from PIC.
36. On January 31, 2000, Seaboard Farms leased the seventeen former PIC facilities from Shawnee Funding Limited Partnership pursuant to an unrecorded Lease Agreement dated as of August 11, 1994.
37. The EPA requested a meeting with Seaboard and a meeting was held on March 2, 2000. During this meeting the EPA requested that Seaboard transfer NPDES permit coverage from PIC and ask PIC to retract the Notice of Terminations of the NPDES permit coverage. Seaboard was asked to make a decision about maintaining permit coverage within 30 days. At the end of 30 days without hearing from Seaboard, the NPDES Permit coverage for the seventeen facilities was terminated.
38. On May 10, 2000, the EPA executed an Administrative Search Warrant at Lacey L1 to investigate alleged violations of federal environmental law.
39. On June 21, 2000, the EPA executed Administrative Search Warrants at Lacey L1, L3, L4 and L5 to investigate alleged violations of federal environmental law.
40. A meeting was held with Seaboard on August 23, 2000 to discuss whether the NPDES permits had been terminated at the former PIC facilities. Seaboard stated that they were unaware that the permits had been terminated. Seaboard asked the EPA to reconsider the termination of the permits and offered to continue ground water monitoring at the former PIC facilities.
41. The EPA received a letter from Seaboard on September 15, 2000 stating that the EPA had improperly terminated the NPDES permits and formally asked the EPA to reconsider.
42. During a January 23, 2001, meeting with Seaboard Farms, the EPA expressed concern about high levels of nitrates found during the EPA's December sampling event, particularly on-site contamination at Lacey L1 and Lacey L6 and possible human exposure at these sites. Also, we discussed ground water contamination at Lacey L4.
43. The EPA received a letter from Seaboard on March 7, 2001, claiming that human exposure to nitrates at Lacey L1 and Lacey L6 was limited to employees showering in water at 11 mg/l at Lacey 6 and that the house well at Lacey L1 was utilizing a reverse osmosis system to protect the residents.
44. The EPA responded to Seaboard's letter of January 23, 2001, on May 23rd. The letter stated that the EPA's position was that the NPDES permits were terminated effective January 31, 2000.
45. During a May 24, 2001, conference call with Seaboard's Attorney Richard Schwartz, Esq., Partner of Crowell & Moring, Rich Schwartz stated that Seaboard intended to send a letter to the EPA in the near future requesting a meeting about ground water issues in Kingfisher

County and the development of a plan to address these issues. At the time of this ORDER, the EPA has not received a written request for a meeting with the EPA concerning ground water nor has any plan to address nitrate contamination on-site or off-site been presented. Rich did state that Seaboard had installed two reverse-osmosis water treatment systems at two facilities operated by Seaboard.

46. Pursuant to the SDWA Section 1431(a), 42 U.S.C. § 300i(a)(1), the EPA has been in communication with the state and local authorities regarding the endangerment at these Facilities. Additionally, the EPA has consulted fully with the State on the correctness of the information upon which this ORDER is based.

IV. CONCLUSIONS OF LAW

Based upon the foregoing Findings of Fact and the Administrative Record supporting this ORDER, the EPA hereby concludes that:

47. Seaboard Farms, SFLP and PIC (“Respondents”) are "persons" as defined in § 1401(c)(12) of the SDWA, 42 U.S.C. § 300f(c)(12) and Section 1431 of the Act.
48. Respondents have contributed to the introduction to an underground source of drinking water of nitrate which is a “contaminant” within the meaning of SDWA 1401(c)(6), 42 U.S.C. § 300f(c)(6) and 1431 of the Act.
49. The contaminant introduced by Respondents is present in or likely to enter an underground source of drinking water.
50. The aquifer from which the Rangel household, the Bobby Cox household, Ricky Cox household, Hobbs household and other families draw ground water is an “underground source of drinking water.”
51. Based upon the evidence, the EPA determines that Respondents’ introduction of a contaminant, which has entered a USDW, presents an imminent and substantial endangerment to the health of persons.
52. Nitrate contamination in the soil and ground water at the facility and in the vicinity will continue to threaten human health and the environment until the source of the contamination is removed and the site is remediated.
53. The EPA has consulted with the State and local authorities to confirm the correctness of the information upon which this ORDER is based. All requisite conditions have been satisfied for the EPA action under Section 1431(a)(1) of the SDWA, 42 U.S.C. § 300i(a)(1).
54. The EPA finds that there is an imminent and substantial risk of harm to people drinking water from wells contaminated by Respondents. The actions required by this ORDER are

necessary to protect the health of persons who are currently consuming or who may consume or use water from the contaminated portion of the surficial aquifer.

