

**EXECUTIVE SUMMARY - ENFORCEMENT MATTER** Page 1 of 2  
**DOCKET NO.:** 2007-1572-AGR-E **TCEQ ID:** RN100802917 **CASE NO.:** 34697  
**RESPONDENT NAME:** George Ted Devries dba Devries Dairy

<b>ORDER TYPE:</b>		
<input checked="" type="checkbox"/> 1660 AGREED ORDER	<input 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	
<b>CASE TYPE:</b>		
<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><b>SITE WHERE VIOLATION(S) OCCURRED:</b> Devries Dairy, 1860 County Road 241, Dublin, Erath County</p> <p><b>TYPE OF OPERATION:</b> Commercial dairy</p> <p><b>SMALL BUSINESS:</b> <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p><b>OTHER SIGNIFICANT MATTERS:</b> A complaint was received July 19, 2007. The complainant stated wastewater was leaving Devries Dairy and entering his property. There is one additional pending enforcement actions regarding this facility location, Docket No. 2007-0849-AGR-E.</p> <p><b>INTERESTED PARTIES:</b> A complaint was received, but the complainant has not expressed a desire to protest this action or to speak at Agenda.</p> <p><b>COMMENTS RECEIVED:</b> The <i>Texas Register</i> comment period expired on January 22, 2008. No comments were received.</p> <p><b>CONTACTS AND MAILING LIST:</b>  TCEQ Attorney/SEP Coordinator: None  TCEQ Enforcement Coordinator: Mr. J. Craig Fleming, Enforcement Division, Enforcement Team 3, MC 149, (512) 239-5806;  Mr. Bryan Sinclair, Enforcement Division, MC 219, (512) 239-2171  Respondent: Mr. George Ted Devries, Owner, Devries Dairy, 1860 County Road 241, Dublin, Texas 76446  Respondent's Attorney: Not represented by counsel on this enforcement matter</p>		

VIOLATION SUMMARY CHART:		
VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p><b>Type of Investigation:</b>  <input checked="" type="checkbox"/> Complaint  <input type="checkbox"/> Routine  <input checked="" type="checkbox"/> Enforcement Follow-up  <input type="checkbox"/> Records Review</p> <p><b>Date(s) of Complaints Relating to this Case:</b> July 19, 2007</p> <p><b>Date of Investigation Relating to this Case:</b> July 19 and 25, 2007</p> <p><b>Date of NOV/NOE Relating to this Case:</b> September 14, 2007 (NOE)</p> <p><b>Background Facts:</b> This was a complaint investigation and an enforcement follow-up investigation.</p> <p><b>WATER</b></p> <p>Failure to prevent the unauthorized discharge of wastewater from the operation of a Concentrated Animal Feeding Operation ("CAFO"). Specifically, discharges were observed coming from Retention Control Structure number 2 through a pipe in the embankment and wastewater being pumped directly onto a field through an open pipe [30 TEX. ADMIN. CODE § 321.31(a), and TEX. WATER CODE § 26.121(a)].</p>	<p><b>Total Assessed:</b> \$5,200</p> <p><b>Total Deferred:</b> \$1,040  <input checked="" type="checkbox"/> Expedited Settlement  <input type="checkbox"/> Financial Inability to Pay</p> <p><b>SEP Conditional Offset:</b> \$0</p> <p><b>Total Paid to General Revenue:</b> \$4,160</p> <p><b>Site Compliance History Classification</b>  <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p><b>Person Compliance History Classification</b>  <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p><b>Major Source:</b> <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p><b>Applicable Penalty Policy:</b> September 2002</p>	<p><b>Ordering Provisions:</b></p> <p>The Order will require the Respondent to:</p> <p>a. Immediately upon the effective date of this Agreed Order, cease pumping wastewater directly on to the field;</p> <p>b. Within 30 days after the effective date of this Agreed Order, establish and implement procedures whereby unauthorized discharges of wastewater from the CAFO operations are prevented; and</p> <p>c. 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 Provisions a. and b.</p>

Additional ID No(s): Wastewater Agriculture Permit Nos. WQ0003061000 and TX0122866



# Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision September 19, 2007

DATES	Assigned	24-Sep-2007	Screening	26-Sep-2007	EPA Due	
	PCW	26-Sep-2007				

<b>RESPONDENT/FACILITY INFORMATION</b>			
Respondent	George Ted Devries dba Devries Dairy		
Reg. Ent. Ref. No.	RN100802917		
Facility/Site Region	4-Dallas/Fort Worth	Major/Minor Source	Minor

