

EXECUTIVE SUMMARY - ENFORCEMENT MATTER

DOCKET NO.: 2008-1633-MLM-E **TCEQ ID:** RN101514404 **CASE NO.:** 36657

RESPONDENT NAME: SUDAN FEEDYARD, INC.

ORDER TYPE:		
<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	
CASE TYPE:		
<input type="checkbox"/> AIR	<input checked="" type="checkbox"/> MULTI-MEDIA (check all that apply)	<input checked="" type="checkbox"/> INDUSTRIAL AND HAZARDOUS WASTE
<input type="checkbox"/> PUBLIC WATER SUPPLY	<input type="checkbox"/> PETROLEUM STORAGE TANKS	<input type="checkbox"/> OCCUPATIONAL CERTIFICATION
<input checked="" type="checkbox"/> WATER QUALITY	<input type="checkbox"/> SEWAGE SLUDGE	<input type="checkbox"/> UNDERGROUND INJECTION CONTROL
<input type="checkbox"/> MUNICIPAL SOLID WASTE	<input type="checkbox"/> RADIOACTIVE WASTE	<input type="checkbox"/> DRY CLEANER REGISTRATION
<p>SITE WHERE VIOLATION(S) OCCURRED: Sudan Feedyard, located one mile southeast of the intersection of Farm-to-Market Road 1843 and U.S. Highway 84, southeast of Sudan, Lamb County</p> <p>TYPE OF OPERATION: Cattle feedlot</p> <p>SMALL BUSINESS: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>OTHER SIGNIFICANT MATTERS: A complaint was received on August 14, 2008, alleging that the Respondent had ceased using the rendering service, resulting in several thousand carcasses being disposed of at the Facility. There is no record of additional pending enforcement actions regarding this facility location.</p> <p>INTERESTED PARTIES: A complaint was received, but the complainant has not expressed a desire to protest this action or to speak at Agenda.</p> <p>COMMENTS RECEIVED: The <i>Texas Register</i> comment period expired on June 8, 2009. No comments were received.</p> <p>CONTACTS AND MAILING LIST: TCEQ Attorney/SEP Coordinator: None TCEQ Enforcement Coordinator: Mr. Clinton Sims, Enforcement Division, Enforcement Team 7, MC 128, (512) 239-6933; Ms. Cari-Michel La Caille, Enforcement Division, MC 219, (512) 239-1387 Respondent: Mr. D. K. Gabel, Owner, SUDAN FEEDYARD, INC., P.O. Box 9, Sudan, Texas 79371 Respondent's Attorney: Not represented by counsel on this enforcement matter</p>		

VIOLATION SUMMARY CHART:

