

**EXECUTIVE SUMMARY - ENFORCEMENT MATTER**

**DOCKET NO.:** 2008-1312-AGR-E **TCEQ ID:** RN101529386 **CASE NO.:** 36382

**RESPONDENT NAME:** J. R. Garman, Jr. dba Garman & Sons 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> Garman and Sons Dairy, located on the west side of Farm-to-Market Road 1057, 6 miles west of Hereford and 1.5 miles south of the intersection of Farm-to-Market Road 1057 and Farm-to-Market Road 1058, Deaf Smith County</p> <p><b>TYPE OF OPERATION:</b> Dairy</p> <p><b>SMALL BUSINESS:</b> <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p><b>OTHER SIGNIFICANT MATTERS:</b> There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.</p> <p><b>INTERESTED PARTIES:</b> No one other than the ED and the Respondent has expressed an interest in this matter.</p> <p><b>COMMENTS RECEIVED:</b> The <i>Texas Register</i> comment period expired on April 6, 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. Pamela Campbell, Enforcement Division, Enforcement Team 1, MC 169, (512) 239-4493; Ms. Cari-Michel La Caille, Enforcement Division, MC 219, (512) 239-1387  <b>Respondent:</b> Mr. J. R. Garman, Jr., Owner, Garman &amp; Sons Dairy, 3511 Farm-to-Market Road 1057, Hereford, Texas 79045  <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 type="checkbox"/> Complaint  <input checked="" 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> None</p> <p><b>Date of Investigation Relating to this Case:</b> May 29, 2008</p> <p><b>Date of NOV/NOE Relating to this Case:</b> June 19, 2008 (NOE)</p> <p><b>Background Facts:</b> This was a routine investigation.</p> <p><b>WATER</b></p> <p>1) Failure to maintain a copy of the pollution prevention plan ("PPP") on site [30 TEX. ADMIN. CODE § 321.46(a)(2)].</p> <p>2) Failure to ensure that the design specifications and completed construction specifications are certified by a licensed Texas professional engineer prior to constructing a new, or modifying an existing retention control structure ("RCS"). Specifically, at the time of the May 29, 2008 investigation, the Respondent had started reconstruction of the RCS, but did not have certification of the design specifications [30 TEX. ADMIN. CODE § 321.38(e)(2)].</p> <p>3) Failure to maintain operational records on site. Specifically, daily operational records were not available for review at the time of the investigation [30 TEX. ADMIN. CODE § 321.46(d) and General Permit No. TXG921055 Part IV.A].</p> <p>4) Failure to develop and implement a nutrient management plan ("NMP") for the Facility [30 TEX. ADMIN. CODE § 321.36(d)(2) and General Permit No. TXG921055 Part III. A(11)(a)].</p>	<p><b>Total Assessed:</b> \$5,340</p> <p><b>Total Deferred:</b> \$1,068  <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> \$4,272</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>Corrective Actions Taken:</b></p> <p>The Executive Director recognizes that the Respondent has implemented the following corrective measures at the Facility:</p> <p>a. On June 13, 2008, began maintaining the PPP and Facility operational records on site; and</p> <p>b. On September 5, 2008, submitted a copy of the RCS design specification certification and the Facility's certified NMP.</p>

Additional ID No(s): TPDES Permit No. TXG921055



# Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision June 12, 2008

**TCEQ**

<b>DATES</b>	Assigned	1-Jul-2008		
	PCW	3-Dec-2008	Screening	13-Aug-2008
	EPA Due			

<b>RESPONDENT/FACILITY INFORMATION</b>	
Respondent	J. R. Garman, Jr. dba Garman & Sons Dairy
Reg. Ent. Ref. No.	RN101529386
Facility/Site Region	1-Amarillo
Major/Minor Source	Minor