<b>CASE INFORMATION</b>				
Enf./Case ID No.	34697	No. of Violations	1	
Docket No.	2007-1572-AGR-E	Order Type	1660	
Media Program(s)	Water Quality	Enf. Coordinator	J. Craig Fleming	
Multi-Media		EC's Team	EnforcementTeam 3	
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**  Enhancement Subtotals 2, 3, & 7

Notes

**Culpability**   Enhancement Subtotal 4

Notes

**Good Faith Effort to Comply**  Reduction Subtotal 5

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

Notes

**Total EB Amounts**  **0% Enhancement\*** Subtotal 6   
 Approx. Cost of Compliance  \*Capped at the Total EB \$ Amount

**SUM OF SUBTOTALS 1-7** Final Subtotal

**OTHER FACTORS AS JUSTICE MAY REQUIRE**  Adjustment

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes

**Final Penalty Amount**

**STATUTORY LIMIT ADJUSTMENT** Final Assessed Penalty

**DEFERRAL**  Reduction Adjustment

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

Notes

**PAYABLE PENALTY**

**Screening Date** 26-Sep-2007

**Docket No.** 2007-1572-AGR-E

**PCW**

**Respondent** George Ted Devries dba Devries Dairy

Policy Revision 2 (September 2002)

**Case ID No.** 34697

PCW Revision September 19, 2007

**Reg. Ent. Reference No.** RN100802917

**Media [Statute]** Water Quality

**Enf. Coordinator** J. Craig Fleming

### 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)	0	0%
	Other written NOVs	3	6%
Orders	Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)	0	0%
	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 judgements 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)	2	-2%
	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)** 4%

>> **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**

An enhancement is recommended for having three NOVs with non-similar violations, and two notice of intent audits.

**Total Adjustment Percentage (Subtotals 2, 3, & 7)** 4%

<b>Screening Date</b> 26-Sep-2007	<b>Docket No.</b> 2007-1572-AGR-E	<b>PCW</b>		
<b>Respondent</b> George Ted Devries dba Devries Dairy	<small>Policy Revision 2 (September 2002)</small>			
<b>Case ID No.</b> 34697	<small>PCW Revision September 19, 2007</small>			
<b>Reg. Ent. Reference No.</b> RN100802917				
<b>Media [Statute]</b> Water Quality				
<b>Enf. Coordinator</b> J. Craig Fleming				
<b>Violation Number</b>	1			
<b>Rule Cite(s)</b>	Tex. Admin. Code § 321.31(a), and Tex. Water Code § 26.121(a)			
<b>Violation Description</b>	Failed to prevent the unauthorized discharge of wastewater from the operation of a CAFO. Specifically, discharges were observed coming from Retention Control Structure number 2 through a pipe in the embankment, and wastewater was being pumped directly onto a field through an open pipe during investigations conducted on July 19 and 25, 2007.			
<b>Base Penalty</b>		\$10,000		
<b>&gt;&gt; Environmental, Property and Human Health Matrix</b>				
OR	<b>Harm</b>			
	<b>Release</b>	Major	Moderate	Minor
	Actual	<input type="checkbox"/>	x	<input type="checkbox"/>
Potential	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
		<b>Percent</b>	25%	
<b>&gt;&gt;Programmatic Matrix</b>				
<b>Falsification</b>				
Major      Moderate      Minor				
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
		<b>Percent</b>	0%	
<b>Matrix Notes</b>	Human health or the environment has been exposed to significant amounts of pollutants which do not exceed levels that are protective of human health or environmental receptors as a result of the violation.			
<b>Adjustment</b>		\$7,500		
		\$2,500		
<b>Violation Events</b>				
<b>Number of Violation Events</b>	2	<b>Number of violation days</b>	69	
<small>mark only one with an x</small>	daily	<input type="checkbox"/>	<b>Violation Base Penalty</b>	
	monthly	<input type="checkbox"/>		
	quarterly	<input type="checkbox"/>		
	semiannual	<input type="checkbox"/>		
	annual	<input type="checkbox"/>		
	single event	x	\$5,000	
Two single events are recommended, one event for each documented day of discharge.				
<b>Economic Benefit (EB) for this violation</b>		<b>Statutory Limit Test</b>		
<b>Estimated EB Amount</b>	\$88	<b>Violation Final Penalty Total</b>	\$5,200	
		<b>This violation Final Assessed Penalty (adjusted for limits)</b>	\$5,200	

## Economic Benefit Worksheet

**Respondent** George Ted Devries dba Devries Dairy  
**Case ID No.** 34697  
**Reg. Ent. Reference No.** RN100802917  
**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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**Delayed Costs**

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
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)	\$2,500	19-Jul-2007	1-Apr-2008	0.7	\$88	n/a	\$88

Notes for DELAYED costs

Estimated cost to prevent discharges from the CAFO operation. The Date Required was the first day of the documented discharges. The Final Date is the expected date of compliance.