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p>Type of Investigation: <input checked="" type="checkbox"/> Complaint <input type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input type="checkbox"/> Records Review</p> <p>Date(s) of Complaints Relating to this Case: August 14, 2008</p> <p>Date of Investigation Relating to this Case: August 21, 2008</p> <p>Date of NOV/NOE Relating to this Case: September 12, 2008 (NOE)</p> <p>Background Facts: This was a complaint investigation.</p> <p>WATER/WASTE</p> <p>1) Failure to collect carcasses within 24 hours of death and properly dispose of the carcasses within three days of death. Specifically, approximately 2,000 cattle carcasses were improperly disposed of in multiple locations on the eastern portion of the Facility. The cattle carcasses were observed piled in open excavations, partially buried in piles, scattered on the ground, and piled on the ground in various states of decomposition creating a nuisance. Large quantities of flies and fly larvae were noted emanating from the carcasses [30 TEX. ADMIN. CODE § 321.36(1) and Concentrated Animal Feeding Operation ("CAFO") General Permit Part III.A.10(c)].</p> <p>2) Failure to notify the Executive Director that storage, processing, or disposal activities are planned, at least 90 days prior to engaging in such activities. Specifically, approximately 37 cubic yards of waste, including veterinary supplies, plastic tarps, furniture, household trash, corrugated tin, rubber tires, a water heater, and plastic drums, was observed disposed of in and near an open excavation east of the confinement pens [30 TEX. ADMIN. CODE § 335.6(a)].</p> <p>3) Failure to properly maintain earthen confinement pens to ensure good drainage and minimize ponding. Specifically,</p>	<p>Total Assessed: \$7,280</p> <p>Total Deferred: \$1,456 <input checked="" type="checkbox"/> Expedited Settlement <input type="checkbox"/> Financial Inability to Pay</p> <p>SEP Conditional Offset: \$0</p> <p>Total Paid (Due) to General Revenue: \$224 (remaining \$5,600 due in 35 monthly payments of \$160 each)</p> <p>Site Compliance History Classification <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Person Compliance History Classification <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Major Source: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>Applicable Penalty Policy: September 2002</p>	<p>Ordering Provisions:</p> <p>The Order will require the Respondent to:</p> <p>a. Immediately upon the effective date of this Agreed Order:</p> <p>i. Begin proper collection and disposal of carcasses at the Facility; and</p> <p>ii. Cease the unauthorized disposal of solid waste at the Facility.</p> <p>b. Within 30 days after the effective date of this Agreed Order:</p> <p>i. Complete disposal of all previously accumulated carcasses in a manner that will not create a nuisance and/or endanger human health, safety, and the environment;</p> <p>ii. Remove all industrial solid waste at the Facility and dispose of the waste at an authorized facility, or submit notification and deed recordation for on-site disposal; and</p> <p>iii. Develop and implement procedures to properly maintain all earthen confinement pens at the Facility to ensure good drainage and to minimize ponding.</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.i. through b.iii.</p>

<p>significant ponding of runoff water in the earthen confinement pens was observed in multiple locations [30 TEX. ADMIN. CODE § 305.125(1) and CAFO General Permit Part III. A.10(b)].</p>		
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Additional ID No(s): TXG920047



Policy Revision 2 (September 2002)

Penalty Calculation Worksheet (PCW)

PCW Revision June 12, 2008

DATES	Assigned	15-Sep-2008	Screening	3-Oct-2008	EPA Due	
	PCW	8-Oct-2008				

RESPONDENT/FACILITY INFORMATION	
Respondent	SUDAN FEEDYARD, INC.
Reg. Ent. Ref. No.	RN101514404
Facility/Site Region	2-Lubbock
Major/Minor Source	Minor

CASE INFORMATION			
Enf./Case ID No.	36657	No. of Violations	3
Docket No.	2008-1633-MLM-E	Order Type	1660
Media Program(s)	Industrial and Hazardous Waste	Government/Non-Profit	No
Multi-Media	Agriculture	Enf. Coordinator	Clinton Sims
		EC's Team	Enforcement Team 7
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$10,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)	Subtotal 1	\$7,000
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ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History	4.0% Enhancement	Subtotals 2, 3, & 7	\$280
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Notes	The Respondent has received two NOVs without same or similar violations.
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Culpability	No	0.0% Enhancement	Subtotal 4	\$0
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Notes	The Respondent does not meet the culpability criteria.
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Good Faith Effort to Comply Total Adjustments	Subtotal 5	\$0
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Economic Benefit	0.0% Enhancement*	Subtotal 6	\$0
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Total EB Amounts	\$913	*Capped at the Total EB \$ Amount
Approx. Cost of Compliance	\$21,025	

SUM OF SUBTOTALS 1-7	Final Subtotal	\$7,280
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OTHER FACTORS AS JUSTICE MAY REQUIRE	0.0%	Adjustment	\$0
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes	
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Final Penalty Amount	\$7,280
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$7,280
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DEFERRAL	20.0% Reduction	Adjustment	-\$1,456
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Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes	Deferral offered for expedited settlement.
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PAYABLE PENALTY	\$5,824
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Screening Date 3-Oct-2008	Docket No. 2008-1633-MLM-E	PCW
Respondent SUDAN FEEDYARD, INC.	<i>Policy Revision 2 (September 2002)</i>	
Case ID No. 36657	<i>PCW Revision June 12, 2008</i>	
Reg. Ent. Reference No. RN101514404		
Media [Statute] Industrial and Hazardous Waste		
Enf. Coordinator Clinton Sims		

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%

Please Enter Yes or No

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 received two NOVs without same or similar violations.