55. Section 1431(a), 42 U.S.C. § 300i(a), specifies that the EPA Administrator, upon receipt of information that a contaminant which is present in or is likely to enter a public water system or an underground source of drinking water may present an imminent and substantial endangerment to the health of persons, may issue an order as may be necessary to protect the health of persons, including travelers.

V. ORDER

As a result of the above Findings of Fact and Conclusions of Law, and pursuant to the authority issued to the EPA Administrator by Section 1431(a) of the SDWA, 42 U.S.C. § 300i (a), Respondents are hereby ordered to perform the following actions in the manner and by the dates specified below.

All work undertaken pursuant to this ORDER shall be developed and performed in accordance with the SDWA and its implementing regulations. Respondents shall also utilize other relevant the EPA guidance documents and any other documents determined by the EPA to be relevant during the course of this action. Any noncompliance with terms of this ORDER shall be construed as a violation of the terms of this ORDER. Oral advice or approvals given by the EPA representatives will not relieve Respondents of their obligation to obtain formal written approvals required by this ORDER. Respondents may, with the EPA written approval, incorporate and utilize ongoing work, and/or any other work already completed by Respondent, which had been approved by the EPA and complied with all applicable Federal and State law. "Days" as set forth herein are calendar days unless otherwise specified.

56. Within twenty-four (24) hours after the receipt of this ORDER, Respondents shall notify Mr. Jerry Saunders, Chief, Region 6 Arkansas/Louisiana/Oklahoma NPDES (UIC) Enforcement Section, by telephone at (214) 665-6470, whether Respondents intend to comply with the terms of this ORDER in a timely manner. Respondents shall also provide a response in writing, within 48 hours after receipt of this ORDER by facsimile at (214) 665-2168 or by first class mail at the address in paragraph 97 below.
57. Within twenty-four hours of receipt of this ORDER, Respondents shall deliver an emergency supply of water for human consumption to all residences on the Ana Rangel, Bobby Cox, Ricky Cox, and Kim Hobbs properties and Seaboard employees at the affected Facilities at a rate of not less than 100 gallons per day per resident. Such water is to be provided at no cost to the Rangel's, Cox's, or Hobbs' or Seaboard employees at the affected Seaboard Facilities. Respondents shall also make available water for human consumption for employees at Lacey Farm 3, Lacey Farm 6, and Fairview Nursery Complex.

58. Starting with the 7th day after the day of the initial delivery of water, and until otherwise notified in writing by the EPA, Respondents shall deliver a sufficient amount of water for human consumption to the Ana Rangel, Bobby Cox, Ricky Cox, and Kim Hobbs residences and Seaboard employees at the affected Facilities at least once every 7 days so that the families are provided with at least 100 gallons per day per resident of water for human consumption. This amount may be adjusted in accordance with the actual usage by each household when approved in writing by the EPA. Such water is to be provided at no cost to the Rangel's, Cox's, Hobbs' or Seaboard employees at the affected Seaboard Facilities.
59. An emergency supply of water for human consumption shall mean bottled water, bulk water from a tank truck, or water from some other source acceptable to the EPA that meets the water quality requirements of 40 C.F.R. § 141 for domestic uses, and is provided in a place and container convenient to the residence.
60. Within 14 days of the receipt of this ORDER, Respondents shall notify the EPA of the residences receiving water and the quantity and dates of delivery, and thereafter monthly reports due on the 15th of each month following.
61. Within 15 calendar days of receipt of this ORDER, Respondents shall submit to the EPA for approval, an investigation plan ("Well Survey and Sampling Plan") to accomplish the following activities in the areas delineated by Exhibits 1, 2, 3, and 4:
 - a. Identify all persons using water from the surficial aquifer for human consumption down-gradient of each facility in the areas delineated on Exhibits 1, 2, 3, and 4.
 - b. Include identification of any supply wells not currently being used, but which may be used as a viable source of water for human consumption.
 - c. Conduct sampling and analytical testing of water samples collected from wells identified in the delineated areas for the presence of the following contaminants. Each contaminant is followed in parentheses by the EPA method (see EPA Methods and Guidance for Analysis of Water, EPA 821-C97-001, April 1997). Nitrate (300.0); nitrite (300.0); ammonia (350.1); arsenic (200.7); barium (200.7); chloride (300.0); copper (200.7); sodium (200.7); sulfate (300.0); zinc (200.7). Conduct total coliform analyses in accordance with one of the methods listed in 40 C.F.R. § 141.21(f)(3) as contained in the latest edition of "Standard Methods for the Examination of Water and Wastewater," American Public Health Association. Conduct fecal coliform analysis in accordance with 40 C.F.R. § 141.21(f)(5). A well with a positive total coliform shall be further analyzed for the presence of *E. coli* in accordance with 40 C.F.R. § 141.21(f)(7). Additional analyses shall be conducted for fecal streptococcus, enterococcus, and salmonella in accordance with "Standard Methods for the Examination of Water and Wastewater." Respondents shall notify the EPA not less than 10 days in advance of sample collection activities unless shorter notice is agreed to by the EPA.
 - d. Include provisions for continued monitoring of private wells on a calendar quarterly basis (July through September; October through December; January through March; April through June) for those parameters listed in paragraph 76.c. above or until the EPA

determines that the ground water does not present an imminent and substantial endangerment to human health or until the EPA terminates this ORDER.

