

EXECUTIVE SUMMARY - ENFORCEMENT MATTER

DOCKET NO.: 2009-1047-AGR-E **TCEQ ID:** RN104385364 and RN105751903 **CASE NO.:** 37912

RESPONDENT NAME: Green Cow Compost, LLC

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"/> IMMEDIATE AND SUBSTANTIAL ENDANGERMENT ORDER
<input type="checkbox"/> AMENDED ORDER	<input type="checkbox"/> EMERGENCY ORDER	
CASE TYPE:		
<input type="checkbox"/> AIR	<input type="checkbox"/> MULTI-MEDIA (check all that apply)	<input type="checkbox"/> INDUSTRIAL AND HAZARDOUS WASTE
<input type="checkbox"/> PUBLIC WATER SUPPLY	<input type="checkbox"/> PETROLEUM STORAGE TANKS	<input type="checkbox"/> OCCUPATIONAL CERTIFICATION
<input checked="" type="checkbox"/> WATER QUALITY	<input type="checkbox"/> SEWAGE SLUDGE	<input type="checkbox"/> UNDERGROUND INJECTION CONTROL
<input type="checkbox"/> MUNICIPAL SOLID WASTE	<input type="checkbox"/> RADIOACTIVE WASTE	<input type="checkbox"/> DRY CLEANER REGISTRATION
<p>SITE WHERE VIOLATION(S) OCCURRED: Dairy Cow Compost, 1160 County Road 319, Erath County and Green Cow Compost No 2, 8304 Farm-to-Market Road 913, Erath County</p> <p>TYPE OF OPERATION: Livestock manure composting facilities</p> <p>SMALL BUSINESS: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>OTHER SIGNIFICANT MATTERS: There are no complaints. There is no record of additional pending enforcement actions regarding these facility locations.</p> <p>INTERESTED PARTIES: No one other than the ED and the Respondent has expressed an interest in this matter.</p> <p>COMMENTS RECEIVED: The <i>Texas Register</i> comment period expired on April 12, 2010. No comments were received.</p> <p>CONTACTS AND MAILING LIST: TCEQ Attorney/SEP Coordinator: None TCEQ Enforcement Coordinator: Mr. Thomas Jecha, P.G., Enforcement Division, Enforcement Team 3, MC 169, (512) 239-2576; Ms. Laurie Baves, Enforcement Division, MC 219, (512) 239-4495 Respondent: Mr. Frank Kalsbeek, Owner, Green Cow Compost, LLC, P.O. Box 449, Dublin, Texas 76446 Ms. GeriAnn Kalsbeek, Member, Green Cow Compost, LLC, P.O. Box 449, Dublin, Texas 76446 Respondent's Attorney: Not represented by counsel on this enforcement matter</p>		

VIOLATION SUMMARY CHART:

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p>Type of Investigation: <input type="checkbox"/> Complaint <input checked="" type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input type="checkbox"/> Records Review</p> <p>Date(s) of Complaints Relating to this Case: None</p> <p>Date of Investigation Relating to this Case: May 7 and July 2, 2009</p> <p>Date of NOV/NOE Relating to this Case: June 22 and August 25, 2009 (NOB)</p> <p>Background Facts: These were routine investigations.</p> <p>WATER</p> <p>1) Failure to obtain authorization to dispose of wastewater generated from livestock manure composting operations and processes. Specifically, the 8304 Farm-to-Market Road 913 Facility was constructed and accepted waste prior to submitting a notice of intent ("NOI") to the TCEQ [30 TEX. ADMIN. CODE § 205.4 and TEX. WATER CODE § 26.040].</p> <p>2) Failure to develop an updated engineering report before submitting an NOI for renewal of the general permit. Specifically, several significant changes were noted at the 1160 County Road 319 Facility which required submittal of an updated engineering report to the TCEQ [30 TEX. ADMIN. CODE § 305.125(1) and TCEQ General Permit WQG200007, Part III, Section B.1].</p> <p>3) Failure to furnish information, at the request of the Executive Director, that is necessary to determine whether cause exists for revoking, suspending or terminating authorization under the permit. Specifically, information concerning several significant facility modifications, observed during the investigation at the 1160 County Road 319 Facility, was not made available to the investigator upon request [30 TEX. ADMIN. CODE § 305.125(1) and TCEQ General Permit WQG200007, Part IV.4].</p>	<p>Total Assessed: \$4,240</p> <p>Total Deferred: \$848 <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: \$567 (remaining \$2,825 due in 5 monthly payments of \$565 each)</p> <p>RN104385364 and RN105751903 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>Corrective Actions Taken:</p> <p>The Executive Director recognizes that the Respondent submitted a NOI for authorization under General Permit WQG200000 to the TCEQ on July 8, 2009 for the 8304 Farm-to-Market Road 913 Facility.</p> <p>Ordering Provisions:</p> <p>The Order will require the Respondent to undertake the following technical requirements at the 1160 County Road 319 Facility:</p> <p>a. Within 30 days after the effective date of this Agreed Order, begin maintaining information at the Facility concerning all significant Facility modifications and have it available for review upon request by the TCEQ.</p> <p>b. Within 60 days after the effective date of this Agreed Order:</p> <p>i. Submit an updated engineering report that meets the requirements of General Permit WQG200007, Part III, Section B; and</p> <p>ii. Submit information concerning all significant Facility modifications.</p> <p>c. Within 75 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. through b.</p>

