

EXECUTIVE SUMMARY - ENFORCEMENT MATTER Page 1 of 2
DOCKET NO.: 2007-0265-WQ-E **TCEQ ID:** RN102078649 **CASE NO.:** 32605
RESPONDENT NAME: Ezequiel Tapia dba Tapia Dairy 1

ORDER TYPE:		
<input type="checkbox"/> 1660 AGREED ORDER	<input checked="" type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING
<input type="checkbox"/> FINDINGS DEFAULT ORDER	<input type="checkbox"/> SHUTDOWN ORDER	<input type="checkbox"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
<input type="checkbox"/> AMENDED ORDER	<input type="checkbox"/> EMERGENCY ORDER	
CASE TYPE:		
<input type="checkbox"/> AIR	<input type="checkbox"/> MULTI-MEDIA (check all that apply)	<input type="checkbox"/> INDUSTRIAL AND HAZARDOUS WASTE
<input type="checkbox"/> PUBLIC WATER SUPPLY	<input type="checkbox"/> PETROLEUM STORAGE TANKS	<input type="checkbox"/> OCCUPATIONAL CERTIFICATION
<input checked="" type="checkbox"/> WATER QUALITY	<input type="checkbox"/> SEWAGE SLUDGE	<input type="checkbox"/> UNDERGROUND INJECTION CONTROL
<input type="checkbox"/> MUNICIPAL SOLID WASTE	<input type="checkbox"/> RADIOACTIVE WASTE	<input type="checkbox"/> DRY CLEANER REGISTRATION
<p>SITE WHERE VIOLATION(S) OCCURRED: Tapia Dairy 1, 215 Private Road 3921, Runnels County</p> <p>TYPE OF OPERATION: Dairy</p> <p>SMALL BUSINESS: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>OTHER SIGNIFICANT MATTERS: A complaint was received on August 29, 2006, concerning unauthorized discharge of wastewater from the facility. There is no record of additional pending enforcement actions regarding this facility location.</p> <p>INTERESTED PARTIES: A complaint was received, but the complainant has not expressed a desire to protest this action or to speak at Agenda.</p> <p>COMMENTS RECEIVED: The <i>Texas Register</i> comment period expired on July 11, 2007. No comments were received.</p> <p>CONTACTS AND MAILING LIST: TCEQ Attorney/SEP Coordinator: None TCEQ Enforcement Coordinator: Ms. Pamela Campbell, Enforcement Division, Enforcement Team I, MC 169; Mr. David Van Soest, Enforcement Division, MC 219, (512) 239-0468 Respondent: Mr. Ezequiel Tapia, Owner, Tapia Dairy 1, 215 Private Road 3921, Miles, Texas 76861 Respondent's Attorney: Not represented by counsel on this enforcement matter</p>		

VIOLATION SUMMARY CHART:

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p>Type of Investigation: <input checked="" type="checkbox"/> Complaint <input type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input type="checkbox"/> Records Review</p> <p>Date(s) of Complaints Relating to this Case: August 29, 2006</p> <p>Date of Investigation Relating to this Case: August 29 and 30, 2006</p> <p>Date of NOE Relating to this Case: October 27, 2006 (NOE)</p> <p>Background Facts: This was a complaint investigation. One violation was documented.</p> <p>WATER</p> <p>Failed to prevent the discharge of wastewater into or adjacent to water in the state [Texas Pollutant Discharge Elimination System ("TPDES") Permit No. TXG920033 Part III A.8.(c) and TEX. WATER CODE § 26.121(a)(1)].</p>	<p>Total Assessed: \$2,700</p> <p>Total Deferred: \$0 <input type="checkbox"/> Expedited Settlement <input type="checkbox"/> Financial Inability to Pay</p> <p>SEP Conditional Offset: \$0</p> <p>Total Paid to General Revenue: \$2,700</p> <p>Site Compliance History Classification <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Person Compliance History Classification <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Major Source: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>Applicable Penalty Policy: September 2002</p> <p>Findings Orders Justification: The Respondent has three repeated enforcement actions over the prior five year period for the same violations.</p>	<p>Ordering Provisions:</p> <p>The Order will require the Respondent to:</p> <p>a. Within 30 days after the effective date of this Agreed Order, develop and implement a plan to eliminate unauthorized discharges from stockpiled manure and the land management units at the Site; and</p> <p>b. Within 45 days after the effective date of this Agreed Order, submit written certification and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision a.</p>