<b>CASE INFORMATION</b>			
Enf./Case ID No.	36382	No. of Violations	4
Docket No.	2008-1312-AGR-E	Order Type	1660
Media Program(s)	Water Quality	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Pamela Campbell
		EC's Team	Enforcement Team 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**  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	\$122
Approx. Cost of Compliance	\$9,050

\*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** 13-Aug-2008

**Docket No.** 2008-1312-AGR-E

**PCW**

**Respondent** J. R. Garman, Jr. dba Garman & Sons Dairy

Policy Revision 2 (September 2002)

**Case ID No.** 36382

PCW Revision June 12, 2008

**Reg. Ent. Reference No.** RN101529386

**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 <i>(number of NOVs meeting criteria)</i>	0	0%
	Other written NOVs	2	4%
Orders	Any agreed final enforcement orders containing a denial of liability <i>(number of orders meeting criteria)</i>	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 <i>(number of judgements or consent decrees meeting criteria)</i>	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 <i>(number of counts)</i>	0	0%
Emissions	Chronic excessive emissions events <i>(number of events)</i>	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 <i>(number of audits for which notices were submitted)</i>	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 <i>(number of audits for which violations were disclosed)</i>	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**

The Respondent has two NOVs for unrelated violations.

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

<b>Screening Date</b> 13-Aug-2008	<b>Docket No.</b> 2008-1312-AGR-E	<b>PCW</b>			
<b>Respondent</b> J. R. Garman, Jr. dba Garman & Sons Dairy	<small>Policy Revision 2 (September 2002)</small>				
<b>Case ID No.</b> 36382	<small>PCW Revision June 12, 2008</small>				
<b>Reg. Ent. Reference No.</b> RN101529386					
<b>Media [Statute]</b> Water Quality					
<b>Enf. Coordinator</b> Pamela Campbell					
<b>Violation Number</b> <input type="text" value="1"/>					
<b>Rule Cite(s)</b>	<input type="text" value="30 Tex. Admin. Code § 321.46(a)(2)"/>				
<b>Violation Description</b>	<input on="" ppp")="" site."="" type="text" value="Failed to maintain a copy of the pollution prevention plan ("/>				
<b>Base Penalty</b>		<input type="text" value="\$10,000"/>			
<b>&gt;&gt; Environmental, Property and Human Health Matrix</b>					
<b>OR</b>	<b>Release</b>	<b>Harm</b>			
		Major      Moderate      Minor			
	Actual <input type="text"/> Potential <input type="text"/>	<input type="text"/> <input type="text"/> <input type="text"/>	<input type="text"/> <input type="text"/> <input type="text"/>	<b>Percent</b> <input type="text" value="0%"/>	
<b>&gt;&gt; Programmatic Matrix</b>					
	Falsification	Major	Moderate	Minor	
	<input type="text"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<b>Percent</b> <input type="text" value="10%"/>
<b>Matrix Notes</b>	<input type="text" value="100% of this rule requirement was not met."/>				
<b>Adjustment</b>				<input type="text" value="\$9,000"/>	
				<input type="text" value="\$1,000"/>	
<b>Violation Events</b>					
<b>Number of Violation Events</b> <input type="text" value="1"/>		<b>Number of violation days</b> <input type="text" value="76"/>			
<small>mark only one with an x</small>	daily	<input type="text"/>			<b>Violation Base Penalty</b> <input type="text" value="\$1,000"/>
	monthly	<input type="text"/>			
	quarterly	<input type="text"/>			
	semiannual	<input type="text"/>			
	annual	<input type="text"/>			
	single event	<input checked="" type="checkbox"/>			
<input type="text" value="One single event is recommended."/>					
<b>Good Faith Efforts to Comply</b>		<input type="text" value="25.0%"/> Reduction		<input type="text" value="\$250"/>	
		<small>Before NOV</small>	<small>NOV to EDPRP/Settlement Offer</small>		
Extraordinary	<input type="text"/>				
Ordinary	<input checked="" type="checkbox"/>				
N/A	<input type="text"/> <small>(mark with x)</small>				
<b>Notes</b>	<input type="text" value="The Respondent achieved compliance on June 13, 2008."/>				
<b>Violation Subtotal</b>				<input type="text" value="\$750"/>	
<b>Economic Benefit (EB) for this violation</b>		<b>Statutory Limit Test</b>			
<b>Estimated EB Amount</b> <input type="text" value="\$0"/>		<b>Violation Final Penalty Total</b>		<input type="text" value="\$790"/>	
		<b>This violation Final Assessed Penalty (adjusted for limits)</b>		<input type="text" value="\$790"/>	