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

Screening Date 3-Oct-2008	Docket No. 2008-1633-MLM-E	PCW
Respondent SUDAN FEEDYARD, INC.	<small>Policy Revision 2 (September 2002)</small>	
Case ID No. 36657	<small>PCW Revision June 12, 2008</small>	
Reg. Ent. Reference No. RN101514404		
Media [Statute] Industrial and Hazardous Waste		
Enf. Coordinator Clinton Sims		
Violation Number <input type="text" value="1"/>		
Rule Cite(s)	<input type="text" value="30 Tex. Admin. Code § 321.36(l) and CAFO General Permit Part III. A.10(c)"/>	
Violation Description	<input type="text" value="Failed to collect carcasses within 24 hours of death and properly dispose of the carcasses within three days of death, as documented during an investigation conducted on August 21, 2008. Specifically, approximately 2,000 cattle carcasses were improperly disposed of in multiple locations on the eastern portion of the Facility. The cattle carcasses were observed piled in open excavations, partially buried in piles, scattered on the ground, and piled on the ground in various states of decomposition creating a nuisance. Large quantities of flies and fly larvae were noted emanating from the carcasses."/>	
Base Penalty	<input type="text" value="\$10,000"/>	
>> Environmental, Property and Human Health Matrix		
OR	Harm	
	Release	Major Moderate Minor
	Actual	<input type="text"/> <input checked="" type="text" value="x"/> <input type="text"/>
	Potential	<input type="text"/> <input type="text"/> <input type="text"/>
	Percent	<input type="text" value="25%"/>
>> Programmatic Matrix		
	Falsification	Major Moderate Minor
	<input type="text"/>	<input type="text"/> <input type="text"/> <input type="text"/>
	Percent	<input type="text" value="0%"/>
Matrix Notes	<input type="text" value="Human health or the environment has been exposed to significant amounts of pollutants which do not exceed protective levels."/>	
Adjustment	<input type="text" value="\$7,500"/>	
		<input type="text" value="\$2,500"/>
Violation Events		
Number of Violation Events	<input type="text" value="2"/>	Number of violation days <input type="text" value="43"/>
<small>mark only one with an x</small>	daily	<input type="text"/>
	monthly	<input checked="" type="text" value="x"/>
	quarterly	<input type="text"/>
	semiannual	<input type="text"/>
	annual	<input type="text"/>
	single event	<input type="text"/>
Violation Base Penalty	<input type="text" value="\$5,000"/>	
	<input type="text" value="Two monthly events are recommended from the August 21, 2008 investigation date to the October 3, 2008 screening date."/>	
Good Faith Efforts to Comply		
	0.0% Reduction	<input type="text" value="\$0"/>
	<small>Before NOV NOV to EDPRP/Settlement Offer</small>	
Extraordinary	<input type="text"/>	<input type="text"/>
Ordinary	<input type="text"/>	<input type="text"/>
N/A	<input checked="" type="text" value="x"/>	<small>(mark with x)</small>
Notes	<input type="text" value="The Respondent does not meet the good faith criteria for this violation."/>	
Violation Subtotal	<input type="text" value="\$5,000"/>	
Economic Benefit (EB) for this violation		
Statutory Limit Test		
Estimated EB Amount	<input type="text" value="\$852"/>	Violation Final Penalty Total <input type="text" value="\$5,200"/>
		This violation Final Assessed Penalty (adjusted for limits) <input type="text" value="\$5,200"/>

Economic Benefit Worksheet

Respondent: SUDAN FEEDYARD, INC.
Case ID No. 36657
Reg. Ent. Reference No. RN101514404
Media: Industrial and Hazardous Waste
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

