

**EXECUTIVE SUMMARY - ENFORCEMENT MATTER**  
**DOCKET NO. 2009-1461-AGR-E TCEQ ID RN105139117 CASE NO. 38333**  
**RESPONDENT NAME: SALVADOR ANGUIANO**

<b>ORDER TYPE:</b>		
<input type="checkbox"/> 1660 AGREED ORDER	<input type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING
<input checked="" 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 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

**SITE WHERE VIOLATIONS OCCURRED:** 1996 North Farm-to-Market Road 219 near Dublin, Erath County

**TYPE OF OPERATION:** calf raising operation

**SMALL BUSINESS:**  Yes  No

**OTHER SIGNIFICANT MATTERS:** There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.

**INTERESTED PARTIES:** No one other than the ED and the Respondent expressed an interest in this matter.

**COMMENTS RECEIVED:** The *Texas Register* comment period expired June 26, 2010. No comments were received.

**CONTACTS AND MAILING LIST:**

**TCEQ Attorney:** Mr. Jim Sallans, Litigation Division, MC 175, (512) 239-3400

Ms. Lena Roberts, Litigation Division, MC 175, (512) 239-3400

**TCEQ Enforcement Coordinator:** Mr. Sam Short, Water Enforcement Section, MC 219, (512) 239-5363

**TCEQ Regional Contact:** Mr. Sid Slocum, Dallas/Ft. Worth Regional Office, MC R-4, (817) 588-5901

**Respondent:** Mr. Salvador Anguiano, P.O. Box, 106, Dublin, Texas 76446

**Respondent's Attorney:** Not represented by counsel on this enforcement matter.

**VIOLATION SUMMARY CHART:**

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS REQUIRED
<p><b>Type of Investigation:</b></p> <p><input type="checkbox"/> Complaint  <input checked="" type="checkbox"/> Routine  <input type="checkbox"/> Enforcement Follow-up  <input type="checkbox"/> Records Review</p> <p><b>Date of Complaint Relating to this Case:</b> None</p> <p><b>Date of Investigation Relating to this Case:</b> August 11, 2009</p> <p><b>Date of NOE Relating to this Case:</b> August 26, 2009</p> <p><b>Background Facts:</b> The EDP RP was filed on January 28, 2010, and mailed to Respondent via certified mail, return receipt requested, and via first class mail, postage prepaid. According to the return receipt "green card," Respondent received notice of the EDP RP on February 8, 2010. Respondent failed to answer the EDP RP, failed to request a hearing, and failed to schedule a settlement conference.</p> <p><b>Current Compliance Status:</b> Respondent has not yet submitted documentation to certify compliance with the technical requirements</p> <p><b>AGR:</b></p> <ol style="list-style-type: none"> <li>Failed to ensure that manure, litter, or wastewater generated on site is stored, beneficially used, or disposed of in a manner that would protect surface water and groundwater quality [TEX. WATER CODE § 26.121(a) and 30 TEX. ADMIN. CODE § 321.47(b)(3)(A)].</li> <li>Failed to obtain authorization through an individual water quality permit prior to expanding an existing animal feeding operation ("AFO") to a concentrated animal feeding operation ("CAFO") [30 TEX. ADMIN. CODE § 321.33(d)].</li> </ol>	<p><b>Total Assessed:</b> \$2,200</p> <p><b>Total Deferred:</b> \$0</p> <p><input type="checkbox"/> Expedited Order  <input type="checkbox"/> Financial Inability to Pay  <input type="checkbox"/> SEP Conditional Offset</p> <p><b>Total Due to General Revenue:</b> \$2,200</p> <p>This is a Default Order. The Respondent has not actually paid any of the assessed penalty but will be required to do so under the terms of this Order.</p> <p><b>Site Compliance History Classification:</b>  <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p><b>Person Compliance History Classification:</b>  <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p><b>Major Source:</b> <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p><b>Applicable Penalty Policy:</b> September 2002</p>	<p><b>Ordering Provisions:</b></p> <p>Respondent shall undertake the following technical requirements</p> <ol style="list-style-type: none"> <li>Within 30 days:             <ol style="list-style-type: none"> <li>Either reduce the cattle numbers to meet AFO requirements or submit an administratively complete water quality permit application;</li> <li>Clean up and properly dispose of the waste piles; and</li> <li>Develop and implement procedures to ensure that manure, litter, or wastewater generated on site is stored, beneficially used, or disposed of in a manner that would protect surface water and groundwater quality.</li> </ol> </li> <li>If submitting a water quality permit application, respond completely and adequately, as determined by the TCEQ, to all requests for information concerning the permit application within 30 days after the date of such requests or by any other deadline specified in writing.</li> <li>Within 45 days, submit written certification of compliance with Ordering Provision Nos. 1.a. through 1.c.</li> <li>If submitting a water quality permit application, within 180 days submit written certification that either authorization to operate a concentrated animal feeding operation has been obtained, or that the number of cattle has been reduced to meet AFO requirements.</li> </ol>



# Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

**TCEQ**

<b>DATES</b>	<b>Assigned</b>	31-Aug-2009	<b>Screening</b>	8-Sep-2009	<b>EPA Due</b>	
	<b>PCW</b>	21-Dec-2009				

## RESPONDENT/FACILITY INFORMATION

<b>Respondent</b>	Salvador Anguiano				
<b>Reg. Ent. Ref. No.</b>	RN105139117				
<b>Facility/Site Region</b>	4-Dallas/Fort Worth	<b>Major/Minor Source</b>	Minor		

## CASE INFORMATION

<b>Enf./Case ID No.</b>	38333	<b>No. of Violations</b>	2	
<b>Docket No.</b>	2009-1461-AGR-E	<b>Order Type</b>	1660	
<b>Media Program(s)</b>	Water Quality	<b>Government/Non-Profit</b>	No	
<b>Multi-Media</b>		<b>Enf. Coordinator</b>	Samuel Short	
<b>Admin. Penalty \$</b>	<b>Limit Minimum</b>	\$0	<b>Maximum</b>	\$10,000
		<b>EC's Team</b>	Enforcement Team 3	

## Penalty Calculation Section

<b>TOTAL BASE PENALTY (Sum of violation base penalties)</b>	<b>Subtotal 1</b>	\$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.

<b>Compliance History</b>	10.0% Enhancement	<b>Subtotals 2, 3, &amp; 7</b>	\$200
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Notes: Enhancement recommended for having two NOVs for the same or similar violations within the last five years.

<b>Culpability</b>	No	0.0% Enhancement	<b>Subtotal 4</b>	\$0
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Notes: The Respondent does not meet the culpability criteria.

<b>Good Faith Effort to Comply Total Adjustments</b>	<b>Subtotal 5</b>	\$0
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<b>Economic Benefit</b>	0.0% Enhancement*	<b>Subtotal 6</b>	\$0
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Total EB Amounts: \$923  
 Approx. Cost of Compliance: \$17,500  
 \*Capped at the Total EB \$ Amount

<b>SUM OF SUBTOTALS 1-7</b>	<b>Final Subtotal</b>	\$2,200
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<b>OTHER FACTORS AS JUSTICE MAY REQUIRE</b>	0.0%	<b>Adjustment</b>	\$0
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

<b>Final Penalty Amount</b>	\$2,200
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<b>STATUTORY LIMIT ADJUSTMENT</b>	<b>Final Assessed Penalty</b>	\$2,200
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<b>DEFERRAL</b>	0.0% Reduction	<b>Adjustment</b>	\$0
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Reduces the Final Assessed Penalty by the indicted percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes: Deferral not offered for non-expedited settlement.

<b>PAYABLE PENALTY</b>	\$2,200
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**Screening Date** 8-Sep-2009

**Docket No.** 2009-1461-AGR-E

**PCW**

**Respondent** Salvador Anguiano

*Policy Revision 2 (September 2002)*

**Case ID No.** 38333

*PCW Revision October 30, 2008*

**Reg. Ent. Reference No.** RN105139117

**Media [Statute]** Water Quality

**Enf. Coordinator** Samuel Short

### 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> )	2	10%
	Other written NOVs	0	0%
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)** 10%

>> **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**

Enhancement recommended for having two NOVs for the same or similar violations within the last five years.

**Total Adjustment Percentage (Subtotals 2, 3, & 7)** 10%

Screening Date 8-Sep-2009

Docket No. 2009-1461-AGR-E

PCW

Respondent Salvador Anguiano

Policy Revision 2 (September 2002)

Case ID No. 38333

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN105139117

Media [Statute] Water Quality

Enf. Coordinator Samuel Short

Violation Number 1

Rule Cite(s)

Tex. Water Code § 26.121(a) and 30 Tex. Admin. Code § 321.47(b)(3)(A)

Violation Description

Failed to ensure that manure, litter, or wastewater generated on site is stored, beneficially used, or disposed of in a manner that would protect surface and groundwater quality. Specifically, the manure and waste were cleaned from under the calf hutches and were piled in an area next to the hutches and partially spread onto the small acreage beside the hutches and the investigator documented two open lots that did not have any means of containing run-off from the lots.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			x
Potential			

Percent 10%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0%

Matrix Notes

Human health or the environment has been exposed to insignificant amounts of pollutants as a result of the violation.