## Economic Benefit Worksheet

**Respondent** J. R. Garman, Jr. dba Garman & Sons Dairy  
**Case ID No.** 36382  
**Reg. Ent. Reference No.** RN101529386  
**Media** Water Quality  
**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	\$25	29-May-2008	13-Jun-2008	0.04	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

This is the estimated cost to submit the PPP to the TCEQ and to ensure it is maintained on site. The date required is the date of the investigation and the final date is the date that compliance documentation was submitted to the TCEQ.

**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	\$25	<b>TOTAL</b>	\$0
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<b>Screening Date</b> 13-Aug-2008	<b>Docket No.</b> 2008-1312-AGR-E	<b>PCW</b>		
<b>Respondent</b> J. R. Garman, Jr. dba Garman & Sons Dairy		<small>Policy Revision 2 (September 2002)</small>		
<b>Case ID No.</b> 36382		<small>PCW Revision June 12, 2008</small>		
<b>Reg. Ent. Reference No.</b> RN101529386				
<b>Media [Statute]</b> Water Quality				
<b>Enf. Coordinator</b> Pamela Campbell				
<b>Violation Number</b>	<input type="text" value="2"/>			
<b>Rule Cite(s)</b>	<input type="text" value="30 Tex. Admin. Code § 321.38(e)(2)"/>			
<b>Violation Description</b>	<input 2008="" 29,="" at="" but="" certification="" design="" did="" had="" have="" investigation,="" may="" not="" of="" rcs").="" rcs,="" reconstruction="" respondent="" specifically,="" specifications."="" started="" the="" time="" type="text" value="Failed to ensure that the design specifications and completed construction specifications are certified by a licensed Texas professional engineer prior to constructing a new, or modifying an existing retention control structure ("/>			
<b>Base Penalty</b>		<input type="text" value="\$10,000"/>		
<b>&gt;&gt; Environmental, Property and Human Health Matrix</b>				
<b>OR</b>	<b>Harm</b>			
	Release	Major	Moderate	Minor
	Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>
	Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>
		<b>Percent</b>	<input type="text" value="0%"/>	
<b>&gt;&gt; Programmatic Matrix</b>				
	Falsification	Major	Moderate	Minor
	<input type="text"/>	<input checked="" type="checkbox"/>	<input type="text"/>	<input type="text"/>
		<b>Percent</b>	<input type="text" value="10%"/>	
<b>Matrix Notes</b>	<input type="text" value="100% of this rule requirement was not met."/>			
<b>Adjustment</b>		<input type="text" value="\$9,000"/>		
		<input type="text" value="\$1,000"/>		
<b>Violation Events</b>				
<b>Number of Violation Events</b>		<input type="text" value="1"/>	<b>Number of violation days</b>	
		<input type="text" value="76"/>		
<small>mark only one with an x</small>	daily	<input type="text"/>		
	monthly	<input type="text"/>		
	quarterly	<input type="text"/>		
	semiannual	<input type="text"/>		
	annual	<input type="text"/>		
	single event	<input checked="" type="checkbox"/>		
		<b>Violation Base Penalty</b>	<input type="text" value="\$1,000"/>	
<input type="text" value="One single event is recommended."/>				
<b>Good Faith Efforts to Comply</b>		<input type="text" value="10.0% Reduction"/>		<input type="text" value="\$100"/>
		<small>Before NOV</small>	<small>NOV to EDPRP/Settlement Offer</small>	
Extraordinary	<input type="text"/>	<input type="text"/>	<input type="text"/>	
Ordinary	<input type="text"/>	<input type="text"/>	<input checked="" type="checkbox"/>	
N/A	<input type="text"/>	<small>(mark with x)</small>		
<b>Notes</b>	<input type="text" value="The Respondent submitted compliance documentation on September 5, 2008."/>			
<b>Violation Subtotal</b>		<input type="text" value="\$900"/>		
<b>Economic Benefit (EB) for this violation</b>		<b>Statutory Limit Test</b>		
<b>Estimated EB Amount</b>		<input type="text" value="\$108"/>	<b>Violation Final Penalty Total</b>	
			<input type="text" value="\$940"/>	
		<b>This violation Final Assessed Penalty (adjusted for limits)</b>		<input type="text" value="\$940"/>