Additional ID No(s): WQG200007



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

TCEQ

DATES	Assigned PCW	29-Jun-2009	Screening	7-Jul-2009	EPA Due	
		8-Jul-2009				

RESPONDENT/FACILITY INFORMATION

Respondent	Green Cow Compost, LLC		
Reg. Ent. Ref. No.	RN105751903		
Facility/Site Region	4-Dallas/Fort Worth	Major/Minor Source	Minor

CASE INFORMATION

Enf./Case ID No.	37912	No. of Violations	1
Docket No.	2009-1047-AGR-E	Order Type	1660
Media Program(s)	Water Quality	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Thomas Jecha
		EC's Team	Enforcement Team 3
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$10,000

Penalty Calculation Section

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

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History Enhancement Subtotals 2, 3, & 7

Notes

Culpability Enhancement Subtotal 4

Notes

Good Faith Effort to Comply 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 7-Jul-2009

Docket No. 2009-1047-AGR-E

PCW

Respondent Green Cow Compost, LLC

Policy Revision 2 (September 2002)

Case ID No. 37912

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN105751903

Media [Statute] Water Quality

Enf. Coordinator Thomas Jecha

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	0	0%
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

No change due to compliance history.

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

Screening Date 7-Jul-2009	Docket No. 2009-1047-AGR-E	PCW		
Respondent Green Cow Compost, LLC	<small>Policy Revision 2 (September 2002)</small>			
Case ID No. 37912	<small>PCW Revision October 30, 2008</small>			
Reg. Ent. Reference No. RN105751903				
Media [Statute] Water Quality				
Enf. Coordinator Thomas Jecha				
Violation Number 1				
Rule Cite(s)	30 Tex. Admin. Code § 205.4 and Tex. Water Code § 26.040			
Violation Description	Failed to obtain authorization to dispose of wastewater generated from livestock manure composting operations and processes. Specifically, the Facility was constructed and accepted waste prior to submitting a notice of intent ("NOI") to the TCEQ.			
Base Penalty		\$10,000		
>> Environmental, Property and Human Health Matrix				
OR	Harm			
	Release	Major	Moderate	Minor
	Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>
	Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>
				Percent <input type="text" value="0%"/>
>> Programmatic Matrix				
	Falsification	Major	Moderate	Minor
	<input type="text"/>	<input checked="" type="checkbox"/>	<input type="text"/>	<input type="text"/>
				Percent <input type="text" value="10%"/>
Matrix Notes	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="2"/>		Number of violation days <input type="text" value="61"/>		
<small>mark only one with an x</small>	daily	<input type="text"/>		
	weekly	<input type="text"/>		
	monthly	<input checked="" type="checkbox"/>		
	quarterly	<input type="text"/>		
	semiannual	<input type="text"/>		
	annual	<input type="text"/>		
	single event	<input type="text"/>		
Two monthly events are recommended from the May 7, 2009 investigation until the case was screened on July 7, 2009.				
Good Faith Efforts to Comply		<input type="text" value="10.0%"/> Reduction		<input type="text" value="\$200"/>
		Before NOV	NOV to EDPRP/Settlement Offer	
Extraordinary	<input type="text"/>	<input type="text"/>		
Ordinary	<input type="text"/>	<input checked="" type="checkbox"/>		
N/A	<input type="text"/>	<small>(mark with x)</small>		
Notes	The NOI was submitted to the TCEQ on July 8, 2009.			
Violation Subtotal			<input type="text" value="\$1,800"/>	
Economic Benefit (EB) for this violation		Statutory Limit Test		
Estimated EB Amount <input type="text" value="\$2"/>		Violation Final Penalty Total <input type="text" value="\$1,800"/>		
This violation Final Assessed Penalty (adjusted for limits)			<input type="text" value="\$1,800"/>	

