

**EXECUTIVE SUMMARY - ENFORCEMENT MATTER**  
**DOCKET NO.:** 2009-0733-AIR-E **TCEQ ID:** RN102458338 **CASE NO.:** 37643  
**RESPONDENT NAME:** Land O'Lakes Purina Feed LLC

<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 checked="" 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 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> Land O'Lakes Purina Feed, 100 South Progressive Road, Hereford, Deaf Smith County</p> <p><b>TYPE OF OPERATION:</b> Animal feed additive manufacturing plant</p> <p><b>SMALL BUSINESS:</b> <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p><b>OTHER SIGNIFICANT MATTERS:</b> A complaint was received on February 16, 2009, alleging odors. There is no record of additional pending enforcement actions regarding this facility location.</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 November 9, 2009. No comments were received.</p> <p><b>CONTACTS AND MAILING LIST:</b>  <b>TCEQ Attorney/SEP Coordinator:</b> None  <b>TCEQ Enforcement Coordinator:</b> Ms. Suzanne Walrath, Enforcement Division, Enforcement Team 4, MC 149, (512) 239-2134; Ms. Cari-Michel La Caille, Enforcement Division, MC 219, (512) 239-1387  <b>Respondent:</b> Mr. Joshua Lopez, Plant Manager, Land O'Lakes Purina Feed LLC, 100 South Progressive Road, Hereford, Texas 78045  <b>Respondent's Attorney:</b> 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 type="checkbox"/> Enforcement Follow-up  <input type="checkbox"/> Records Review</p> <p><b>Date(s) of Complaints Relating to this Case:</b> February 16, 2009</p> <p><b>Date of Investigation Relating to this Case:</b> March 9, 2009</p> <p><b>Date of NOV/NOE Relating to this Case:</b> May 13, 2009 (NOE)</p> <p><b>Background Facts:</b> This was a complaint investigation.</p> <p><b>AIR</b></p> <p>Failure to obtain air permit authorization prior to constructing and operating an animal feed additive manufacturing plant [30 TEX. ADMIN. CODE § 116.110(a) and TEX. HEALTH &amp; SAFETY CODE §§ 382.0518(a) and 382.085(b)].</p>	<p><b>Total Assessed:</b> \$3,360</p> <p><b>Total Deferred:</b> \$672  <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> \$2,688</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. Within 15 days after the effective date of this Agreed Order, submit an administratively complete permit application;</p> <p>b. Respond completely and adequately, as determined by the TCEQ, to all requests for information concerning the permit application within 30 days after the date of such requests, or by any other deadline specified in writing; and</p> <p>c. Within 240 days after the effective date of this Agreed Order, submit written certification that either authorization to construct and operate a source of air emissions has been obtained or that operation has ceased until such time that appropriate authorization is obtained. The certification shall include detailed supporting documentation including receipts and/or other records to demonstrate compliance.</p>

Additional ID No(s): 0



# Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

**TCEQ**

<b>DATES</b>	Assigned	18-May-2009	Screening	18-May-2009	EPA Due	
	PCW	11-Jun-2009				

<b>RESPONDENT/FACILITY INFORMATION</b>			
Respondent	Land O'Lakes Purina Feed LLC		
Reg. Ent. Ref. No.	RN102458338		
Facility/Site Region	1 - Amarillo	Major/Minor Source	Minor

<b>CASE INFORMATION</b>			
Enf./Case ID No.	37643	No. of Violations	1
Docket No.	2009-0733-AIR-E	Order Type	1660
Media Program(s)	Air	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Suzanne Walrath
		EC's Team	Enforcement Team 4
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 Total Adjustments** Subtotal 5

**Economic Benefit**  Enhancement\* Subtotal 6

Total EB Amounts   
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 18-May-2009

Docket No. 2009-0733-AIR-E

PCW

Respondent Land O'Lakes Purina Feed LLC

Policy Revision 2 (September 2002)

Case ID No. 37643

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN102458338

Media [Statute]: Air

Enf. Coordinator Suzanne Walrath

### 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	6	12%
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)	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)

>> Repeat Violator (Subtotal 3)

Adjustment Percentage (Subtotal 3)

>> Compliance History Person Classification (Subtotal 7)

Adjustment Percentage (Subtotal 7)

>> Compliance History Summary

Compliance History Notes

The penalty has been enhanced for six dissimilar Notices of Violation.