## Economic Benefit Worksheet

**Respondent** J. R. Garman, Jr. dba Garman & Sons Dairy  
**Case ID No.** 36382  
**Reg. Ent. Reference No.** RN101529386  
**Media** Water Quality  
**Violation No.** 2

<b>Percent Interest</b>	<b>Years of Depreciation</b>
5.0	15

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

**Delayed Costs**

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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	\$8,000	29-May-2008	5-Sep-2008	0.27	\$108	n/a	\$108
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

This is the cost to obtain the design specification certification. The date required is the date of the investigation and the final date is the date that compliance documentation was submitted to the TCEQ.

**Avoided Costs**

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

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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 \$8,000

TOTAL \$108

<b>Screening Date</b> 13-Aug-2008		<b>Docket No.</b> 2008-1312-AGR-E		<b>PCW</b>
<b>Respondent</b> J. R. Garman, Jr. dba Garman & Sons Dairy		<small>Policy Revision 2 (September 2002)</small>		
<b>Case ID No.</b> 36382		<small>PCW Revision June 12, 2008</small>		
<b>Reg. Ent. Reference No.</b> RN101529386				
<b>Media [Statute]</b> Water Quality				
<b>Enf. Coordinator</b> Pamela Campbell				
<b>Violation Number</b>	<input type="text" value="3"/>			
<b>Rule Cite(s)</b>	<input type="text" value="30 Tex. Admin. Code § 321.46(d) and General Permit No. TXG921055 Part IV.A"/>			
<b>Violation Description</b>	<input type="text" value="Failed to maintain operational records on site. Specifically, daily operational records were not available for review at the time of the investigation."/>			
<b>Base Penalty</b>				<input type="text" value="\$10,000"/>
<b>&gt;&gt; Environmental, Property and Human Health Matrix</b>				
<b>OR</b>	<b>Harm</b>			
	<b>Release</b>	<b>Major</b>	<b>Moderate</b>	<b>Minor</b>
	Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>
Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>	<b>Percent</b> <input type="text" value="0%"/>
<b>&gt;&gt; Programmatic Matrix</b>				
	<b>Falsification</b>	<b>Major</b>	<b>Moderate</b>	<b>Minor</b>
	<input type="text"/>	x	<input type="text"/>	<input type="text"/>
	<b>Percent</b> <input type="text" value="10%"/>			
<b>Matrix Notes</b>	<input type="text" value="100% of this rule requirement was not met."/>			
<b>Adjustment</b>				<input type="text" value="\$9,000"/>
				<input type="text" value="\$1,000"/>
<b>Violation Events</b>				
<b>Number of Violation Events</b>		<input type="text" value="1"/>	<b>Number of violation days</b>	
		<input type="text" value="76"/>		
<small>mark only one with an x</small>	daily	<input type="text"/>	<b>Violation Base Penalty</b> <input type="text" value="\$1,000"/>	
	monthly	<input type="text"/>		
	quarterly	<input type="text"/>		
	semiannual	<input type="text"/>		
	annual	<input type="text"/>		
	single event	x		
<input type="text" value="One single event is recommended."/>				
<b>Good Faith Efforts to Comply</b>		<input type="text" value="25.0%"/>	<b>Reduction</b>	<input type="text" value="\$250"/>
		<small>Before NOV</small>	<small>NOV to EDPRP/Settlement Offer</small>	
Extraordinary	<input type="text"/>			
Ordinary	x			
N/A	<input type="text"/>	<small>(mark with x)</small>		
<b>Notes</b>	<input type="text" value="The Respondent achieved compliance on June 13, 2008."/>			
<b>Violation Subtotal</b>				<input type="text" value="\$750"/>
<b>Economic Benefit (EB) for this violation</b>		<b>Statutory Limit Test</b>		
<b>Estimated EB Amount</b>		<input type="text" value="\$0"/>	<b>Violation Final Penalty Total</b> <input type="text" value="\$790"/>	
<b>This violation Final Assessed Penalty (adjusted for limits)</b>				<input type="text" value="\$790"/>