- e. In the event specific constituents are not detected within 8 consecutive rounds of sampling, Respondents may, upon written request to and approval by the EPA, eliminate such analysis for said constituents.
77. The investigation plan shall propose methods of implementation and include a schedule for completion of tasks by Respondents outlined in this ORDER or as otherwise directed by the EPA.
78. Respondents shall use best efforts to obtain access to property needed to implement the investigation plan. Best efforts include the payment of reasonable sums of money.
79. Respondents shall follow the EPA Region 4 Environmental Investigations Standard Operating Procedures and Quality Assurance Manual¹⁰, and other relevant EPA guidance for all sampling and analysis. The investigation plan shall contain quality assurance/quality control and chain of custody procedures for all sampling, monitoring, and analytical activities. The plan shall provide that all samples shall be analyzed by a State or EPA-approved laboratory using an EPA-approved testing method pursuant to 40 C.F.R. § 141.24, or other appropriate methods. Any deviations from the approved plan must be documented in writing, including reasons for the deviations, and must be approved in writing by the EPA prior to implementation. Also, any approved deviations must be reported in the applicable report as described in paragraph 85 below.
80. At the request of the EPA, Respondents shall allow the EPA or its authorized representatives to take split or duplicate samples of all samples collected by Respondents pursuant to this ORDER. Respondents shall notify the EPA not less than 28 days in advance of sample collection activities unless shorter notice is agreed to by the EPA in writing. In addition, the EPA shall have the right to take any additional samples that the EPA deems necessary. Similarly, at the request of Respondent, the EPA shall allow Respondents or their authorized representative(s) to take split or duplicate samples of all samples collected by the EPA as part of the EPA's oversight of the Respondents' implementation of this ORDER.
81. Within 30 days of the completion of the investigation plan, results of the analysis of the initial samples shall be sent to the EPA according to Section IX of this ORDER below. Results of the analysis of the quarterly samples shall be sent to the same address within 21 days of each sampling event.
82. Upon analysis of sample results by the EPA, Respondents may be required within 24 hours after notification by the EPA to provide safe drinking water to all persons who use water from the well where the sample was collected. Safe drinking water quantities shall be

¹⁰www.epa.gov/region04/esd/eisopqam/index.html

calculated in accordance with Part I, "Selection and Management of a Water Source," including Table 3, from Manual of Small Individual and Non-public Water Supply Systems, EPA 570/9-91-004, May 1991, Office of Water, Washington, D.C. 20460. Respondents shall continue to provide safe drinking water until the EPA determines that the well can consistently provide water without contaminants at concentrations of concern.

83. The long term solution to these contamination incidences will be the removal of the source and remediation of the affected surficial aquifer.
84. In the event the Respondents propose and the EPA accepts installation of a water treatment system at the water supply wells within the sampling area of this ORDER, implementation of said treatment systems will release the Respondents from all other provisions of this ORDER upon written notice of such by the EPA. Any normal and reasonable costs associated with the implementation and maintenance of a permanent treatment system shall be borne by the Respondents as long as the current drinking water source remains impaired. When written notice of successful implementation is provided by the EPA, the Respondents will no longer be responsible for any costs unless required by any other federal, state, or local statute or ordinance.
85. Within 14 days of the receipt of this ORDER, Respondents shall issue written public notice by publication in the local newspaper, that Respondents are providing water for human consumption to residences in the area delineated in Exhibits 1, 2, 3, and 4 whose wells have been tested and have been shown to exceed or exhibit a high probability to exceed the MCL for any contaminant. The public notice shall also notify the persons, whose wells exceed the MCL for any contaminant or appear to be at high risk, not to use their water well for water for human consumption. Special note should be made that boiling water causes the nitrate concentration to increase. Respondents shall include in the public notice that an Emergency Administrative ORDER has been issued by the EPA. Specifically, using the language and general content described in 40 C.F.R. § 141.32(e)(20), Respondents shall publish the written notice in a local daily newspaper (a local weekly if no daily newspaper encompasses the area delineated in Exhibits 1, 2, 3, and 4). Respondents shall continue providing public notice every 3 months for as long as any person's well exceeds the MCL for any contaminant. A copy of the public notice published in a local newspaper shall be sent to the EPA at the address in paragraph 97 no later than 3 days after each publication.
86. Within 14 days of the receipt of this ORDER, Respondents shall prepare a fact sheet detailing the hazards associated with drinking nitrate contaminated water and distribute the fact sheet to all employees at Lacey Farm 3, Lacey Farm 6, and Fairview Nursery Complex. Respondents shall require that current and new employees acknowledge receipt and understanding of the content of the fact sheet by signing a statement to that effect. Respondents will send the EPA a copy of the fact sheet and the employee signed statements within 21 days of receipt of this ORDER and when new employees are added at these Facilities. In the event specific constituents are not detected within 8 consecutive rounds of sampling, Respondents may, upon written request to and approval by the EPA, eliminate this condition.