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events 1

28 Number of violation days

daily	
weekly	
monthly	
quarterly	x
semiannual	
annual	
single event	

mark only one with an x

Violation Base Penalty \$1,000

One quarterly event is recommended from the August 11, 2009 investigation date to the date of screening, September 8, 2009.

Good Faith Efforts to Comply

0.0% Reduction

\$0

Before NOV NOV to EDPRP/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

Statutory Limit Test

Estimated EB Amount \$87

Violation Final Penalty Total \$1,100

This violation Final Assessed Penalty (adjusted for limits) \$1,100

# Economic Benefit Worksheet

**Respondent** Salvador Anguiano  
**Case ID No.** 38333  
**Req. Ent. Reference No.** RN105139117  
**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
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	\$1,500	11-Aug-2009	22-Apr-2010	0.70	\$52	n/a	\$52
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$1,000	11-Aug-2009	22-Apr-2010	0.70	\$35	n/a	\$35

**Notes for DELAYED costs**  
 The estimated costs to clean up and properly dispose of the waste piles and to develop and implement procedures to ensure that manure, litter, or wastewater generated on site is stored, beneficially used, or disposed of in a manner that would protect surface and groundwater quality. Date required is the date of the investigation date and the final date is the estimated date of compliance.

### Avoided Costs

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

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

**Notes for AVOIDED costs**

Approx. Cost of Compliance

\$2,500

**TOTAL**

\$87

**Screening Date** 8-Sep-2009  
**Respondent** Salvador Anguiano  
**Case ID No.** 38333  
**Reg. Ent. Reference No.** RN105139117  
**Media [Statute]** Water Quality  
**Enf. Coordinator** Samuel Short

**Docket No.** 2009-1461-AGR-E

**PCW**

*Policy Revision 2 (September 2002)*

*PCW Revision October 30, 2008*

**Violation Number**

**Rule Cite(s)**

**Violation Description**

**Base Penalty**

**>> Environmental, Property and Human Health Matrix**

OR	Release	Harm			Percent
		Major	Moderate	Minor	
Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text" value="0%"/>
Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	

**>> Programmatic Matrix**

	Falsification	Major	Moderate	Minor	Percent
	<input type="text"/>	<input checked="" type="text" value="x"/>	<input type="text"/>	<input type="text"/>	<input type="text" value="10%"/>

**Matrix Notes**

**Adjustment**

**Violation Events**

Number of Violation Events   Number of violation days

*mark only one with an x*

daily	<input type="text"/>
weekly	<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**

**Good Faith Efforts to Comply**

Reduction

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

**Notes**

**Violation Subtotal**

**Economic Benefit (EB) for this violation**

**Statutory Limit Test**

**Estimated EB Amount**

**Violation Final Penalty Total**

**This violation Final Assessed Penalty (adjusted for limits)**

# Economic Benefit Worksheet

**Respondent** Salvador Anguiano  
**Case ID No.** 38333  
**Req. Ent. Reference No.** RN105139117  
**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
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	\$15,000	11-Aug-2009	22-Sep-2010	1.12	\$836	n/a	\$836
Other (as needed)				0.00	\$0	n/a	\$0

**Notes for DELAYED costs**  
 Estimated cost to prepare and submit a technically complete permit application. Associated expenses include application fee, site survey, and engineering certifications. Date Required is the investigation date. Final Date is the estimated 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

\$15,000

**TOTAL**

\$836

# Compliance History Report

Customer/Respondent/Owner-Operator: CN603140500 ANGUIANO, SALVADOR Classification: AVERAGE Rating: 1.25  
Regulated Entity: RN105139117 SALVADOR ANGUIANO Classification: AVERAGE Site Rating: 1.25  
CALF RAISING  
Location: 1996 N FM 219, DUBLIN, TX, 76446  
TCEQ Region: REGION 04 - DFW METROPLEX  
Date Compliance History Prepared: August 31, 2009  
Agency Decision Requiring Compliance History: Enforcement  
Compliance Period: August 31, 2004 to August 31, 2009  
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History  
Name: Samuel Short Phone: (512) 239-5363