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision January 9, 2007

TCEQ

DATES	Assigned	29-Jan-2007	Screening	8-Feb-2007	EPA Due	
	PCW	1-Mar-2007				

RESPONDENT/FACILITY INFORMATION	
Respondent	Ezequiel Tapia dba Tapia Dairy 1
Reg. Ent. Ref. No.	RN102078649
Facility/Site Region	3-Abilene
Major/Minor Source	Minor

CASE INFORMATION			
Enf./Case ID No.	32605	No. of Violations	1
Docket No.	2007-0265-WQ-E	Order Type	Findings
Media Program(s)	Water Quality	Enf. Coordinator	Pamela Campbell
Multi-Media		EC's Team	EnforcementTeam 1
Admin. Penalty \$	Limit Minimum \$0	Maximum	\$10,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties) Subtotal 1

ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

Compliance History Subtotals 2, 3, & 7

35% Enhancement

Notes

Culpability Subtotal 4

No 0% Enhancement

Notes

Good Faith Effort to Comply Subtotal 5

0% Reduction

	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary	<input type="text"/>	<input type="text"/>
Ordinary	<input type="text"/>	<input type="text"/>
N/A	X	(mark with x)

Notes

Subtotal 6

0% Enhancement*
*Capped at the Total EB \$ Amount

Total EB Amounts	\$469
Approx. Cost of Compliance	\$5,000

SUM OF SUBTOTALS 1-7 Final Subtotal

OTHER FACTORS AS JUSTICE MAY REQUIRE Adjustment

Reduces or enhances the Final Subtotal by the indicated percentage. (Enter number only; e.g. -30 for -30%.)

Notes

Final Penalty Amount

STATUTORY LIMIT ADJUSTMENT Final Assessed Penalty

DEFERRAL Adjustment

0% Reduction

Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes

PAYABLE PENALTY

Screening Date 8-Feb-2007

Docket No. 2007-0265-WQ-E

PCW

Respondent Ezequiel Tapia dba Tapia Dairy 1

Policy Revision 2 (September 2002)

Case ID No. 32605

PCW Revision January 9, 2007

Reg. Ent. Reference No: RN102078649

Media [Statute] Water Quality

Enf. Coordinator Pamela Campbell

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written NOVs with same or similar violations as those in the current enforcement action (number of NOVs meeting criteria)	3	15%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)	1	20%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (number of judgments or consent decrees meeting criteria)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (number of counts)	0	0%
Emissions	Chronic excessive emissions events (number of events)	0	0%
Audits	Letters notifying the executive director of an Intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which notices were submitted)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which violations were disclosed)	0	0%
<i>Please Enter: Yes or No.</i>			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 35%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Average Performer

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance History Notes

The Respondent has three NOVs for the same violation and one 1660 Agreed Order.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 35%

Screening Date 8-Feb-2007

Docket No. 2007-0265-WQ-E

PCW

Respondent Ezequiel Tapia dba Tapia Dairy 1

Policy Revision 2 (September 2002)

Case ID No. 32605

PCW Revision January 9, 2007

Reg. Ent. Reference No. RN102078649

Media [Statute] Water Quality

Enf. Coordinator Pamela Campbell

Violation Number 1

Rule Cite(s) Texas Pollutant Discharge Elimination System Permit No. TXG920033 Part III A.8.(c) and Tex. Water Code § 26.121(a)(1)

Violation Description

Failed to prevent the unauthorized discharge of wastewater into or adjacent to water in the state. Specifically, an unauthorized discharge of contaminated stormwater runoff originating from land management unit no. 2 was observed on August 29, 2006, as documented during the August 29 - 30, 2006 investigation.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			X
Potential			

Percent 10%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0%

Matrix Notes

Human health or the environment has been exposed to insignificant amounts of pollutants.

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events 2

1 Number of violation days

mark only one with an x	daily	
	monthly	
	quarterly	X
	semiannual	
	annual	
	single event	

Violation Base Penalty \$2,000

Two quarterly events are recommended from the investigation date (August 29, 2006) to the screening date (February 8, 2007).