### Economic Benefit Worksheet

**Respondent** J. R. Garman, Jr. dba Garman & Sons Dairy  
**Case ID No.** 36382  
**Reg. Ent. Reference No.** RN101529386  
**Media** Water Quality  
**Violation No.** 3

<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**  
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	\$25	29-May-2008	13-Jun-2008	0.04	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

**Notes for DELAYED costs**  
 This is the estimated cost to maintain records required by the PPP and permit at the Facility. The date required is the date of the investigation and the final date is the date that compliance documentation was submitted to the TCEQ.

**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**

\$25

1

**TOTAL**

\$0

<b>Screening Date</b> 13-Aug-2008	<b>Docket No.</b> 2008-1312-AGR-E	<b>PCW</b>			
<b>Respondent</b> J. R. Garman, Jr. dba Garman & Sons Dairy		<small>Policy Revision 2 (September 2002)</small>			
<b>Case ID No.</b> 36382		<small>PCW Revision June 12, 2008</small>			
<b>Reg. Ent. Reference No.</b> RN101529386					
<b>Media [Statute]</b> Water Quality					
<b>Enf. Coordinator</b> Pamela Campbell					
<b>Violation Number</b> <input type="text" value="4"/>					
<b>Rule Cite(s)</b>	<input type="text" value="30 Tex. Admin. Code § 321.36(d)(2) and General Permit No. TXG921055 Part III. A(11)(a)"/>				
<b>Violation Description</b>	<input 2008="" 29,="" as="" documented="" during="" facility,="" for="" investigation."="" may="" nmp")="" the="" type="text" value="Failed to develop and implement a Nutrient Management Plan ("/>				
	<b>Base Penalty</b>	<input type="text" value="\$10,000"/>			
<b>&gt;&gt; Environmental, Property and Human Health Matrix</b>					
<b>OR</b>	<b>Release</b>	<b>Harm</b>			
		Major      Moderate      Minor			
	Actual	<input type="text"/>	<input type="text"/>	<b>Percent</b> <input type="text" value="0%"/>	
Potential	<input type="text"/>	<input type="text"/>			
<b>&gt;&gt; Programmatic Matrix</b>					
	Falsification	Major	Moderate	Minor	
	<input type="text"/>	x	<input type="text"/>	<input type="text"/>	<b>Percent</b> <input type="text" value="10%"/>
<b>Matrix Notes</b>	<input type="text" value="100% of this rule requirement was not met."/>				
	<b>Adjustment</b>	<input type="text" value="\$9,000"/>			
				<input type="text" value="\$1,000"/>	
<b>Violation Events</b>					
	<b>Number of Violation Events</b>	<input type="text" value="3"/>	<input type="text" value="76"/>	<b>Number of violation days</b>	
<small>mark only one with an x</small>	daily	<input type="text"/>		<b>Violation Base Penalty</b> <input type="text" value="\$3,000"/>	
	monthly	x			
	quarterly	<input type="text"/>			
	semiannual	<input type="text"/>			
	annual	<input type="text"/>			
	single event	<input type="text"/>			
	<input type="text" value="Three monthly events are recommended from the investigation date (May 29, 2008) to the screening date (August 13, 2008)."/>				
<b>Good Faith Efforts to Comply</b>					
	<b>10.0% Reduction</b>			<input type="text" value="\$300"/>	
	<small>Before NOV      NOV to EDPRP/Settlement Offer</small>				
Extraordinary	<input type="text"/>	<input type="text"/>			
Ordinary	<input type="text"/>	x			
N/A	<input type="text"/>	<small>(mark with x)</small>			
<b>Notes</b>	<input type="text" value="The Respondent submitted compliance documentation on September 5, 2008."/>				
	<b>Violation Subtotal</b>	<input type="text" value="\$2,700"/>			
<b>Economic Benefit (EB) for this violation</b>		<b>Statutory Limit Test</b>			
<b>Estimated EB Amount</b>	<input type="text" value="\$14"/>	<b>Violation Final Penalty Total</b>	<input type="text" value="\$2,820"/>		
		<b>This violation Final Assessed Penalty (adjusted for limits)</b> <input type="text" value="\$2,820"/>			