VI. EPA APPROVALS

87. The EPA reserves the right to comment on, modify, and direct changes to any plan, report, specification, or schedule submitted pursuant to or required by this ORDER. The EPA shall provide Respondents with its written approval, approval with conditions and/or modifications, or disapproval. If such document submittal is disapproved, the EPA shall either (1) notify Respondents that the EPA will modify the document to cure the deficiencies or (2) direct Respondents to modify the document to cure the deficiencies. Revised submittals are also subject to the EPA approval, approval with conditions and/or modifications, or disapproval.
88. Upon receipt of a notice of disapproval and notification directing modification of the document, Respondents shall, within 30 days, cure the deficiencies and resubmit the document for approval. Should the EPA determine that Respondents have failed to cure any deficiencies, the EPA reserves the right to modify the document to correct the deficiencies and to then direct the Respondents to implement the actions of the document.
89. Upon receipt of the EPA's written approval, Respondents shall commence work and implement any approved plan in accordance with the schedule and provisions contained therein. If no schedule is contained in an approved plan, then Respondents shall commence work and implementation of the plan within 15 calendar days of receipt of the EPA's written approval of the plan. In the event the EPA disapproves the plan, Respondents shall proceed to take any action required by any portion of the plan not found to be deficient by the EPA.
90. Any of the EPA approved plans, reports, specifications, or schedules shall be incorporated by reference into this ORDER as if set forth fully herein. Prior to the EPA's written approval, no plan, report, specification, or schedule shall be construed as approved and final. Oral advice, suggestions, or comments given by the EPA representatives will not constitute an official approval, nor shall any oral approval or oral assurance of approval be considered binding.
91. Noncompliance with plans, reports, specifications, schedules, and attachments approved by the EPA pursuant to this ORDER shall be considered a violation of the requirements of this ORDER and shall subject Respondents to the statutory penalty provisions and enforcement actions pursuant to Section 1431(b) of the SDWA, 42 U.S.C. § 300i(b).
92. Any changes or modifications proposed by Respondents to the EPA-approved plans and timetables required by this ORDER must be approved or may be modified and approved in writing by the EPA prior to implementation.

VII. ADDITIONAL WORK

93. The EPA may determine or Respondents may propose that certain tasks, including investigatory work, engineering evaluation, or procedure/methodology modifications, are necessary in addition to or in lieu of the tasks included in any the EPA-approved plan, to meet the purposes set forth in this ORDER. The EPA may determine that Respondents shall perform the additional work, and the EPA will specify in writing the basis for its determination that the additional work is necessary. Within 30 calendar days after the receipt of such determination, Respondents shall have the opportunity to meet or confer with the EPA to discuss the additional work. If required by the EPA, Respondents shall submit for the EPA approval a work plan for the additional work. Such work plan shall be submitted within 30 calendar days of receipt of the EPA's determination that additional work is necessary, or according to an alternative schedule established by the EPA. Upon the EPA's approval of a work plan, Respondents shall implement such work plan in accordance with the schedule and provisions contained therein.

VIII. PARTIES BOUND

94. The provisions of this ORDER shall apply to and be binding upon Respondents and their officers, employees, agents, successors, and assigns, and shall apply whether or not Respondents' activities in connection with the Facilities have occurred while doing business by any other name, including but not limited to Seaboard Farms Inc., Shawnee Funding Limited Partnership and Pig Improvement Company. Notice of the ORDER shall be given to any successors in interest prior to transfer of the facility or its operations. Action or inaction of any persons, firms, contractors, employees, agents, or corporations acting under, through, or for Respondents, shall not excuse any failure of Respondents to fully perform the obligations under this ORDER.
95. Respondents shall provide a copy of this ORDER to any and all business organizations, contractors, or subcontractors which do business at the facility. Respondents shall provide a copy of this ORDER to all contractors, subcontractors, laboratories, and consultants retained to conduct or monitor any portion of the work performed pursuant to this ORDER within 7 calendar days of the effective date of this ORDER, or on the date of such retention; and Respondents shall condition all such contracts on compliance with the terms of this ORDER.
96. Respondents shall give notice to the EPA at least 30 calendar days prior to transfer of ownership and/or operation of the facility.