Economic Benefit Worksheet

Respondent Green Cow Compost, LLC
Case ID No. 37912
Reg. Ent. Reference No. RN105751903
Media Water Quality
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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Item Description 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	\$200	7-May-2009	8-Jul-2009	0.17	\$2	n/a	\$2
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to complete and submit an NOI. The date required is the investigation date and the final date is the 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

\$200

TOTAL

\$2



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

TCEQ
DATES

Assigned	31-Aug-2009	Screening	1-Sep-2009	EPA Due	
PCW	2-Sep-2009				

RESPONDENT/FACILITY INFORMATION

Respondent	Green Cow Compost, LLC		
Reg. Ent. Ref. No.	RN104385364		
Facility/Site Region	4-Dallas/Fort Worth	Major/Minor Source	Minor

CASE INFORMATION

Enf./Case ID No.	37912	No. of Violations	2
Docket No.	2009-1047-AGR-E	Order Type	1660
Media Program(s)	Water Quality	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Thomas Jecha
		EC's Team	Enforcement Team 3
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$10,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)	Subtotal 1	\$2,000
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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	22.0% Enhancement	Subtotals 2, 3, & 7	\$440
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Notes	One NOV for dissimilar violations and one 1660 order with denial of liability.
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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	\$29	*Capped at the Total EB \$ Amount
Approx. Cost of Compliance	\$700	

SUM OF SUBTOTALS 1-7	Final Subtotal	\$2,440
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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	\$2,440
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$2,440
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DEFERRAL	20.0% Reduction	Adjustment	-\$488
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Reduces the Final Assessed Penalty by the Indicted percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes	Deferral offered for expedited settlement.
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PAYABLE PENALTY	\$1,952
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Screening Date 1-Sep-2009

Docket No. 2009-1047-AGR-E

PCW

Respondent Green Cow Compost, LLC

Policy Revision 2 (September 2002)

Case ID No. 37912

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN104385364

Media [Statute] Water Quality

Enf. Coordinator Thomas Jecha

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	1	2%
Orders	Any agreed final enforcement orders containing a denial of liability <i>(number of orders meeting criteria)</i>	1	20%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government <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)

>> Repeat Violator (Subtotal 3)

Adjustment Percentage (Subtotal 3)

>> Compliance History Person Classification (Subtotal 7)

Adjustment Percentage (Subtotal 7)

>> Compliance History Summary

Compliance History Notes

One NOV for dissimilar violations and one 1660 order with denial of liability.

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

Screening Date 1-Sep-2009 **Docket No.** 2009-1047-AGR-E **PCW**
Respondent Green Cow Compost, LLC *Policy Revision 2 (September 2002)*
Case ID No. 37912 *PCW Revision October 30, 2008*
Reg. Ent. Reference No. RN104385364
Media [Statute] Water Quality
Enf. Coordinator Thomas Jecha
Violation Number 1
Rule Cite(s) 30 Tex. Admin. Code § 305.125(1) and TCEQ General Permit WQG200007, Part III, Section B.1.
Violation Description Failed to develop an updated engineering report before submitting a Notice of Intent ("NOI") for renewal of the general permit. Specifically, several significant changes were noted at the Facility which require submittal of an updated engineering report to the TCEQ.
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 \$9,000

Violation Events

Number of Violation Events: 1 61 Number of violation days

mark only one with an x

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty \$1,000

One single event is recommended.

Good Faith Efforts to Comply

	0.0% Reduction	
	Before NOV	NOV to EDRP/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 \$1,000

Economic Benefit (EB) for this violation

Estimated EB Amount \$22

Statutory Limit Test

Violation Final Penalty Total \$1,220

This violation Final Assessed Penalty (adjusted for limits) \$1,220

Economic Benefit Worksheet

Respondent Green Cow Compost, LLC
Case ID No. 37912
Reg. Ent. Reference No. RN104385364
Media Water Quality
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

Equipment				0.00	\$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	\$500	2-Jul-2009	13-May-2010	0.86	\$22	n/a	\$22
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to update the engineering report. 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