## Site Compliance History Components

1. Has the site been in existence and/or operation for the full five year compliance period? Yes
2. Has there been a (known) change in ownership/operator of the site during the compliance period? No
3. If Yes, who is the current owner/operator? N/A
4. If Yes, who was/were the prior owner(s)/operator(s)? N/A
5. When did the change(s) in owner or operator occur? N/A
6. Rating Date: 9/1/2008 Repeat Violator: NO

### Components (Multimedia) for the Site :

- A. Final Enforcement Orders, court judgements, and consent decrees of the state of Texas and the federal government.  
N/A
- B. Any criminal convictions of the state of Texas and the federal government.  
N/A
- C. Chronic excessive emissions events.  
N/A
- D. The approval dates of investigations. (CCEDS Inv. Track. No.)
- |   |            |          |
|---|------------|----------|
| 1 | 02/09/2007 | (538261) |
| 2 | 04/04/2007 | (554825) |
| 3 | 05/27/2008 | (679958) |
| 4 | 08/25/2009 | (766426) |
- E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)
- Date: 02/09/2007 (538261)**
- Self Report? NO Classification: Minor  
Citation: 30 TAC Chapter 321, SubChapter B 321.47(d)  
Description: Failure to have equivalent measures from the NRCS, TSSWCB regulations, a certified water quality management plan, or a certified CNMP, contained in a site-specific plan substituted for applicable best management practices or portions of the technical requirements.
- Self Report? NO Classification: Minor  
Citation: 30 TAC Chapter 321, SubChapter B 321.47(i)(1)  
Description: Failure to maintain records required under this subsection to be kept on site for a minimum of five years from the date the record was created.
- Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 321, SubChapter B 321.47(b)(3)(A)  
Description: Failure of the AFO, which does not use a control facility, to manage manure, litter, or wastewater generated on site to ensure that waste and wastewater were stored, beneficially used, or disposed of in a manner that would protect surface and groundwater quality.
- Date: 05/22/2009 (746336)**
- Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 321, SubChapter B 321.47(f)  
Description: Failure of the operator to apply manure, litter, and wastewater uniformly to suitable land at appropriate times and at agronomic rates.
- Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 321, SubChapter B 321.47(c)(1)  
Description: Failure of the AFO operator to locate, construct, and manage the control facility and LMU(s) in a manner that protected surface and groundwater quality.
- Self Report? NO Classification: Major  
Citation: 30 TAC Chapter 321, SubChapter B 321.33(d)  
Description: Failure of the facility to obtain authorization through an individual permit prior to expanding cattle numbers above the AFO requirements.
- 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  
SALVADOR ANGUIANO;  
RN105139117**

§  
§  
§  
§  
§

**BEFORE THE  
  
TEXAS COMMISSION ON  
  
ENVIRONMENTAL QUALITY**

**DEFAULT ORDER  
DOCKET NO. 2009-1461-AGR-E**

At its \_\_\_\_\_ agenda, the Texas Commission on Environmental Quality, (“Commission” or “TCEQ”) considered the Executive Director’s Preliminary Report and Petition filed pursuant to TEX. WATER CODE chs. 7 and 26, and the rules of the TCEQ, which requests appropriate relief, including the imposition of an administrative penalty and corrective action of the Respondent. The Respondent made the subject of this Order is Salvador Anguiano (“Mr. Anguiano”).

The Commission makes the following Findings of Fact and Conclusions of Law:

**FINDINGS OF FACT**

1. Mr. Anguiano owns and operates a calf raising operation located at 1996 North Farm-to-Market Road 219, near Dublin, Erath County, Texas (the “Site”).
2. Mr. Anguiano has discharged waste from the Site into or adjacent to any water in the state or committed another act that has caused or will cause pollution of any state water under the Texas Water Code.
3. During an investigation conducted on August 11, 2009, a TCEQ Dallas/Fort Worth Regional Office investigator documented that Mr. Anguiano:
  - a. Failed to ensure that manure, litter, or wastewater generated on the Site is stored, beneficially used, or disposed of in a manner that would protect surface water and groundwater quality. Specifically, the manure and waste were cleaned from under the calf hutches and were piled in an area next to the hutches and partially spread onto smaller acreage near the hutches and the investigator documented that the open lots did not have any means to contain runoff; and
  - b. Failed to obtain authorization through an individual water quality permit prior to expanding an existing animal feeding operation (“AFO”) to a concentrated animal

feeding operation (“CAFO”). Specifically, the investigator documented 410 head of cattle on site, which is above the authorized number of 299 head as an AFO.