Equipment				0.00	\$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	\$20,000	21-Aug-2008	28-Jun-2009	0.85	\$852	n/a	\$852
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to properly dispose of the cattle carcasses. The Date Required is the investigation date and 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				0.00	\$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

\$20,000

TOTAL

\$852

Screening Date 3-Oct-2008	Docket No. 2008-1633-MLM-E	PCW												
Respondent SUDAN FEEDYARD, INC.	<small>Policy Revision 2 (September 2002)</small>													
Case ID No. 36657	<small>PCW Revision June 12, 2008</small>													
Reg. Ent. Reference No. RN101514404														
Media [Statute] Industrial and Hazardous Waste														
Enf. Coordinator Clinton Sims														
Violation Number <input type="text" value="2"/>														
Rule Cite(s)	<input type="text" value="30 Tex. Admin. Code § 335.6(a)"/>													
Violation Description	<input type="text" value="Failed to notify the Executive Director that the storage, processing, or disposal activities are planned, at least 90 days prior to engaging in such activities, as documented during an investigation conducted on August 21, 2008. Specifically, approximately 37 cubic yards of waste, including veterinary supplies, plastic tarps, furniture, household trash, corrugated tin, rubber tires, a water heater, and plastic drums, was observed disposed of in and near an open excavation east of the confinement pens without providing notification to the TCEQ."/>													
	Base Penalty	<input type="text" value="\$10,000"/>												
>> Environmental, Property and Human Health Matrix														
OR	Harm													
	Release	Major Moderate Minor												
	Actual	<input type="text"/>												
	Potential	<input type="text"/>												
	Percent	<input type="text" value="0%"/>												
>> Programmatic Matrix														
	Falsification	Major Moderate Minor												
	<input type="text"/>	<input type="text" value="X"/> <input type="text"/> <input type="text"/>												
	Percent	<input type="text" value="10%"/>												
Matrix Notes	<input type="text" value="100% of the rule requirement was not met."/>													
	Adjustment	<input type="text" value="\$9,000"/>												
		<input type="text" value="\$1,000"/>												
Violation Events														
Number of Violation Events	<input type="text" value="1"/>	Number of violation days <input type="text" value="43"/>												
<small>mark only one with an x</small>	<table border="1" style="border-collapse: collapse;"> <tr><td>daily</td><td><input type="text"/></td></tr> <tr><td>monthly</td><td><input type="text"/></td></tr> <tr><td>quarterly</td><td><input type="text"/></td></tr> <tr><td>semiannual</td><td><input type="text"/></td></tr> <tr><td>annual</td><td><input type="text"/></td></tr> <tr><td>single event</td><td><input type="text" value="X"/></td></tr> </table>	daily	<input type="text"/>	monthly	<input type="text"/>	quarterly	<input type="text"/>	semiannual	<input type="text"/>	annual	<input type="text"/>	single event	<input type="text" value="X"/>	Violation Base Penalty <input type="text" value="\$1,000"/>
daily	<input type="text"/>													
monthly	<input type="text"/>													
quarterly	<input type="text"/>													
semiannual	<input type="text"/>													
annual	<input type="text"/>													
single event	<input type="text" value="X"/>													
	<input type="text" value="One single event is recommended."/>													
Good Faith Efforts to Comply														
	0.0% Reduction	<input type="text" value="\$0"/>												
	<small>Before NOV NOV to EDRP/Settlement Offer</small>													
Extraordinary	<input type="text"/>	<input type="text"/>												
Ordinary	<input type="text"/>	<input type="text"/>												
N/A	<input type="text" value="X"/>	<small>(mark with x)</small>												
Notes	<input type="text" value="The Respondent does not meet the good faith criteria for this violation."/>													
	Violation Subtotal	<input type="text" value="\$1,000"/>												
Economic Benefit (EB) for this violation														
Statutory Limit Test														
Estimated EB Amount	<input type="text" value="\$1"/>	Violation Final Penalty Total <input type="text" value="\$1,040"/>												
	This violation Final Assessed Penalty (adjusted for limits) <input type="text" value="\$1,040"/>													