**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

NA

Approx. Cost of Compliance

\$2,500

**TOTAL**

\$88

# Compliance History

Customer/Respondent/Owner-Operator: CN601128895 DEVRIES, GEORGE TED Classification: Avg. Rating: 0.25  
 Regulated Entity: RN100802917 DEVRIES DAIRY Classification: Avg. Site Rating: 0.25  
 ID Number(s): AIR NEW SOURCE PERMITS PERMIT 18554  
 AIR NEW SOURCE PERMITS ACCOUNT NUMBER EF0052N  
 AIR NEW SOURCE PERMITS ACCOUNT NUMBER EF0065E  
 WASTEWATER AGRICULTURE PERMIT WQ0003061000  
 WASTEWATER AGRICULTURE PERMIT TX0122866  
 PETROLEUM STORAGE TANK REGISTRATION 77983  
 Location: 1860 COUNTY ROAD 241, DUBLIN, TX, 76446 Rating Date: September 01 07 Repeat Violator: NO  
 TCEQ Region: REGION 04 - DFW METROPLEX  
 Date Compliance History Prepared: September 24, 2007  
 Agency Decision Requiring Compliance History: Enforcement  
 Compliance Period: September 24, 2002 to September 24, 2007

TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History

Name: J. Craig Fleming Phone: (512) 239-5806

## Site Compliance History Components

- |  |            |
|--|------------|
| 1. Has the site been in existence and/or operation for the full five year compliance period? | Yes        |
| 2. Has there been a (known) change in ownership of the site during the compliance period?    | No         |
| 3. If Yes, who is the current owner?   | <u>N/A</u> |
| 4. If Yes, who was/were the prior owner(s)?  | N/A        |
| 5. When did the change(s) in ownership occur?  | N/A        |

### Components (Multimedia) for the Site :

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

N/A

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 01/28/2003 (21893)
- 2 03/20/2003 (27245)
- 3 11/05/2003 (251620)
- 4 07/13/2005 (349614)
- 5 07/28/2005 (401691)
- 6 05/26/2006 (463026)
- 7 05/14/2007 (554654)

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

- |   |                           |  |                       |
|---|---------------------------|--|-----------------------|
| 1 | Date: 01/22/2003 (21893)  |  |                       |
|   | ns Self Report? NO        |  | Classification: Minor |
|   | Citation:                 | 30 TAC Chapter 321, SubChapter B 321.39(f)(18)   |                       |
|   | Description:              | IN ACCORDANCE WITH SPECIAL PROVISION 9 OF PERMIT #03061, MR. DEVRIES IS REQUIRED TO SAMPLE EACH WASTE APPLICATION FIELD QUARTERLY. AT THE TIME OF THE INVESTIGATION, NO QUARTERLY SOIL ANALYSIS WERE SUBMITTED. THE ONLY SOIL ANALYSIS SUBMITTED WERE DATED 12/18/2001 AND 06/27/2002. |                       |
| 2 | Date: 05/26/2006 (463026) |  |                       |
|   | ns Self Report? NO        |  | Classification: Minor |
|   | Citation:                 | 30 TAC Chapter 321, SubChapter B 321.41(a)(1)  |                       |

Description: Failure to complete the required training.  
Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 321, SubChapter B 321.39(f)(19)(J)(I)  
Description: Failure of the on-site application records include: date, location, number of acres utilized during each event, acreage of each crop, no. dry tons, % N, % moisture of manure & yield.

3 Date 01/26/2007 (537537)  
ns Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 321, SubChapter B 321.39(f)(19)(F)  
Description: Failure to maintain wastewater transfer pipes.