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$469

Violation Final Penalty Total \$2,700

This violation Final Assessed Penalty (adjusted for limits) \$2,700

Economic Benefit Worksheet

Respondent Ezequiel Tapia dba Tapia Dairy 1
Case ID No. 32605
Reg. Ent. Reference No. RN102078649
Media Water Quality
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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No commas or \$

Delayed Costs

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction	\$5,000	29-Aug-2006	31-Dec-2007	1.3	\$22	\$447	\$469
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs

This is the estimated cost to install containment structures to retain stormwater runoff. The date required is the date the unauthorized discharge occurred and the final date is the anticipated compliance date.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance	\$5,000	TOTAL	\$469
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Compliance History

Customer/Respondent/Owner-Operator: CN602846016 TAPIA, EZEQUIEL Classification: AVERAGE Rating: 26.50
Regulated Entity: RN102078649 TAPIA DAIRY 1 Classification: AVERAGE Site Rating: 26.50
ID Number(s): WASTEWATER AGRICULTURE PERMIT TXG920033
Location: 215 PRIVATE ROAD 3921, RUNNELS COUNTY Rating Date: September 01 06 Repeat Violator: NO
TCEQ Region: REGION 03 - ABILENE
Date Compliance History Prepared: February 07, 2007
Agency Decision Requiring Compliance History: Enforcement
Compliance Period: February 07, 2002 to February 07, 2007
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History
Name: Pamela Campbell Phone: 512 239-4493

Site Compliance History Components

1. Has the site been in existence and/or operation for the full five year compliance period? No
2. Has there been a (known) change in ownership of the site during the compliance period? Yes
3. If Yes, who is the current owner? N/A
4. If Yes, who was/were the prior owner(s)? Tapia Dairy #3, L.L.C.
5. When did the change(s) in ownership occur? 09/01/2004

Components (Multimedia) for the Site :

A. Final Enforcement Orders, court judgements, and consent decrees of the state of Texas and the federal government.

Effective Date: 11/16/2003 ADMINORDER 2003-0294-MWD-E
Classification: Moderate
Citation: 30 TAC Chapter 321, SubChapter B 321.31(a)
Rqmt Prov: Not Specified PERMIT
Description: Failure to prevent the discharge of wastewater into waters in the State.
Classification: Moderate
Citation: 30 TAC Chapter 321, SubChapter B 321.42(a)[G]
Description: Failure to notify and submit documentation to the TCEQ of the wastewater discharge to Willow Creek.

B. Any criminal convictions of the state of Texas and the federal government.

N/A

C. Chronic excessive emissions events.

N/A

D. The approval dates of investigations. (CCEDS Inv. Track. No.)

1 11/06/2002 (IE0018790001001)
2 12/04/2002 (18297)
3 06/08/2006 (481711)

E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)

Date: 04/07/2006 (458639)
Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
Rqmt Prov: OP General Permit No. TXG920033
Description: Failure to provide a recharge feature certification.
Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
Rqmt Prov: OP General Permit No. TXG920033
Description: Failure to provide a site evaluation showing that all control facilities are located outside of the 100-year floodplain or protected from inundation and damage that may occur during the flood

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)

Rqmt Prov: OP General Permit No. TXG920033

Description: Failure to remove sludge from the RCS(s) in accordance with the design schedule.

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)

Rqmt Prov: OP General Permit No. TXG920033

Description: Failure to have a licensed Texas professional engineer, or a licensed Texas professional geoscientist conduct a site evaluation every five years and re-certify pond liners.

Self Report? NO Classification: Minor

Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)(1)

Description: Failure to prevent the unauthorized discharge of wastewater (8/18/2005) into or adjacent to any water in the state.

Date: 07/07/2005 (397850)

Self Report? NO Classification: Moderate

Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)(1)

Description: Failure to prevent the unauthorized discharge of wastewater into or adjacent to any water in the state.

Self Report? NO Classification: Minor

Rqmt Prov: PERMIT Standard Permit Conditions (D), page 51

Description: Failure to maintain the berm of the tailwater control structure.

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)

Rqmt Prov: PERMIT Standard Permit Conditions (E), page 51

Description: Failure to have the pollution prevention plan available onsite during the investigation.