IX. GENERAL PROVISIONS

97. All submittals pursuant to this ORDER shall be hand delivered, sent by certified mail (return receipt requested), sent by overnight certified express mail, or sent by overnight delivery service as follows:

Three (3) copies to:

Mr. Jerry Saunders, Chief 6EN-WO
Arkansas/Louisiana/Oklahoma NPDES (UIC) Section
U. S. Environmental Protection Agency, Region 6
1445 Ross Avenue, Suite 1200
Dallas, TX 75202-2733

One (1) copy to each of the following:

Mr. Dan J. Parrish, Director
Water Quality Parrish
State of Oklahoma Department of Agriculture
P. O. Box 528804
Oklahoma City, OK 73152-8804

Mr. Jay Smith, Administrative Director
Kingfisher County Health Department
Courthouse Annex, Room 101
124 East Sheridan Avenue
Kingfisher, OK 73750-3224

Mr. Stephen Rempe, Administrative Director
Major County Health Department
501 E Broadway
Fairview, OK 73737

98. Each submittal shall include reference to the docket number as shown on the first page of this ORDER.
99. All plans, reports, notices, or other documents submitted by Respondents pursuant to this ORDER, which make any representation concerning Respondents' compliance or noncompliance with any requirement of this ORDER, shall be accompanied by the following statement signed by a responsible corporate official of the Respondent. A responsible corporate official is defined as a President, Secretary, Treasurer, or Vice-President in charge of official business.

“I certify under the penalty of law that this document and all attachments were prepared by me or under my direction or supervision in accordance with a system designed to assure that qualified personnel gathered and evaluated the information submitted. Based on my inquiry of any and all persons directly responsible for gathering and analyzing the information obtained, I certify that the information contained in or accompanying this submittal is to the best of my knowledge and belief, true, accurate, and complete. As to those identified portion(s) of this submittal for which I cannot personally verify the accuracy, I certify that this submittal and all attachments were prepared in accordance with procedures designed to assure that qualified personnel properly gathered and evaluated the information submitted. Based on my inquiry of the person or persons who manage the system, or those directly responsible for gathering the information, or the immediate supervisor of such person(s), 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.”

100. The certification shall also include the name, title, date, and signature of the person or persons completing the certification.
101. Respondents shall submit to the EPA the results of all sampling, tests, or other data generated by Respondents or its agents, consultants, or contractors pursuant to this ORDER.
102. If any event occurs, which causes delay in the achievement of the requirements of this ORDER, Respondents shall have the burden of proving that the delay was caused by circumstances beyond the reasonable control of Respondents or the control of any entity controlled by Respondents, including its contractors and consultants which could not have been overcome by due diligence. Respondents shall notify the EPA verbally within 24 hours and in writing within 7 calendar days of verbal notification to the EPA, of the anticipated length and cause of the delay, the measures taken and/or to be taken to prevent or minimize the delay, and the time table by which Respondents intend to implement these measures. If the EPA agrees that the delay or anticipated delay has been or will be caused by circumstances beyond the reasonable control of Respondents, the time for performance hereunder shall be extended for a period equal to the delay resulting from such circumstances. Respondents shall adopt all reasonable measures to avoid or minimize delay. Failure of Respondents to comply with the notice requirements of this paragraph shall constitute a waiver of Respondents' right to request an extension to meet the requirements of this ORDER.
103. Notwithstanding any other provisions of this ORDER, the EPA retains all of its information gathering and inspection authorities and rights, including the right to bring enforcement actions related thereto, under the SDWA and any other applicable statutes or regulations.
104. Respondents may assert a confidentiality claim covering all or part of any information submitted to the EPA pursuant to this ORDER. Any assertion of confidentiality must be

accompanied by information that satisfies the items listed in 40 C.F.R. § 2.204(e)(4) or such claim shall be deemed waived. Information determined by the EPA to be confidential shall be disclosed only to the extent permitted by 40 C.F.R. Part 2. If no such confidentiality claim accompanies the information when it is submitted to the EPA, the information may be made available to the public by the EPA without further notice to Respondents. The EPA will not accept any confidentiality claim with regard to any physical or analytical data.