\$500

TOTAL

\$22

Screening Date 1-Sep-2009	Docket No. 2009-1047-AGR-E	PCW		
Respondent Green Cow Compost, LLC	<small>Policy Revision 2 (September 2002)</small>			
Case ID No. 37912	<small>PCW Revision October 30, 2008</small>			
Reg. Ent. Reference No. RN104385364				
Media [Statute] Water Quality				
Enf. Coordinator Thomas Jecha				
Violation Number <input type="text" value="2"/>				
Rule Cite(s)	<input type="text" value="30 Tex. Admin. Code § 305.125(1) and TCEQ General Permit WQG200007, Part IV.4."/>			
Violation Description	<input type="text" value="Failed to furnish information, at the request of the Executive Director, that is necessary to determine whether cause exists for revoking, suspending or terminating authorization under the permit. Specifically, information concerning several significant changes observed at the Facility during the investigation was not made available to the investigator upon request."/>			
Base Penalty		<input type="text" value="\$10,000"/>		
>> Environmental, Property and Human Health Matrix				
Harm				
Release	Major	Moderate	Minor	
Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>	
Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>	
Percent			<input type="text" value="0%"/>	
>> Programmatic Matrix				
Falsification				
Major			Moderate	Minor
<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="61"/>		
<small>mark only one with an x</small>	daily	<input type="text"/>		
	weekly	<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"/>			
Violation Base Penalty			<input type="text" value="\$1,000"/>	
<input type="text" value="One single event is recommended."/>				
Good Faith Efforts to Comply				
		<input type="text" value="0.0%"/>	Reduction	
		<small>Before NOV</small>	<input type="text" value="\$0"/>	
		<small>NOV to EDRP/Settlement Offer</small>		
Extraordinary	<input type="text"/>	<input type="text"/>		
Ordinary	<input type="text"/>	<input type="text"/>		
N/A	<input checked="" type="checkbox"/>	<input type="text"/>	<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				
Estimated EB Amount		<input type="text" value="\$8"/>	Statutory Limit Test	
			<input type="text" value="\$1,220"/>	
			<input type="text" value="\$1,220"/>	
			<input type="text" value="\$1,220"/>	

Economic Benefit Worksheet

Respondent Green Cow Compost, LLC
Case ID No. 37912
Reg. Ent. Reference No. RN104385364
Media Water Quality
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
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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				0.00	\$0	n/a	\$0
Other (as needed)	\$200	2-Jul-2009	13-Apr-2010	0.78	\$8	n/a	\$8

Notes for DELAYED costs

Estimated cost to maintain the required information. 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

\$200

TOTAL

\$8

Compliance History Report

Customer/Respondent/Owner-Operator: CN603458597 Green Cow Compost, LLC Classification: AVERAGE Rating: 3.01
Regulated Entity: RN104385364 DAIRY COW COMPOST Classification: AVERAGE Site Rating:41.00
ID Number(s): WASTE WATER GENERAL PERMIT PERMIT WQG200007
PETROLEUM STORAGE TANK REGISTRATION 76759
REGISTRATION
Location: 1160 CR 319, DUBLIN, TX, 76446
TCEQ Region: REGION 04 - DFW METROPLEX
Date Compliance History Prepared: August 31, 2009
Agency Decision Requiring Compliance Enforcement
Compliance Period: August 31, 2004 to August 31, 2009
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History
Name: Thomas Jecha Phone: 239 - 2576

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.
Effective Date: 10/10/2005 ADMINORDER 2004-1850-WQ-E
Classification: Major
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)(1)
Rqmt Prov: Provision 1 PERMIT
Description: Failure to prevent an unauthorized discharge of agricultural waste into or adjacent to any water in the state
- 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 | 08/26/2008 | (700195) |
| 2 | 12/19/2008 | (721356) |
| 3 | 04/02/2009 | (738736) |
| 4 | 08/25/2009 | (765790) |
- E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)
Date: 08/22/2008 (700195)
Self NO Classification: Minor
Citation: 2D TWC Chapter 26, SubChapter A 26.040
Part III. Section C.6. OP

Description: Failure to maintain stockpiled manure in a well drained area with no ponding of water.

Self NO Classification: Minor
Citation: 2D TWC Chapter 26, SubChapter A 26.040
Part III. Section C. 6.g. OP

Description: Failure to maintain rainfall records as well as a rain gauge on site.