Date: 07/08/2002 (4291)

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 321, SubChapter B 321.31(a)

Description: Failure to prevent the discharge of wastewater into waters of the State.

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 321, SubChapter B 321.42(a)(1)

30 TAC Chapter 321, SubChapter B 321.42(a)(2)

30 TAC Chapter 321, SubChapter B 321.42(a)(3)

30 TAC Chapter 321, SubChapter B 321.42(a)(4)

30 TAC Chapter 321, SubChapter B 321.42(a)(5)

30 TAC Chapter 321, SubChapter B 321.42(a)(6)

30 TAC Chapter 321, SubChapter B 321.42(a)(7)

Description: Failure to notify the TNRCC of the wastewater discharge to Willow Creek.

F. Environmental audits.

N/A

G. Type of environmental management systems (EMSs).

N/A

H. Voluntary on-site compliance assessment dates.

N/A

I. Participation in a voluntary pollution reduction program.

N/A

J. Early compliance.

N/A

Sites Outside of Texas

N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



IN THE MATTER OF AN	§	BEFORE THE
ENFORCEMENT ACTION	§	
CONCERNING	§	TEXAS COMMISSION ON
EZEQUIEL TAPIA DBA TAPIA DAIRY 1	§	
RN102078649	§	ENVIRONMENTAL QUALITY

AGREED ORDER DOCKET NO. 2007-0265-WQ-E

At its _____ agenda, the Texas Commission on Environmental Quality (“the Commission” or “TCEQ”) considered this agreement of the parties, resolving an enforcement action regarding Ezequiel Tapia dba Tapia Dairy 1 (“Mr. Tapia”) under the authority of TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, through the Enforcement Division, and Mr. Tapia presented this agreement to the Commission.

Mr. Tapia understands that he has certain procedural rights at certain points in the enforcement process, including, but not limited to, the right to formal notice of violations, notice of an evidentiary hearing, the right to an evidentiary hearing, and a right to appeal. By entering into this Agreed Order, Mr. Tapia agrees to waive all notice and procedural rights.

It is further understood and agreed that this Order represents the complete and fully-integrated settlement of the parties. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable. The duties and responsibilities imposed by this Agreed Order are binding upon Mr. Tapia.

The Commission makes the following Findings of Fact and Conclusions of Law:

I. FINDINGS OF FACT

1. Mr. Tapia owns and operates a dairy located at 215 Private Road 3921, Runnels County, Texas (the “Site”).
2. Mr. Tapia has discharged agricultural waste into or adjacent to any water in the state under TEX. WATER CODE ch. 26.

3. During an investigation on August 29 - 30, 2006, TCEQ staff documented an unauthorized discharge of contaminated stormwater runoff originating from land management unit no. 2.
4. Mr. Tapia received notice of the violations on or about November 1, 2006.

II. CONCLUSIONS OF LAW

1. Mr. Tapia is subject to the jurisdiction of the TCEQ pursuant to TEX. WATER CODE chs. 7 and 26 and the rules of the Commission.
2. As evidenced by Findings of Fact No. 1, Mr. Tapia failed to prevent the discharge of wastewater into or adjacent to water in the state, in violation of Texas Pollutant Discharge Elimination System ("TPDES") Permit No. TXG920033 Part III A.8.(c) and TEX. WATER CODE § 26.121(a)(1).
3. Pursuant to TEX. WATER CODE § 7.051, the Commission has the authority to assess an administrative penalty against Mr. Tapia for violations of the Texas Water Code and the Texas Health and Safety Code within the Commission's jurisdiction; for violations of rules adopted under such statutes; or for violations of orders or permits issued under such statutes.
4. An administrative penalty in the amount of Two Thousand Seven Hundred Dollars (\$2,700) is justified by the facts recited in this Agreed Order, and considered in light of the factors set forth in TEX. WATER CODE § 7.053. Mr. Tapia has paid the Two Thousand Seven Hundred Dollar (\$2,700) administrative penalty.