F. Environmental audits.

Notice of Intent Date: 10/24/2002 (33804)  
No DOV Associated

Notice of Intent Date: 09/30/2003 (263147)  
No DOV Associated

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  
ENFORCEMENT ACTION  
CONCERNING  
GEORGE TED DEVRIES DBA  
DEVRIES DAIRY  
RN100802917

§  
§  
§  
§  
§  
§

BEFORE THE  
TEXAS COMMISSION ON  
ENVIRONMENTAL QUALITY

**AGREED ORDER**  
**DOCKET NO. 2007-1572-AGR-E**

**I. JURISDICTION AND STIPULATIONS**

At its \_\_\_\_\_ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding George Ted Devries dba Devries Dairy ("the Respondent") under the authority of TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent appear before the Commission and together stipulate that:

1. The Respondent owns and operates a commercial dairy at 1860 County Road 241 near Dublin, Erath County, Texas (the "Facility").
2. The Respondent has caused, suffered, allowed or permitted the discharge of any waste or the performance of any activity in violation of TEX. WATER CODE ch. 26 or any rule, permit, or order of the Commission.
3. The Commission and the Respondent agree that the Commission has jurisdiction to enter this Agreed Order, and that the Respondent is subject to the Commission's jurisdiction.
4. The Respondent received notice of the violations alleged in Section II ("Allegations") on or about September 19, 2007.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by the Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
6. An administrative penalty in the amount of Five Thousand Two Hundred Dollars (\$5,200) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations").



The Respondent has paid Four Thousand One Hundred Sixty Dollars (\$4,160) of the administrative penalty and One Thousand Forty Dollars (\$1,040) is deferred contingent upon the Respondent timely and satisfactory compliance with all the terms of this Agreed Order. The deferred amount will be waived upon full compliance with the terms of this Agreed Order. If the Respondent fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require the Respondent to pay all or part of the deferred penalty.

7. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.
8. The Executive Director of the TCEQ and the Respondent have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
9. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
10. 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.
11. 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.

## **II. ALLEGATIONS**

As owner and operator of the Facility, the Respondent is alleged to have failed to prevent the unauthorized discharge of wastewater from the operation of a Concentrated Animal Feeding Operation ("CAFO"), in violation of 30 TEX. ADMIN. CODE § 321.31(a), and TEX. WATER CODE § 26.121(a), as documented during investigations conducted on July 19 and 25, 2007. Specifically, discharges were observed coming from Retention Control Structure number 2 through a pipe in the embankment and wastewater was being pumped directly onto a field through an open pipe.

## **III. DENIALS**

The Respondent generally denies each allegation in Section II ("Allegations").



#### IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that the Respondent pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and the Respondent compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective action or penalties for violations, which are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: George Ted Devries dba Devries Dairy, Docket No. 2007-1572-AGR-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. It is further ordered that the Respondent shall undertake the following technical requirements:
  - a. Immediately upon the effective date of this Agreed Order, cease pumping wastewater directly on to the field;
  - b. Within 30 days after the effective date of this Agreed Order, establish and implement procedures whereby unauthorized discharges of wastewater from the CAFO operations are prevented, in accordance with 30 TEX. ADMIN. CODE § 321.31(a); and
  - c. 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. and 2.b. 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 I have personally examined and am familiar with the information submitted and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is 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  
Dallas/Fort Worth Regional Office  
Texas Commission on Environmental Quality  
2301 Gravel Drive  
Fort Worth, Texas 76118-6951

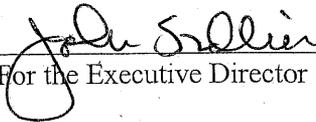
3. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
4. If the Respondent fails to comply with any 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, the Respondent failure to comply is not a violation of this Agreed Order. The Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The Respondent shall notify the Executive Director within seven days after the Respondent 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 the Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
6. This Agreed Order, issued by the Commission, shall not be admissible against the Respondent 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.
7. 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.
8. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to the Respondent, or three days after the date on which the Commission mails notice of the Order to the Respondent, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.



## SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

\_\_\_\_\_  
For the Commission

  
\_\_\_\_\_  
For the Executive Director

\_\_\_\_\_  
Date 11/29/2008

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

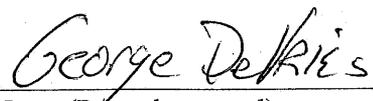
I also understand that failure to comply with the Ordering Provisions, if any, in this order and/or failure to timely pay the penalty amount, may result in:

- A negative impact on compliance history;
- Greater scrutiny of any permit applications submitted;
- 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;
- Automatic referral to the Attorney General's Office of any future enforcement actions; and
- TCEQ seeking other relief as authorized by law.

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

  
\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date 11-15-07

  
\_\_\_\_\_  
Name (Printed or typed)  
Authorized Representative of  
George Ted Devries dba Devries Dairy

\_\_\_\_\_  
Title OWNER

**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.