Economic Benefit Worksheet

Respondent SUDAN FEEDYARD, INC.
Case ID No. 36657
Reg. Ent. Reference No. RN101514404
Media Industrial and Hazardous Waste
Violation No. 2

Percent Interest	Years of Depreciation
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				0.00	\$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)	\$25	21-Aug-2008	29-Jul-2009	0.94	\$1	n/a	\$1

Notes for DELAYED costs

Estimated cost to update procedures to ensure that notification is made at least 90 days prior to disposing of industrial waste on site. The Date Required is the investigation date and 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				0.00	\$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

TOTAL

\$1

Screening Date 3-Oct-2008	Docket No. 2008-1633-MLM-E	PCW
Respondent SUDAN FEEDYARD, INC.		<small>Policy Revision 2 (September 2002)</small>
Case ID No. 36657		<small>PCW Revision June 12, 2008</small>
Reg. Ent. Reference No. RN101514404		
Media [Statute] Industrial and Hazardous Waste		
Enf. Coordinator Clinton Sims		
Violation Number <input type="text" value="3"/>		
Rule Cite(s)	<input type="text" value="30 Tex. Admin. Code § 305.125(1) and CAFO General Permit Part III. A.10(b)"/>	
Violation Description	<input type="text" value="Failed to properly maintain earthen confinement pens to ensure good drainage and minimize ponding, as documented during an investigation conducted on August 21, 2008. Specifically, significant ponding of runoff water in the earthen confinement pens was observed in multiple locations."/>	
	Base Penalty	<input type="text" value="\$10,000"/>
>> Environmental, Property and Human Health Matrix		
OR	Harm	
	Release	Major Moderate Minor
	Actual	<input type="text"/> <input type="text"/> <input checked="" type="text" value="x"/>
	Potential	<input type="text"/> <input type="text"/> <input type="text"/>
	Percent	<input type="text" value="10%"/>
>> Programmatic Matrix		
	Falsification	Major Moderate Minor
	<input type="text"/>	<input type="text"/> <input type="text"/> <input type="text"/>
	Percent	<input type="text" value="0%"/>
Matrix Notes	<input type="text" value="Human health or the environment has been exposed to insignificant amounts of pollutants which do not exceed protective levels."/>	
	Adjustment	<input type="text" value="\$9,000"/>
		<input type="text" value="\$1,000"/>
Violation Events		
Number of Violation Events	<input type="text" value="1"/>	<input type="text" value="43"/> Number of violation days
<small>mark only one with an x</small>	daily	<input type="text"/>
	monthly	<input type="text"/>
	quarterly	<input checked="" type="text" value="x"/>
	semiannual	<input type="text"/>
	annual	<input type="text"/>
	single event	<input type="text"/>
	Violation Base Penalty	<input type="text" value="\$1,000"/>
	<input type="text" value="One quarterly event is recommended from the August 21, 2008 investigation date to the October 3, 2008 screening date."/>	
Good Faith Efforts to Comply		
	0.0% Reduction	<input type="text" value="\$0"/>
	<small>Before NOV NOV to EDPRP/Settlement Offer</small>	
Extraordinary	<input type="text"/>	<input type="text"/>
Ordinary	<input type="text"/>	<input type="text"/>
N/A	<input checked="" type="text" value="x"/>	<small>(mark with x)</small>
Notes	<input type="text" value="The Respondent does not meet the good faith criteria for this violation."/>	
	Violation Subtotal	<input type="text" value="\$1,000"/>
Economic Benefit (EB) for this violation		
	Statutory Limit Test	
Estimated EB Amount	<input type="text" value="\$60"/>	Violation Final Penalty Total <input type="text" value="\$1,040"/>
	This violation Final Assessed Penalty (adjusted for limits) <input type="text" value="\$1,040"/>	

