

**EXECUTIVE SUMMARY - ENFORCEMENT MATTER** Page 1 of 2  
**DOCKET NO.:** 2010-0408-AGR-E **TCEQ ID:** RN102887080 **CASE NO.:** 39318  
**RESPONDENT NAME:** Lone Oak Feeders, Inc.

<b>ORDER TYPE:</b>		
<input checked="" type="checkbox"/> 1660 AGREED ORDER	<input type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING
<input type="checkbox"/> FINDINGS DEFAULT ORDER	<input type="checkbox"/> SHUTDOWN ORDER	<input type="checkbox"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
<input type="checkbox"/> AMENDED ORDER	<input type="checkbox"/> EMERGENCY ORDER	
<b>CASE TYPE:</b>		
<input type="checkbox"/> AIR	<input type="checkbox"/> MULTI-MEDIA (check all that apply)	<input type="checkbox"/> INDUSTRIAL AND HAZARDOUS WASTE
<input type="checkbox"/> PUBLIC WATER SUPPLY	<input type="checkbox"/> PETROLEUM STORAGE TANKS	<input type="checkbox"/> OCCUPATIONAL CERTIFICATION
<input checked="" type="checkbox"/> WATER QUALITY	<input type="checkbox"/> SEWAGE SLUDGE	<input type="checkbox"/> UNDERGROUND INJECTION CONTROL
<input type="checkbox"/> MUNICIPAL SOLID WASTE	<input type="checkbox"/> RADIOACTIVE WASTE	<input type="checkbox"/> DRY CLEANER REGISTRATION
<p><b>SITE WHERE VIOLATION(S) OCCURRED:</b> Lone Oak, 2580 Farm-to-Market Road 847, Erath County</p> <p><b>TYPE OF OPERATION:</b> Concentrated animal feeding operation ("CAFO")</p> <p><b>SMALL BUSINESS:</b> <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p><b>OTHER SIGNIFICANT MATTERS:</b> There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.</p> <p><b>INTERESTED PARTIES:</b> No one other than the ED and the Respondent has expressed an interest in this matter.</p> <p><b>COMMENTS RECEIVED:</b> The <i>Texas Register</i> comment period expired on July 19, 2010. No comments were received.</p> <p><b>CONTACTS AND MAILING LIST:</b>  <b>TCEQ Attorney/SEP Coordinator:</b> None  <b>TCEQ Enforcement Coordinator:</b> Mr. Samuel Short, Enforcement Division, Enforcement Team 3, MC 169, (512) 239-5363; Ms. Laurie Eaves, Enforcement Division, MC 219, (512) 239-4495  <b>Respondent:</b> Mr. Michael Henderson, President, Lone Oak Feeders, Inc., P.O. Box 773, Stephenville, Texas 76401  <b>Respondent's Attorney:</b> Not represented by counsel on this enforcement matter</p>		

VIOLATION SUMMARY CHART:		
VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p><b>Type of Investigation:</b>  <input type="checkbox"/> Complaint  <input checked="" type="checkbox"/> Routine  <input type="checkbox"/> Enforcement Follow-up  <input type="checkbox"/> Records Review</p> <p><b>Date(s) of Complaints Relating to this Case:</b> None</p> <p><b>Date of Investigation Relating to this Case:</b> January 8, 2010</p> <p><b>Date of NOE Relating to this Case:</b> February 5, 2010</p> <p><b>Background Facts:</b> This was a routine investigation.</p> <p><b>WATER</b></p> <p>1) Failure to submit records within five days of a written request. Specifically, the investigator requested records on January 8, 2010 and did not receive the requested records until February 8, 2010. The requested records included a recharge feature certification, soil analysis sample results, and copies of the drainage area calculations for the additional acreage identified in the March 6, 2009 Notice of Change [30 TEX. ADMIN. CODE § 321.46(d) and Texas Pollutant Discharge Elimination System ("TPDES") CAFO General Permit No. TXG921109 Part IV.A.].</p> <p>2) Failure to maintain a rain gauge capable of measuring the design rainfall event at the Site [30 TEX. ADMIN. CODE § 321.39(b)(4) and TPDES CAFO General Permit No. TXG921109 Part III.A.9.(d)].</p> <p>3) Failure to maintain vegetation, crops, forage growth, or post harvest residues in the normal growing season in pastures that maintain animals and to maintain and manage control facilities to retain all contaminated rainfall runoff from open lots and associated areas. Specifically, the investigator documented that animals were in uncontained lots that were devoid of vegetation and that land management unit ("LMU") 2 was devoid of vegetation [30 Tex. Admin Code §§ 321.36(c) and 321.39(g)(2) and TPDES CAFO General Permit No. TXG921109 Part III. A.6.(c) and Part III.B.5.].</p>	<p><b>Total Assessed:</b> \$1,630</p> <p><b>Total Deferred:</b> \$326  <input checked="" type="checkbox"/> Expedited Settlement  <input type="checkbox"/> Financial Inability to Pay</p> <p><b>SEP Conditional Offset:</b> \$0</p> <p><b>Total Paid to General Revenue:</b> \$1,304</p> <p><b>Site Compliance History Classification</b>  <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p><b>Person Compliance History Classification</b>  <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p><b>Major Source:</b> <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p><b>Applicable Penalty Policy:</b> September 2002</p>	<p><b>Corrective Actions Taken:</b></p> <p>The Executive Director recognizes that the Respondent has implemented the following corrective measures at the Site:</p> <p>a. On February 8, 2010, submitted the requested records including a recharge feature certification, soil analysis sample results, and copies of the drainage area calculations for the additional acreage identified in the March 6, 2009 Notice of Change; and</p> <p>b. On March 26, 2010, purchased and installed the rain gauge capable of measuring the design rainfall event at the Site.</p> <p><b>Ordering Provisions:</b></p> <p>The Order will require the Respondent to:</p> <p>a. Within 60 days after the effective date of this Agreed Order, re-establish and maintain vegetative cover in the pens that maintain animals;</p> <p>b. Within 60 days after the effective date of this Agreed Order, construct control facilities to manage waste, storm water, and wastewater from the open lots and associated areas in a manner that will protect surface and ground water quality; and</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 Provision Nos. a. and b.</p>