4. Mr. Anguiano received notice of the violations on or about August 31, 2009.
5. The Executive Director filed the “Executive Director’s Preliminary Report and Petition Recommending that the Texas Commission on Environmental Quality Enter an Enforcement Order Assessing an Administrative Penalty Against and Requiring Certain Actions of Salvador Anguiano” (the “EDPRP”) in the TCEQ Chief Clerk’s office on January 28, 2010.
6. By letter dated January 28, 2010, sent via certified mail, return receipt requested, and via first class mail, postage prepaid, the Executive Director served Mr. Anguiano with notice of the EDPRP. According to the return receipt “green card,” Mr. Anguiano received notice of the EDPRP on February 8, 2010, as evidenced by the signature on the card.
7. More than 20 days have elapsed since Mr. Anguiano received notice of the EDPRP, provided by the Executive Director. Mr. Anguiano failed to file an answer to the EDPRP, failed to request a hearing, and failed to schedule a settlement conference.

### CONCLUSIONS OF LAW

1. As evidenced by Finding of Fact Nos. 1 and 2, Mr. Anguiano is subject to the jurisdiction of the TCEQ pursuant to TEX. WATER CODE chs. 7 and 26 and the rules of the Commission.
2. As evidenced by Finding of Fact No. 3.a., Mr. Anguiano failed to ensure that manure, litter, or wastewater generated on the Site is stored, beneficially used, or disposed of in a manner that would protect surface water and groundwater quality, in violation of TEX. WATER CODE § 26.121(a) and 30 TEX. ADMIN. CODE § 321.47(b)(3)(A).
3. As evidenced by Finding of Fact No. 3.b., Mr. Anguiano failed to obtain authorization through an individual water quality permit prior to expanding an existing AFO to a CAFO, in violation of 30 TEX. ADMIN. CODE § 321.33(d).
4. As evidenced by Finding of Fact Nos. 5 and 6, the Executive Director timely served Mr. Anguiano with proper notice of the EDPRP, as required by TEX. WATER CODE § 7.055 and 30 TEX. ADMIN. CODE § 70.104(a).
5. As evidenced by Finding of Fact No. 7, Mr. Anguiano failed to file a timely answer as required by TEX. WATER CODE § 7.056 and 30 TEX. ADMIN. CODE § 70.105. Pursuant to TEX. WATER CODE § 7.057 and 30 TEX. ADMIN. CODE § 70.106, the Commission may enter a Default Order against Mr. Anguiano and assess the penalty recommended by the Executive Director.

6. Pursuant to TEX. WATER CODE § 7.051, the Commission has the authority to assess an administrative penalty against Mr. Anguiano for violations of the Texas Water Code within the Commission's jurisdiction, for violations of rules adopted under such statutes, or for violations of orders or permits issued under such statutes.
7. An administrative penalty in the amount two thousand two hundred dollars (\$2,200.00) is justified by the facts recited in this Order, and considered in light of the factors set forth in TEX. WATER CODE § 7.053
8. TEX. WATER CODE §§ 5.102 and 7.002 authorize the Commission to issue orders and make determinations necessary to effectuate the purposes of the statutes within its jurisdiction.

### **ORDERING PROVISIONS**

NOW, THEREFORE, THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY ORDERS that:

1. Mr. Anguiano is assessed an administrative penalty in the amount of two thousand two hundred dollars (\$2,200.00) for violations of state statutes and the rules of the TCEQ. The payment of this administrative penalty and Mr. Anguiano's compliance with all the terms and conditions set forth in this Order completely resolve the matters set forth by this Order in this action. The Commission shall not be constrained in any manner from requiring corrective actions or penalties for other violations which are not raised here. All checks submitted to pay the penalty imposed by this Order shall be made out to the "Texas Commission on Environmental Quality." The administrative penalty assessed by this Order shall be paid within 30 days after the effective date of this Order and shall be sent with the notation "Re: Salvador Anguiano; Docket No. 2009-1461-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. Mr. Anguiano shall undertake the following technical requirements:
  - a. Within 30 days after the effective date of this Order, Mr. Anguiano shall:
    - i. Either reduce the cattle numbers to meet AFO requirements or submit an administratively complete water quality permit application pursuant to 30 TEX. ADMIN. CODE § 321.34 to:

Agriculture Core, Waste Water Permitting Section  
Water Quality Division, MC 148  
Texas Commission on Environmental Quality  
P.O. Box 13087  
Austin, Texas 78711-3087