Economic Benefit Worksheet

Respondent: SUDAN FEEDYARD, INC.
Case ID No.: 36657
Reg. Ent. Reference No.: RN101514404
Media: Industrial and Hazardous Waste
Violation No.: 3

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction	\$1,000	21-Aug-2008	28-Jun-2009	0.85	\$3	\$57	\$60
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				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to properly maintain earthen confinement pens to ensure good drainage and minimize ponding. The Date Required is the investigation date and 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				0.00	\$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

\$60

Compliance History Report

Customer/Respondent/Owner-Operator: CN602656506 Sudan Feedyard, Inc. Classification: AVERAGE Rating: 1.40
 Regulated Entity: RN101514404 SUDAN FEEDYARD Classification: AVERAGE Site Rating: 1.40
 ID Number(s): WASTEWATER AGRICULTURE PERMIT TXG920047
 Location: 1 MI SE OF INTX OF FM 1843 W/US HWY 84 SE OF SUDAN, SUDAN, TX, 79371 Rating Date: 9/1/2008 Repeat Violator: NO
 TCEQ Region: REGION 02 - LUBBOCK
 Date Compliance History Prepared: October 10, 2008
 Agency Decision Requiring Compliance History: Enforcement
 Compliance Period: October 10, 2003 to October 10, 2008

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

Name: Clinton Sims Phone: (512) 239-6933

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? No
3. If Yes, who is the current owner? N/A
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 06/16/2005 (394204)

N/A

2 07/18/2005 (400690)

3 08/28/2007 (573281)

4 09/27/2007 (595506)

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

Date: 06/17/2005 (394204)

Self NO Classification: Moderate
Report?

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

Rqmt Prov: PERMIT TXG920000 Part IV B (1)

Description: Failure to submit the Annual Report.

Date: 08/30/2007 (573281)

Self NO Classification: Minor
Report?

Citation: 30 TAC Chapter 321, SubChapter B 321.46(a)(4)(A)

Rqmt Prov: PERMIT Part III A. (1) (b) (1)

Description: Failure to revise pollution prevention plan to properly reflect the number and acreage of LMUs utilized by the facility.

Self Report? NO

Classification: Moderate

Citation: 30 TAC Chapter 321, SubChapter B 321.40(k)(3)

Rqmt Prov: PERMIT Part III Section A (11)(a)

Description: Failure to develop a Nutrient Management Plan (NMP) by July 31, 2007. No NMP was in place at the time of this investigation. According to 30 TAC Chapter 312.36(d)(1) and General Permit Part III Section A (11)(a) a certified nutrient management plan must be implemented by a permittee that is a Large CAFO

F. Environmental audits.

N/A

G. Type of environmental management systems (EMSs).

N/A

H. Voluntary on-site compliance assessment dates.

N/A

I. Participation in a voluntary pollution reduction program.

N/A

J. Early compliance.

N/A

Sites Outside of Texas

N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
SUDAN FEEDYARD, INC.
RN101514404

§
§
§
§
§

BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

AGREED ORDER
DOCKET NO. 2008-1633-MLM-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 SUDAN FEEDYARD, INC. ("the Respondent") under the authority of TEX. HEALTH & SAFETY CODE ch. 361 and 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 cattle feedlot one mile southeast of the intersection of Farm-to-Market 1843 Road and U.S. Highway 84, southeast of Sudan, Lamb County, Texas (the "Facility").
2. The Facility involves or involved the management of municipal and industrial solid waste as defined in TEX. HEALTH & SAFETY CODE ch. 361. The Respondent has committed any other act or engaged in any other activity which in itself or in conjunction with any other discharge or activity causes, continues to cause, or will cause pollution of any water in the state under 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 September 17, 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 Seven Thousand Two Hundred Eighty Dollars (\$7,280) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid Two Hundred Twenty-Four Dollars (\$224) of the administrative penalty and One Thousand Four Hundred Fifty-Six Dollars (\$1,456) is deferred contingent upon the Respondent's timely and satisfactory compliance with all the terms of this Agreed Order. If the Respondent fails to timely and satisfactorily comply with all requirements of this Agreed Order, including the payment schedule, the Executive Director may require the Respondent to pay all or part of the deferred penalty.