Additional ID No(s): TXG921109



# Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

**TCEQ**

<b>DATES</b>	<b>Assigned</b>	22-Feb-2010	<b>Screening</b>	15-Mar-2010	<b>EPA Due</b>	
	<b>PCW</b>	29-Mar-2010				

<b>RESPONDENT/FACILITY INFORMATION</b>	
<b>Respondent</b>	Lone Oak Feeders, Inc.
<b>Reg. Ent. Ref. No.</b>	RN102887080
<b>Facility/Site Region</b>	4-Dallas/Fort Worth
<b>Major/Minor Source</b>	Minor

<b>CASE INFORMATION</b>			
<b>Enf./Case ID No.</b>	39318	<b>No. of Violations</b>	3
<b>Docket No.</b>	2010-0408-AGR-E	<b>Order Type</b>	1860
<b>Media Program(s)</b>	Water Quality	<b>Government/Non-Profit</b>	No
<b>Multi-Media</b>		<b>Enf. Coordinator</b>	Samuel Short
		<b>EC's Team</b>	Enforcement Team 3
<b>Admin. Penalty \$ Limit Minimum</b>	\$0	<b>Maximum</b>	\$10,000

## Penalty Calculation Section

<b>TOTAL BASE PENALTY (Sum of violation base penalties)</b>	<b>Subtotal 1</b>	\$1,600
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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>	5.0% Enhancement	<b>Subtotals 2, 3, &amp; 7</b>	\$80
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Notes: Enhancement recommended for one NOV for 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>	\$50
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<b>Economic Benefit</b>	0.0% Enhancement*	<b>Subtotal 6</b>	\$0
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Total EB Amounts	\$125
Approx. Cost of Compliance	\$2,125

\*Capped at the Total EB \$ Amount

<b>SUM OF SUBTOTALS 1-7</b>	<b>Final Subtotal</b>	\$1,630
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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>	\$1,630
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<b>STATUTORY LIMIT ADJUSTMENT</b>	<b>Final Assessed Penalty</b>	\$1,630
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<b>DEFERRAL</b>	20.0% Reduction	<b>Adjustment</b>	-\$326
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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.

<b>PAYABLE PENALTY</b>	\$1,304
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Screening Date 15-Mar-2010

Docket No. 2010-0408-AGR-E

PCW

Respondent Lone Oak Feeders, Inc.

Policy Revision 2 (September 2002)

Case ID No. 39318

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN102887080

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 (number of NOVs meeting criteria)	1	5%
	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 judgments 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) 5%

>> 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 one NOV for same or similar violations within the last five years.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 5%

Screening Date 15-Mar-2010

Docket No. 2010-0408-AGR-E

PCW

Respondent Lone Oak Feeders, Inc.

Policy Revision 2 (September 2002)

Case ID No. 39318

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN102887080

Media [Statute] Water Quality

Enf. Coordinator Samuel Short

Violation Number 1

Rule Cite(s)

30 Tex. Admin. Code § 321.46(d) and Texas Pollutant Discharge Elimination System ("TPDES") Concentrated Animal Feeding Operations ("CAFO") General Permit No. TXG921109 Part IV.A.

Violation Description

Failed to submit records within five days of a written request. Specifically, the Investigator requested records on January 8, 2010 and did not receive the requested records until February 8, 2010. The requested records included a recharge feature certification, soil analysis sample results, and copies of the drainage area calculations for the additional acreage identified in the March 6, 2009 Notice of Change.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual				0%
	Potential				

>> Programmatic Matrix

Matrix Notes	Falsification	Harm			Percent
		Major	Moderate	Minor	
				x	1%
At least 70% of the rule requirement was met.					

Adjustment \$9,900

\$100

Violation Events

Number of Violation Events 1 Number of violation days 31

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty \$100

One single event is recommended.