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

**Screening Date** 18-May-2009 **Docket No.** 2009-0733-AIR-E **PCW**  
**Respondent** Land O'Lakes Purina Feed LLC *Policy Revision 2 (September 2002)*  
**Case ID No.** 37643 *PCW Revision October 30, 2009*  
**Reg. Ent. Reference No.** RN102458338  
**Media [Statute]** Air  
**Enf. Coordinator** Suzanne Walrath  
**Violation Number** 1  
**Rule Cite(s)** 30 Tex. Admin. Code § 116.110(a) and Tex. Health & Safety Code §§ 382.0518(a) and 382.085(b)  
**Violation Description** The Respondent failed to obtain air permit authorization prior to constructing and operating an animal feed additive manufacturing plant.  
**Base Penalty** \$10,000

>> Environmental, Property and Human Health Matrix

Release	Harm			Percent
	Major	Moderate	Minor	
Actual				0%
Potential				

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
	X			10%

**Matrix Notes** 100% of the rule requirement was not met.

**Adjustment** \$8,000

\$1,000

Violation Events

Number of Violation Events: 3 Number of violation days: 70

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

**Violation Base Penalty** \$3,000

Three monthly events are recommended, beginning on the investigation date (March 9, 2009) and ending on case screening date (May 18, 2009).

Good Faith Efforts to Comply

0.0% Reduction \$0

	Before NOV	NOV to ED/PRP/Settlement Offer
Extraordinary		
Ordinary		
N/A	X	(mark with x)

**Notes** The Respondent does not meet the good faith criteria for this violation.

**Violation Subtotal** \$3,000

Economic Benefit (EB) for this violation

Estimated EB Amount \$107

Statutory Limit Test

Violation Final Penalty Total \$3,360

**This violation Final Assessed Penalty (adjusted for limits)** \$3,360

## Economic Benefit Worksheet

**Respondent** Land O'Lakes Purina Feed LLC  
**Case ID No.** 37643  
**Reg. Ent. Reference No.** RN102458338  
**Media** Air  
**Violation No.** 1

<b>Percent Interest</b>	<b>Years of Depreciation</b>
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				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs	\$2,500	9-Mar-2009	14-Jan-2010	0.85	\$107	n/a	\$107
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

This is an estimated cost to obtain an air permit. Date Required is the investigation date. Final date is the projected date of compliance.

**Avoided Costs**

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

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$2,500

TOTAL

\$107

# Compliance History Report

Customer/Respondent/Owner-Operator: CN600510739 Land O'Lakes Purina Feed LLC Classification: AVERAGE Rating: 2.52  
Regulated Entity: RN102458338 LAND O'LAKES PURINA FEED Classification: AVERAGE Site Rating: 4.71

ID Number(s): WASTEWATER PERMIT WQ0004296000

STORMWATER PERMIT TXR05U686

Location: 100 S PROGRESSIVE RD, HEREFORD, TX, 79045

TCEQ Region: REGION 01 - AMARILLO

Date Compliance History Prepared: May 27, 2009

Agency Decision Requiring Compliance History: Enforcement

Compliance Period: May 27, 2004 to May 27, 2009

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

Name: Suzanne Walrath Phone: 239 - 2134

## 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/operator of the site during the compliance period? No
3. If Yes, who is the current owner/operator? N/A
4. If Yes, who was/were the prior owner(s)/operator(s) ? N/A
5. When did the change(s) in owner or operator occur? N/A
6. Rating Date: 9/1/2008 Repeat Violator: NO

## 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	07/01/2005	(396043)
2	02/01/2007	(537466)
3	02/12/2007	(538325)
4	03/27/2007	(543713)
5	07/12/2007	(567195)
6	07/22/2008	(685361)
7	09/09/2008	(701891)
8	12/08/2008	(709897)

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

Date: 05/27/2005 (396043)

Self Report? NO

Classification: Moderate

Citation: 30 TAC Chapter 319, SubChapter A 319.4  
Section IV Page 2 PERMIT

Description: Partial failure to monitor for COD as permit required.

Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 319, SubChapter A 319.7(c)  
Section V. Special Provisions PERMIT  
Description: Partial failure to maintain sampling results as permit required.

Date: 11/03/2006 (515113)

Self Report? NO Classification: Major  
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
IV. Conditions of the Permit PERMIT  
Permit Conditions #2g Page 8 PERMIT  
Description: Failure by the facility to prevent the unauthorized discharge of stormwater from the facility boundary as required by TCEQ Permit no. 04296.

Date: 02/01/2007 (537466)

Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 281, SubChapter A 281.25(a)(4)  
MSGP Part III 2. (a) PERMIT  
Description: Failure by the facility to include the responsibilities of the pollution prevention team members in the SWP3 as required by the MSGP.

Date: 02/02/2007 (538325)

Self Report? NO Classification: Minor  
Citation: 30 TAC Chapter 319, SubChapter A 319.7(c)  
V. Special Provisions G. PERMIT  
Description: Failure by the facility to maintain the sample results for September, 2006. All other months of results were on file.

Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 319, SubChapter A 319.7(a)  
VI. Standard Permit Conditions PERMIT

Description: Failure by the facility to complete and maintain chain of custody records.

Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 319, SubChapter A 319.6  
30 TAC Chapter 319, SubChapter A 319.9(c)  
VI. Standard Permit Conditions PERMIT

Description: Failure by the facility to maintain QA/QC laboratory records with the sample results. No QA/QC records were available on-site, and none were provided in a timely manner.

Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
IV. Conditions of the Permit PERMIT

Description: Failure by the facility to report parameter monitoring annually to the TCEQ Central Office and Regional Office.

Date: 07/01/2008 (683708)

Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 101, SubChapter A 101.4  
Description: Failed to prevent a nuisance odor condition which adversely interfered with the normal use of the complainants' properties in violation of the provisions of 30 TAC §101.4.

Date: 07/23/2008 (685361)

Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 305, SubChapter F 305.125(5)  
Operational Requirements, 1, pg.10 PERMIT

Description: Failure to maintain the storm water/wash water collection trough and sump area, prior to the evaporation pond.

Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 305, SubChapter F 305.125(5)  
V., Special Provisions, B, pg 2. PERMIT

Description: Failure to maintain a minimum of two foot of freeboard in the evaporation pond.

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  
ENFORCEMENT ACTION  
CONCERNING  
LAND O'LAKES PURINA FEED LLC  
RN102458338

§  
§  
§  
§  
§

BEFORE THE  
TEXAS COMMISSION ON  
ENVIRONMENTAL QUALITY

AGREED ORDER  
DOCKET NO. 2009-0733-AIR-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 Land O'Lakes Purina Feed LLC ("the Respondent") under the authority of TEX. HEALTH & SAFETY CODE ch. 382 and TEX. WATER CODE ch. 7. 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 an animal feed additive manufacturing plant at 100 South Progressive Road in Hereford, Deaf Smith County, Texas (the "Plant").
2. The Plant consists of one or more sources as defined in TEX. HEALTH & SAFETY CODE § 382.003(12).
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 May 18, 2009.
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 Three Thousand Three Hundred Sixty Dollars (\$3,360) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid Two Thousand Six Hundred Eighty-Eight Dollars (\$2,688) of the administrative penalty and Six Hundred Seventy-Two Dollars (\$672) is deferred contingent upon the Respondent's 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 Plant, the Respondent is alleged to have failed to obtain air permit authorization prior to constructing and operating an animal feed additive manufacturing plant, in violation of 30 TEX. ADMIN. CODE § 116.110(a) and TEX. HEALTH & SAFETY CODE §§ 382.0518(a) and 382.085(b), as documented during an investigation conducted on March 9, 2009.

## **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's 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: Land O'Lakes Purina Feed LLC, Docket No. 2009-0733-AIR-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. Within 15 days after the effective date of this Agreed Order, submit an administratively complete permit application in accordance with 30 TEX. ADMIN. CODE § 116.110 to:

Air Permits Division, MC 162  
Texas Commission on Environmental Quality  
P.O. Box 13087  
Austin, Texas 78711-3087

- b. Respond completely and adequately, as determined by the TCEQ, to all requests for information concerning the permit application within 30 days after the date of such requests, or by any other deadline specified in writing; and

- c. Within 240 days after the effective date of this Agreed Order, submit written certification that either authorization to construct and operate a source of air emissions has been obtained or that operation has ceased until such time that appropriate authorization is obtained. The certification shall include detailed supporting documentation including receipts and/or other records to demonstrate compliance, 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 fines 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:

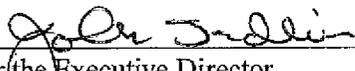
Air Section, Manager  
Amarillo Regional Office  
Texas Commission on Environmental Quality  
3928 Canyon Drive  
Amarillo, Texas 79109-4933

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 Plant 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's 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 Agreed Order may be executed in multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreed Order may be transmitted by facsimile transmission to the other parties, which shall constitute an original signature for all purposes under this Agreed Order.
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

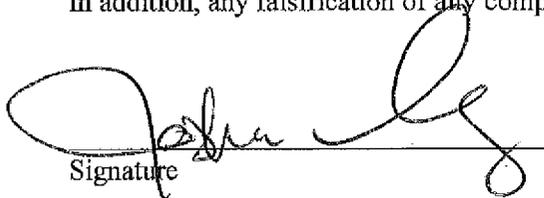
\_\_\_\_\_  
Date 10/9/2009

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 7-1-09

\_\_\_\_\_  
Name (Printed or typed)  
Joshua Lopez  
Authorized Representative of  
Land O'Lakes Purina Feed LLC

\_\_\_\_\_  
Title  
Plant Manager

**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.