105. The EPA, its contractors, employees, and/or any EPA representative(s) are authorized to enter and freely move about all property at the facility pursuant to this ORDER for the purposes of, inter alia, interviewing facility personnel and contractors; inspecting records, operating logs, and contracts related to the facility; reviewing the progress of the Respondents in carrying out the terms of this ORDER; conducting such tests, sampling, or monitoring as the EPA or its project coordinators deem necessary; using a camera, sound recording, or other documentary type equipment; and verifying the reports and data submitted to the EPA by the Respondents. Respondents shall provide the EPA and its representatives access to the facility at all reasonable times and to any other property to which access is required for implementation of this ORDER. Respondents shall permit such persons to inspect and copy all records, files, photographs, documents, and other writings, including all sampling and monitoring data, that pertain to work undertaken pursuant to this ORDER and that are within the possession or under the control of Respondents or its contractors or consultants.
106. To the extent that work being performed pursuant to this ORDER must be done beyond the facility property boundary, Respondents shall use its best effort to obtain site access agreements necessary to complete work required by this ORDER from the present owner(s) of such property for which site access is required. Best efforts as used in this paragraph shall include, at a minimum, a certified letter from Respondents to the present owner(s) of such property requesting access agreement(s) to permit Respondents and the EPA and its authorized representatives access to such property, and the payment of reasonable sums of money in consideration of granting such access. Any such access agreements shall be incorporated by reference into this ORDER and shall provide for access by the EPA and its representatives. Respondents shall ensure that the EPA has a copy of any such access agreements. In the event that agreements for access are not obtained for which access is required, or of the date that the need for access became known to Respondents, Respondents shall notify the EPA in writing within 2 calendar days thereafter of both the efforts undertaken to obtain access and the failure to obtain such agreements. The EPA may, at its discretion, assist Respondents in obtaining access. In the event the EPA obtains access, Respondents shall undertake the EPA-approved work on such property. The Respondents shall indemnify the EPA for any and all claims arising from activities on such property.
107. Nothing in this section limits or otherwise affects the EPA's right of access and entry pursuant to applicable law, including the SDWA, the Resource Conservation and Recovery

Act, 42 U.S.C. §§ 6901 to 6992k, and the Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C. §§ 9601 to 9675.

108. Record Preservation. Respondents shall retain, during the pendency of this ORDER and for a minimum of 6 years after its termination, all data, records, and documents now in its possession or control or which come into its possession or the possession of its divisions, officers, directors, employees, agents, contractors, successors, and assigns which relate in any way to this ORDER. Subsequent to the termination of the aforementioned 6-year period, Respondents shall provide written notification to the EPA 60 calendar days prior to the destruction of any data, records, or documents that relate in any way to this ORDER, its implementation, waste management practices and/or disposal at its facility. At the EPA's request, Respondents shall then make such records available to the EPA for inspection and/or the EPA's retention, or shall provide copies of any such records to the EPA prior to discarding. Such written notification shall reference the effective date, caption, and docket number of this ORDER and shall be sent to the address at paragraph 97 above.
109. Within 10 calendar days of the effective date of this ORDER, or at the time of retaining or employing any agent, consultant, or contractor for the purpose of carrying out the terms of this ORDER, Respondents shall enter into an agreement with any such agents, consultants, or contractors whereby such agents, consultants, or contractors will be required to provide Respondents a copy of all documents produced pursuant to this ORDER.
110. All documents pertaining to this ORDER shall be stored in a designated area as determined by the Respondents in a centralized location to afford ease of access by the EPA or its representatives.
111. All data, information, and records pertaining to, created for, or maintained by Respondents in connection with this ORDER shall be made available to the EPA upon request. All employees of Respondents and all persons, including contractors and subcontractors, who engage in activity under this ORDER shall be made available to and shall cooperate with the EPA if information is sought.
112. Pursuant to Section 1431(b) of the SDWA, 42 U.S.C. § 300i(b), in the event that Respondents violates, or fails, or refuses to comply with any of the terms or provisions of this ORDER, the EPA may commence a civil action in the U.S. District Court where Respondents are doing business to require compliance with this ORDER and to assess a civil penalty of up to \$15,000 per day under the SDWA in which such violation occurs or such failure to comply continues. Respondents shall be deemed severally liable in any such action. Failure to perform any requirement of this ORDER shall be a violation of this ORDER, beginning on the first day that performance is scheduled to commence.
113. The EPA expressly reserves all rights and defenses that it may have, including the rights both to disapprove work performed by Respondents pursuant to this ORDER and to request that Respondents perform tasks in addition to those stated in the ORDER Section above.
114. The EPA hereby reserves all of its statutory and regulatory powers, authorities, rights, and remedies, both legal and equitable, which may pertain to Respondents' failure to comply

with any of the requirements of this ORDER, including without limitation the assessment of penalties under 1431(b) of the SDWA, 42 U.S.C. § 300i(b). This ORDER shall not be construed as a covenant not to sue, release, waive, or limit any rights, remedies, powers, and/or authorities, civil or criminal, which the EPA has under the SDWA, or any other statutory, regulatory, or common law authority of the United States. Nothing in this ORDER shall diminish, impair, or otherwise adversely affect the authority of the EPA to enforce the provisions of this ORDER.