## Economic Benefit Worksheet

**Respondent** J. R. Garman, Jr. dba Garman & Sons Dairy  
**Case ID No.** 36382  
**Reg. Ent. Reference No.** RN101529386  
**Media** Water Quality  
**Violation No.** 4

<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
------------------	-----------	---------------	------------	-----	----------------	---------------	-----------

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	\$1,000	29-May-2008	5-Sep-2008	0.27	\$14	n/a	\$14
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

**Notes for DELAYED costs** This is the estimated cost to develop and implement a site-specific nutrient management plan to the TCEQ and begin maintaining a copy at the Facility. The date required is the date of the investigation and the final date is the date that compliance documentation was submitted to the TCEQ.

**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 \$1,000

TOTAL \$14

## Compliance History

Customer/Respondent/Owner-Operator:	CN603349440	GARMAN, JR JR	Classification: AVERAGE	Rating: 0.86
Regulated Entity:	RN101529386	GARMAN & SONS DAIRY	Classification: AVERAGE	Site Rating: 0.86
ID Number(s):	WASTEWATER AGRICULTURE	PERMIT	TXG921055	
Location:	ON THE W SIDE OF FM 1057 6 M W OF HEREFORD			Rating Date: 9/1/2008 Repeat Violator: NO
	1.5 M S OF THE INTERSECTION OF FM 1057 AND FM 1058			
TCEQ Region:	REGION 01 - AMARILLO			
Date Compliance History Prepared:	October 27, 2008			
Agency Decision Requiring Compliance History:	Enforcement			
Compliance Period:	October 27, 2003 to October 27, 2008			
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?   | J. R. Garman, Jr.        |
| 4. If Yes, who was/were the prior owner(s)?  | Tierra Blanca Properties |
| 5. When did the change(s) in ownership occur?  | 05/02/2008               |