III. ORDERING PROVISIONS

NOW, THEREFORE, THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY ORDERS that:

1. Mr. Tapia is assessed an administrative penalty in the amount of Two Thousand Seven Hundred Dollars (\$2,700) as set forth in Section II, Paragraph 4 above, for violations of TCEQ rules and state statutes. The payment of this administrative penalty and Mr. Tapia's compliance with all the terms and conditions set forth in this Agreed Order completely resolve the violations set forth by this Agreed Order in this action. However, the Commission shall not be constrained in any manner from requiring corrective actions or penalties for other violations that are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: Ezequiel Tapia dba Tapia Dairy 1, Docket No. 2007-0265-WQ-E" to:

Financial Administration Division, Revenues Section
Attention: Cashier's Office, MC 214
Texas Commission on Environmental Quality
P.O. Box 13088
Austin, Texas 78711-3088

2. Mr. Tapia shall undertake the following technical requirements:

2. Mr. Tapia shall undertake the following technical requirements:

- a. Within 30 days after the effective date of this Agreed Order, develop and implement a plan to eliminate unauthorized discharges from stockpiled manure and the land management units at the Site.
- b. Within 45 days after the effective date of this Agreed Order, submit written certification as described below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision No 2.a. The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

“I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, 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.”

The certification shall be submitted to:

Order Compliance Team
Enforcement Division, MC 149A
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

with a copy to:

Water Section, Manager
Abilene Regional Office
Texas Commission on Environmental Quality
1977 Industrial Boulevard
Abilene, Texas 79602-7833

3. The provisions of this Agreed Order shall apply to and be binding upon Mr. Tapia. Mr. Tapia is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Site operations referenced in this Agreed Order.
4. If Mr. Tapia fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, Mr. Tapia's failure to comply is not a violation of this Agreed Order. Mr. Tapia shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. Mr. Tapia shall notify the Executive Director within seven days after Mr. Tapia

becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.

5. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by Mr. Tapia shall be made in writing to the Executive Director. Extensions are not effective until Mr. Tapia receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
6. The Executive Director may refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings without notice to Mr. Tapia if the Executive Director determines that Mr. Tapia has not complied with one or more of the terms or conditions in this Agreed Order.
7. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
8. This Agreed Order, issued by the Commission, shall not be admissible against Mr. Tapia in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
9. This agreement may be executed in multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreement may be transmitted by facsimile transmission to the other parties, which shall constitute an original signature for all purposes.
10. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties. By law, the effective date of this Agreed Order is the third day after the mailing date, as provided by 30 TEX. ADMIN. CODE § 70.10(b) and TEX. GOV'T CODE § 2001.142.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission


For the Executive Director

8/9/2007
Date

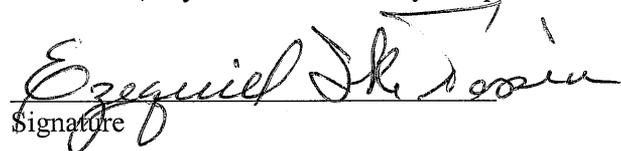
I, the undersigned, have read and understand the attached Agreed Order in the matter of Mr. Tapia. I am authorized to agree to the attached Agreed Order on behalf of Mr. Tapia, and do agree to the specified terms and conditions. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I understand that by entering into this Agreed Order, Mr. Tapia waives certain procedural rights, including, but not limited to, the right to formal notice of violations addressed by this Agreed Order, notice of an evidentiary hearing, the right to an evidentiary hearing, and the right to appeal. I agree to the terms of the Agreed Order in lieu of an evidentiary hearing. This Agreed Order constitutes full and final adjudication by the Commission of the violations set forth in this Agreed Order.

I also understand that my failure to comply with the Ordering Provisions, if any, in this order and/or my failure to timely pay the penalty amount, may result in:

- A negative impact on my compliance history;
- Greater scrutiny of any permit applications submitted by me;
- Referral of this case to the Attorney General's Office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions against me;
- Automatic referral to the Attorney General's Office of any future enforcement actions against me;
- and
- TCEQ seeking other relief as authorized by law.

In addition, any falsification of any compliance documents may result in criminal prosecution.


Signature

3-29-07
Date

Ezequiel Tapia
Name (Printed or typed)
Authorized Representative of
Ezequiel Tapia dba Tapia Dairy 1

OWNER
Title

Instructions: Send the original, signed Agreed Order with penalty payment to the Financial Administration Division, Revenues Section at the address in Section IV, Paragraph 1 of this Agreed Order.