115. This ORDER shall not limit or otherwise preclude the EPA from taking additional enforcement action pursuant to the SDWA, or any other available legal authority, should the EPA determine that such action is warranted and necessary to protect human health and the environment.
116. The EPA reserves the right to perform any portion of the work set forth herein, or any additional work as it deems necessary to protect human health and/or the environment.
117. If the EPA determines that activities in compliance or noncompliance with this ORDER have caused or may pose a threat to human health and/or the environment, or if the EPA determines that Respondents are not capable of undertaking any of the work ordered, the EPA may order Respondents to stop further implementation of this ORDER for such period of time as the EPA determines may be needed to abate any threat and/or to undertake any action which the EPA determines is necessary to abate such threat.
118. This ORDER does not constitute a waiver, suspension, or modification of the requirements of the SDWA and any of the regulations promulgated thereunder, which remain in full force and effect. Issuance of this ORDER is not an election by the EPA to forego any civil or criminal action otherwise authorized under the SDWA or any other statute.
119. Nothing in this ORDER shall constitute or be construed as a release from any claim, cause of action, demand, or defense in law or equity against any person, firm, partnership, or corporation for any liability it may have arising out of, or relating in any way to the release of any wastes, pollutants, or contaminants found at, taken to, or taken or migrating from the facility.
120. All actions required to be taken pursuant to this ORDER shall be undertaken in accordance with the requirements of all applicable local, State, and federal laws and regulations. Respondents shall obtain or cause its representatives to obtain all permits and approvals necessary under such laws and regulations to perform work pursuant to this ORDER and shall submit timely applications and requests for any such permits and approvals.
121. Respondents shall indemnify and save and hold harmless the EPA, its agents, and employees from any and all claims or causes of action arising solely from, or on account of, acts or omissions of Respondents or its officers, employees, agents, independent contractors, receivers, trustees, and/or assigns in carrying out activities required by this ORDER. This indemnification shall not be construed in any way as affecting or limiting the rights or obligations of Respondents, the EPA, or the United States under their various contracts.

122. This ORDER may be amended by the EPA to ensure protection of human health and the environment. Such an amendment shall be in writing, shall have as its effective date the date on which it is signed by the EPA, and shall be incorporated into this ORDER.
123. If any provision or authority of this ORDER, or the application of this ORDER to any party or circumstance, is held by any judicial or administrative authority to be invalid, the application of such provisions to other parties or circumstances and the remainder of the ORDER shall remain in force and shall not be affected thereby.
124. This Administrative Order constitutes final Agency action.

X. OPPORTUNITY TO CONFER WITH EPA

125. Respondents have the opportunity to confer informally with the EPA concerning the terms and applicability of this ORDER. Respondents must contact Timothy T. Jones, Assistant Regional Counsel, (214) 665-8421, and schedule such a conference within 5 calendar days of receipt of this ORDER. Any such conference with the EPA will be held at the following location:

U.S. EPA Region 6
1445 Ross Avenue, Suite 1200
Dallas, TX 75202-2733

126. If the EPA determines that any element of this ORDER, including work to be performed or scheduled, warrants modification after a conference is held, the EPA will modify the ORDER in writing. The modification will be effective on the date it is received by the Respondents. This conference is not an evidentiary hearing, does not constitute a proceeding to challenge the ORDER, and does not give Respondents a right to seek review of this ORDER.

XI. EFFECTIVE DATE OF ORDER

127. Pursuant to Section 1431 of the SDWA, 42 U.S.C. 300i, this ORDER shall be effective immediately upon Respondents' receipt of the executed ORDER. If modifications are made by the EPA to this ORDER, such modifications will be effective on the date received by Respondents. This ORDER shall remain in effect until the provisions identified in the ORDER have been met in accordance with written EPA approval. This ORDER shall constitute final agency action for purposes of Section 1448 of the SDWA, 42 U.S.C. § 300j(7).

XII. TERMINATION AND SATISFACTION

128. The provisions of this ORDER, with the exception of the Record Preservation section, shall be deemed satisfied upon Respondents' receipt of written notice from the EPA that Respondents have demonstrated, to the satisfaction of the EPA, that the terms of this ORDER, including any additional tasks determined by the EPA to be required pursuant to this ORDER or any continuing obligation or promises, have been satisfactorily completed.