### 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. (CEEDS Inv. Track. No.)
- |    |            |          |  |
|----|------------|----------|--|
| 1. | 10/08/2003 | (249623) |  |
| 2. | 11/15/2005 | (435401) |  |
| 3. | 01/09/2006 | (451294) |  |
| 4. | 07/12/2007 | (555913) |  |
| 5. | 12/13/2007 | (611795) |  |
| 6. | 06/19/2008 | (681838) |  |
- E. Written notices of violations<sup>o</sup> (NOV). (CEEDS Inv. Track. No.)
- |                 |   |          |                          |
|-----------------|---|----------|--------------------------|
| Date:           | 11/14/2005  | (435401) |                          |
| Self Report? NO |   |          | Classification: Moderate |
| Citation:       | 30 TAC Chapter 321, SubChapter B 321.36(e)(1)   |          |                          |
| Rqmt Prov:      | PERMIT TXG 920447 Part III. A. 11(e)(4)   |          |                          |
| Description:    | The facility failed to take a representative sample of manure and have it analyzed for total nitrogen, phosphorus, and total potassium. |          |                          |
|                 |   |          |                          |
| Date:           | 07/10/2007  | (555913) |                          |
| Self Report? NO |   |          | Classification: Moderate |
| Citation:       | 30 TAC Chapter 321, SubChapter B 321.46(c)(1)   |          |                          |
| Rqmt Prov:      | PERMIT TXG 920447 Part III. A. 9(b)(3)  |          |                          |
| Description:    | The facility failed to document a five year facility certification.   |          |                          |
- 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
- N/A



TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



IN THE MATTER OF AN	§	BEFORE THE
ENFORCEMENT ACTION	§	
CONCERNING	§	TEXAS COMMISSION ON
J. R. GARMAN, JR. DBA GARMAN &	§	
SONS DAIRY	§	
RN101529386	§	ENVIRONMENTAL QUALITY

AGREED ORDER  
DOCKET NO. 2008-1312-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 J. R. Garman, Jr. dba Garman & Sons 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 dairy located on the west side of Farm-to-Market Road 1057, six miles west of Hereford and 1.5 miles south of the intersection of Farm-to-Market Road 1057 and Farm-to-Market Road 1058 in Deaf Smith 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.
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 June 24, 2008.
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 Three Hundred Forty Dollars (\$5,340) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid Four Thousand Two Hundred Seventy-Two Dollars (\$4,272) of the administrative penalty and One Thousand Sixty-Eight Dollars (\$1,068) 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 recognizes that the Respondent has implemented the following corrective measures at the Facility:
  - a. On June 13, 2008, began maintaining the pollution prevention plan ("PPP") and Facility operational records on site; and
  - b. On September 5, 2008, submitted a copy of the retention control structure's ("RCS") design specification certification and the Facility's certified nutrient management plan ("NMP").
10. 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.
11. 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.
12. 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:

1. Failed to maintain a copy of the PPP on site, in violation of 30 TEX. ADMIN. CODE § 321.46(a)(2), as documented during an investigation conducted on May 29, 2008.
2. Failed to ensure that the design specifications and completed construction specifications are certified by a licensed Texas professional engineer prior to constructing a new, or modifying an existing RCS, in violation of 30 TEX. ADMIN. CODE § 321.38(e)(2), as documented during an

investigation conducted on May 29, 2008. Specifically, at the time of the May 29, 2008 investigation, the Respondent had started reconstruction of the RCS, but did not have certification of the design specifications.

3. Failed to maintain operational records on site, in violation of 30 TEX. ADMIN. CODE § 321.46(d) and General Permit No. TXG921055 Part IV.A, as documented during an investigation conducted on May 29, 2008. Specifically, daily operational records were not available for review at the time of the investigation.
4. Failed to develop and implement a NMP for the Facility, in violation of 30 TEX. ADMIN. CODE § 321.36(d)(2) and General Permit No. TXG921055 Part III. A(11)(a), as documented during an investigation conducted on May 29, 2008.

### 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: J. R. Garman, Jr. dba Garman & Sons Dairy, Docket No. 2008-1312-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. 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.
3. 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.
4. 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.

5. 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

John Sredler  
For the Executive Director

3/24/2009  
Date

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

1-15-09  
Date

J.R. Garman, Jr.  
Name (Printed or typed)

owner  
Title

Authorized Representative of

J. R. Garman, Jr. dba Garman & Sons Dairy

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.