The remaining amount of Five Thousand Six Hundred Dollars (\$5,600) of the administrative penalty shall be payable in 35 monthly payments of One Hundred Sixty Dollars (\$160) each. The next monthly payment shall be paid within 30 days after the effective date of this Agreed Order. The subsequent payments shall each be paid not later than 30 days following the due date of the previous payment until paid in full. If the Respondent fails to timely and satisfactorily comply with the payment requirements of this Agreed Order, the Executive Director may, at the Executive Director's option, accelerate the maturity of the remaining installments, in which event the unpaid balance shall become immediately due and payable without demand or notice. In addition, the failure of the Respondent to meet the payment schedule of this Agreed Order constitutes the failure by the Respondent to timely and satisfactorily comply with all the terms of this Agreed Order.

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:

1. Failed to collect carcasses within 24 hours of death and properly dispose of the carcasses within three days of death, in violation of 30 TEX. ADMIN. CODE § 321.36(1) and Concentrated Animal Feeding Operation ("CAFO") General Permit Part III.A.10(c), as documented during an investigation conducted on August 21, 2008. Specifically, approximately 2,000 cattle carcasses were improperly disposed of in multiple locations on the eastern portion of the Facility. The cattle carcasses were observed piled in open excavations, partially buried in piles, scattered on the ground, and piled on the ground in various states of decomposition creating a nuisance. Large quantities of flies and fly larvae were noted emanating from the carcasses.
2. Failed to notify the executive director that storage, processing, or disposal activities are planned, at least 90 days prior to engaging in such activities, in violation of 30 TEX. ADMIN. CODE § 335.6(a), as documented during an investigation conducted on August 21, 2008. Specifically, approximately 37 cubic yards of waste, including veterinary supplies, plastic tarps, furniture, household trash, corrugated tin, rubber tires, a water heater, and plastic drums, was observed disposed of in and near an open excavation east of the confinement pens.
3. Failed to properly maintain earthen confinement pens to ensure good drainage and minimize ponding, in violation of 30 TEX. ADMIN. CODE § 305.125(1) and CAFO General Permit Part III. A.10(b), as documented during an investigation conducted on August 21, 2008. Specifically, significant ponding of runoff water in the earthen confinement pens was observed in multiple locations.

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: Sudan Feedyard, Inc., Docket No. 2008-1633-MLM-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:

- i. Begin proper collection and disposal of carcasses at the Facility, in accordance with 30 TEX. ADMIN. CODE § 321.36 and CAFO General Permit Part III.A.10(c); and
 - ii. Cease the unauthorized disposal of solid waste at the Facility.
- b. Within 30 days after the effective date of this Agreed Order:
- i. Complete disposal of all previously accumulated carcasses in a manner that will not create a nuisance and/or endanger human health, safety, and the environment, in accordance with 30 TEX. ADMIN CODE § 321.36 and CAFO General Permit Part III.A.10(c);
 - ii. Remove all industrial solid waste at the Facility and dispose of the waste at an authorized facility, or submit notification and deed recordation for on-site disposal; and
 - iii. Develop and implement procedures to properly maintain all earthen confinement pens at the Facility to ensure good drainage and to minimize ponding, in accordance with 30 TEX. ADMIN. CODE § 305.125.
- 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 Nos. 2.a.i. through 2.b.iii.

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:

Waste Section, Manager
Lubbock Regional Office
Texas Commission on Environmental Quality

5012 50th Street, Suite 100
Lubbock, Texas 79414-3421

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'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 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.

SUDAN FEEDYARD, INC.
DOCKET NO. 2008-1633-MLM-E
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SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

[Signature]
For the Executive Director

5/19/2009
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]
Signature

4/16/09
Date

DK Grabel
Name (Printed or typed)
Authorized Representative of
SUDAN FEEDYARD, INC.

Owner
Title

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