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
Region 6

Date: _____

By: _____

Samuel Coleman, P. E.
Director
Compliance Assurance and
Enforcement Division
U.S. Environmental Protection Agency
Region 6
1445 Ross Avenue, Suite 1200
Dallas, TX 75202-2733

CERTIFICATE OF SERVICE

I hereby certify that I have caused a copy of the foregoing ORDER (Docket No.: SDWA-06-2001-1239) to be served upon the person(s) designated below on the date below, by causing said copy to be deposited in the U.S. Mail, First Class (express mail certified, Return Receipt Requested, postage prepaid), at Dallas, Texas, in an envelope addressed to:

Mr. Rick J. Hoffman, Chief Executive Officer
SEABOARD FARMS, INC
9000 West 67th Street
Shawnee Mission, Kansas 66201

I have further caused the original and one copy of said ORDER and the Certificate of Service to be filed with the Regional Hearing Clerk, United States Environmental Protection Agency, 1445 Ross Avenue, Suite 1200, Dallas, TX 75202-2733 on the date specified below.

Dated this _____ day of _____, 2001.

Timothy T. Jones
Assistant Regional Counsel

CERTIFICATE OF SERVICE

I hereby certify that I have caused a copy of the foregoing ORDER (Docket No.: SDWA-06-2001-1239) to be served upon the person(s) designated below on the date below, by causing said copy to be deposited in the U.S. Mail, First Class (express mail certified, Return Receipt Requested, postage prepaid), at Dallas, Texas, in an envelope addressed to:

SEABOARD FARMS, INC
c/o Registered Agent
The Corporation Trust Company
Corporation Trust Company
1209 Orange Street
Wilmington, DE 19801

I have further caused the original and one copy of said ORDER and the Certificate of Service to be filed with the Regional Hearing Clerk, United States Environmental Protection Agency, 1445 Ross Avenue, Suite 1200, Dallas, TX 75202-2733 on the date specified below.

Dated this _____ day of _____, 2001.

Timothy T. Jones
Assistant Regional Counsel

CERTIFICATE OF SERVICE

I hereby certify that I have caused a copy of the foregoing ORDER (Docket No.: SDWA-06-2001-1239) to be served upon the person(s) designated below on the date below, by causing said copy to be deposited in the U.S. Mail, First Class (express mail certified, Return Receipt Requested, postage prepaid), at Dallas, Texas, in an envelope addressed to:

Mr. Mark J. Schroeder
SHAWNEE FUNDING LIMITED PARTNERSHIP
Shawnee Capital, Inc.
World Financial Center,
North Tower
27th Floor, 250 Vesey Street
New York, New York 10281-1327

I have further caused the original and one copy of said ORDER and the Certificate of Service to be filed with the Regional Hearing Clerk, United States Environmental Protection Agency, 1445 Ross Avenue, Suite 1200, Dallas, TX 75202-2733 on the date specified below.

Dated this _____ day of _____, 2001.

Timothy T. Jones
Assistant Regional Counsel

CERTIFICATE OF SERVICE

I hereby certify that I have caused a copy of the foregoing ORDER (Docket No.: SDWA-06-2001-1239) to be served upon the person(s) designated below on the date below, by causing said copy to be deposited in the U.S. Mail, First Class (express mail certified, Return Receipt Requested, postage prepaid), at Dallas, Texas, in an envelope addressed to:

PIG INTERNATIONAL GROUP, INC.
c/o Registered Agent
Corporation Service Company
2711 Centerville Road Suite 400
Wilmington, DE 19808

I have further caused the original and one copy of said ORDER and the Certificate of Service to be filed with the Regional Hearing Clerk, United States Environmental Protection Agency, 1445 Ross Avenue, Suite 1200, Dallas, TX 75202-2733 on the date specified below.

Dated this _____ day of _____, 2001.

Timothy T. Jones
Assistant Regional Counsel

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Shawnee Funding Limited Partnership
c/o Registered Agent
National Corporate Research Ltd.
615 South DuPont Highway
Dover, Delaware 19901

I have further caused the original and one copy of said ORDER and the Certificate of Service to be filed with the Regional Hearing Clerk, United States Environmental Protection Agency, 1445 Ross Avenue, Suite 1200, Dallas, TX 75202-2733 on the date specified below.

Dated this _____ day of _____, 2001.

Timothy T. Jones
Assistant Regional Counsel

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Mr. Greg W. BeVier, President PIC Americas
PIC INTERNATIONAL GROUP, INC.
3033 Nashville Road
Franklin, Kentucky 42134

I have further caused the original and one copy of said ORDER and the Certificate of Service to be filed with the Regional Hearing Clerk, United States Environmental Protection Agency, 1445 Ross Avenue, Suite 1200, Dallas, TX 75202-2733 on the date specified below.

Dated this _____ day of _____, 2001.

Timothy T. Jones
Assistant Regional Counsel

Exhibits