- ii. Clean up and properly dispose of the waste piles; and
  - iii. Develop and implement procedures to ensure that manure, litter, or waste water generated on the Site is stored, beneficially used, or disposed of in a manner that would protect surface water and groundwater quality.
- b. If submitting a water quality permit application, respond completely and adequately, as determined by the TCEQ, to all requests for information concerning the permit application within 30 days after the date of such requests or by any other deadline specified in writing.
  - c. Within 45 days after the effective date of this Order, Mr. Anguiano shall submit written certification of compliance with Ordering Provision Nos. 2.a.i. through 2.a.iii., as described in Ordering Provision No. 2.e. below;
  - d. If submitting a water quality permit application, within 180 days after the effective date of this Order, either submit written certification as described in Ordering Provision 2.e. below that either authorization to operate a CAFO has been obtained or that the number of cattle has been reduced to meet AFO requirements; and
  - e. The certifications required by Ordering Provision Nos. 2.c. and 2.d. shall include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with these Ordering Provisions. 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.”

Mr. Anguiano shall submit the written certification and copies of documentation necessary to demonstrate compliance with these Ordering Provisions 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  
Texas Commission on Environmental Quality  
Dallas Fort Worth Regional Office  
2309 Gravel Drive  
Fort Worth, Texas 76118

3. All relief not expressly granted in this Order is denied.
4. The provisions of this Order shall apply to and be binding upon Mr. Anguiano. Mr. Anguiano is ordered to give notice of this Order to personnel who maintain day-to-day control over the Site operations referenced in this Order.
5. If Mr. Anguiano fails to comply with any of the Ordering Provisions in this Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, Mr. Anguiano's failure to comply is not a violation of this Order. Mr. Anguiano shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. Mr. Anguiano shall notify the Executive Director within seven days after Mr. Anguiano becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
6. The Executive Director may grant an extension of any deadline in this Order or in any plan, report, or other document submitted pursuant to this Order, upon a written and substantiated showing of good cause. All requests for extensions by Mr. Anguiano shall be made in writing to the Executive Director. Extensions are not effective until Mr. Anguiano receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
7. The Executive Director may refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings without notice to Mr. Anguiano if the Executive Director determines that Mr. Anguiano has not complied with one or more of the terms or conditions in this Order.
8. This Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Order, whichever is later.

9. The Chief Clerk shall provide a copy of this Order to each of the parties. By law, the effective date of this Order shall be the date the Order is final, as provided by 30 TEX. ADMIN. CODE § 70.106(d) and TEX. GOV'T CODE § 2001.144.

**SIGNATURE PAGE**

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

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For the Commission

**AFFIDAVIT OF JIM SALLANS**

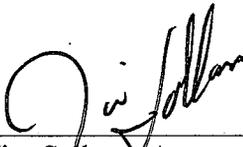
STATE OF TEXAS           §  
  §  
COUNTY OF TRAVIS       §

“My name is Jim Sallans. I am of sound mind, capable of making this affidavit, and the facts stated in this affidavit are within my personal knowledge and are true and correct.

On behalf of the Executive Director of the Texas Commission on Environmental Quality, the “Executive Director’s Preliminary Report and Petition Recommending that the Texas Commission on Environmental Quality Enter an Enforcement Order Assessing an Administrative Penalty Against and Requiring Certain Actions of Salvador Anguiano” (the “EDPRP”) was filed with the Office of the Chief Clerk on January 28, 2010.

The EDPRP was mailed to Mr. Anguiano at his last known address on January 28, 2010, via certified mail, return receipt requested, and via first class mail, postage prepaid. According to the return receipt “green card,” Mr. Anguiano received notice of the EDPRP on February 8, 2010, as evidenced by the signature on the card.

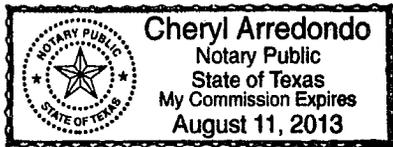
More than 20 days have elapsed since Mr. Anguiano received notice of the EDPRP. Mr. Anguiano failed to file an answer, failed to request a hearing, and failed to schedule a settlement conference.”



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Jim Sallans, Attorney  
Office of Legal Services, Litigation Division  
Texas Commission on Environmental Quality

Before me, the undersigned authority, on this day personally appeared Jim Sallans, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed the same for the purposes and consideration herein expressed.

Given under my hand and seal of office this 28<sup>th</sup> day of April, A.D., 2010.



Cheryl Arredondo  
Notary Signature