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

Compliance History Report

Customer/Respondent/Owner-Operator: CN603458597 Green Cow Compost, LLC Classification: AVERAGE Rating: 3.01
Regulated Entity: RN105751903 GREEN COW COMPOST NO 2 Classification: AVERAGE BY Site Rating3.01
DEFAULT

ID Number(s):
Location: 8304 FM 913, ERATH CO, TX, 76401
TCEQ Region: REGION 04 - DFW METROPLEX
Date Compliance History Prepared: July 06, 2009
Agency Decision Requiring Compliance Enforcement
Compliance Period: July 06, 2004 to July 06, 2009

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

Name: Thomas Jecha Phone: 239 - 2576

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/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

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 06/22/2009 (759170)
- E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)
N/A
- 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
GREEN COW COMPOST, LLC
RN105751903 AND RN104385364

§
§
§
§
§

BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

AGREED ORDER DOCKET NO. 2009-1047-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 Green Cow Compost, LLC ("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 livestock manure composting facilities at 8304 Farm-to-Market Road 913 and at 1160 County Road 319 in Erath County, Texas (the "Facilities").
2. The Respondent has caused, suffered, allowed or permitted the discharge of any waste or the performance of any activity in violation of TEX. WATER CODE ch. 26 or any rule, permit, or order of the Commission.
3. The Commission and the Respondent agree that the Commission has jurisdiction to enter this Agreed Order, and that the Respondent is subject to the Commission's jurisdiction.
4. The Respondent received notices of the violations alleged in Section II ("Allegations") on or about June 27 and August 30, 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 Four Thousand Two Hundred Forty Dollars (\$4,240) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid Five Hundred Sixty-Seven Dollars (\$567) of the

administrative penalty and Eight Hundred Forty-Eight Dollars (\$848) 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.

The remaining amount of Two Thousand Eight Hundred Twenty-Five Dollars (\$2,825) of the administrative penalty shall be payable in five (5) monthly payments of Five Hundred Sixty-Five Dollars (\$565) 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 recognizes that the Respondent submitted a notice of intent ("NOI") for authorization under General Permit WQG200000 to the TCEQ on July 8, 2009 for the 8304 Farm-to-Market Road 913 Facility.
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 Facilities, the Respondent is alleged to have:

1. Failed to obtain authorization to dispose of wastewater generated from livestock manure composting operations and processes, in violation of 30 TEX. ADMIN. CODE § 205.4 and TEX. WATER CODE § 26.040, as documented during an investigation conducted on May 7, 2009. Specifically, the 8304 Farm-to-Market Road 913 Facility was constructed and accepted waste prior to submitting a NOI to the TCEQ.
2. Failed to develop an updated engineering report before submitting an NOI for renewal of the general permit, in violation of 30 TEX. ADMIN. CODE § 305.125(1) and TCEQ General Permit WQG200007, Part III, Section B.1, as documented during an investigation conducted on July 2, 2009. Specifically, several significant changes were noted at the 1160 County Road 319 Facility which required submittal of an updated engineering report to the TCEQ.
3. Failed to furnish information, at the request of the Executive Director, that is necessary to determine whether cause exists for revoking, suspending or terminating authorization under the permit, in violation of 30 TEX. ADMIN. CODE § 305.125(1) and TCEQ General Permit WQG200007, Part IV.4, as documented during an investigation conducted on July 2, 2009. Specifically, information concerning several significant facility modifications, observed during the investigation at the 1160 County Road 319 Facility, was not made available to the investigator upon request.

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: Green Cow Compost, LLC, Docket No. 2009-1047-AGR-E" to:

Financial Administration Division, Revenues Section
Attention: Cashier's Office, MC 214
Texas Commission on Environmental Quality
P.O. Box 13088
Austin, Texas 78711-3088
2. It is further ordered that the Respondent shall undertake the following technical requirements at the 1160 County Road 319 Facility:
 - a. Within 30 days after the effective date of this Agreed Order, begin maintaining information at the Facility concerning all significant Facility modifications and have it available for review upon request by the TCEQ;

- b. Within 60 days after the effective date of this Agreed Order:
- i. Submit an updated engineering report that meets the requirements of General Permit WQG200007, Part III, Section B. to:

Applications Review and Processing Team (MC 148)
Texas Commission on Environmental Quality
P.O. Box 13088
Austin, Texas 78711-3088
 - ii. Submit information concerning all significant Facility modifications to the Water Section Manager of the TCEQ Stephenville Office at the address shown below in Ordering Provision 2.d.
- c. Within 75 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. through 2.b. The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of 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:

Water Section, Manager
Stephenville Regional Office
Texas Commission on Environmental Quality
580-D West Lingleville Road
Stephenville, Texas 76401

and

Water Section, Manager
Dallas/Fort Worth Regional Office
Texas Commission on Environmental Quality
2309 Gravel Drive
Fort Worth, Texas 76118-6951

3. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over operation of the Facilities 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.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

John Szallier
For the Executive Director

3/23/2010
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.

GerriAnn Kalsbeek
Signature

1.28.10
Date

GerriAnn Kalsbeek
Name (Printed or typed)
Authorized Representative of
Green Cow Compost, LLC

member
Title

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