Good Faith Efforts to Comply

0.0% Reduction Before NOV NCV to EDPRP/Settlement Offer \$0

Extraordinary		
Ordinary		
N/A	x	(mark with x)

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

Violation Subtotal \$100

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$0

Violation Final Penalty Total \$105

This violation Final Assessed Penalty (adjusted for limits) \$105

# Economic Benefit Worksheet

**Respondent** Lone Oak Feeders, Inc.  
**Case ID No.** 39318  
**Reg. Ent. Reference No.** RN102887080  
**Media** Water Quality  
**Violation No.** 1

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

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

**Delayed Costs**

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System	\$100	13-Jan-2010	8-Feb-2010	0.07	\$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

The estimated cost to ensure that the requested records including a recharge feature certification, soil analysis sample results, and copies of the drainage area calculations for the additional acreage identified in the March 6, 2009 Notice of Change were submitted within five days of a written request. Date required is the date the records were due and the final date is the date the requested records were submitted.

**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 \$100

TOTAL \$0

**Screening Date** 15-Mar-2010 **Docket No.** 2010-0408-AGR-E **PCW**  
**Respondent** Lone Oak Feeders, Inc. *Policy Revision 2 (September 2002)*  
**Case ID No.** 39318 *PCW Revision October 30, 2008*  
**Reg. Ent. Reference No.** RN102887080  
**Media [Statute]** Water Quality  
**Enf. Coordinator** Samuel Short

**Violation Number**   
**Rule Cite(s)** 30 Tex. Admin. Code § 321.39(b)(4) and TPDES CAFO General Permit No. TXG821109 Part III.A.9.(d)  
**Violation Description** Failed to maintain a rain gauge capable of measuring the design rainfall event at the Site.

**Base Penalty**

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

OR	Harm			Percent
	Major	Moderate	Minor	
	Actual	<input type="text"/>	<input type="text"/>	
Potential	<input type="text"/>	<input type="text"/>	<input checked="" type="checkbox"/>	

**>> Programmatic Matrix**

				Percent
Falsification	Major	Moderate	Minor	
<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text" value="0%"/>

**Matrix Notes** Human health or the environment will or could be exposed to insignificant amounts of pollutants which would not exceed levels that are protective of human health or environmental receptors as a result of the violation.

**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 type="text"/>
quarterly	<input type="text"/>
semiannual	<input type="text"/>
annual	<input type="text"/>
single event	<input checked="" type="checkbox"/>

**Violation Base Penalty**

One single event is recommended.

**Good Faith Efforts to Comply**  Reduction

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

**Notes** The Respondent returned to compliance on March 26, 2010.

**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:** Lone Oak Feeders, Inc.

**Case ID No.:** 39318

**Reg. Ent. Reference No.:** RN102887080

**Media:** Water Quality

**Violation No.:** 2

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

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

### Delayed Costs

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Equipment	\$25	8-Jan-2010	26-Mar-2010	0.21	\$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)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

The cost to purchase and install a rain gauge capable of measuring the design rainfall event at the Site. Date required is the date of the investigation and the final date is the date the rain gauge was purchased and installed.

### Avoided Costs

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

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$25

**TOTAL**

\$0

Screening Date 15-Mar-2010

Docket No. 2010-0408-AGR-E

PCW

Respondent Lone Oak Feeders, Inc.

Policy Revision 2 (September 2002)

Case ID No. 39318

PCW Revision October 30, 2009

Reg. Ent. Reference No. RN102887080

Media [Statute] Water Quality

Enf. Coordinator Samuel Short

Violation Number 3

Rule Cite(s) 30 Tex. Admin Code §§ 321.36(c) and 321.39(g)(2) and TPDES CAFO General Permit No. TXG921109 Part III A.6.(c) and Part III.B.5.

Violation Description

Failed to maintain vegetation, crops, forage growth, or post harvest residues in the normal growing season in pastures that maintain animals and to maintain and manage control facilities to retain all contaminated rainfall runoff from open lots and associated areas. Specifically, the investigator documented that animals were in uncontained lots that were devoid of vegetation and that land management unit ("LMU") 2 was devoid of vegetation.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential		X	

Percent 10%

>> Programmatic Matrix

	Major	Moderate	Minor
Falsification			

Percent 0%

Matrix Notes

Human health or the environment will or could be exposed to significant amounts of pollutants which would not exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events 1

66 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 investigation date, January 8, 2010, to the date of screening, March 15, 2010.

Good Faith Efforts to Comply

0.0% Reduction 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 \$125

Violation Final Penalty Total \$1,050

This violation Final Assessed Penalty (adjusted for limits) \$1,050

# Economic Benefit Worksheet

**Respondent** Lone Oak Feeders, Inc.  
**Case ID No.** 39318  
**Reg. Ent. Reference No.** RN102887080  
**Media** Water Quality  
**Violation No.** 3

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

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

**Delayed Costs**

	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction	\$2,000	8-Jan-2010	29-Nov-2010	0.89	\$6	\$119	\$125
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

The estimated cost to re-establish and maintain vegetative cover in the pens that maintain animals and to maintain and manage control facilities to retain all contaminated rainfall runoff from open lots and associated areas. Date required is the date of the investigation 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)

	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$2,000

TOTAL

\$125

# Compliance History Report

Customer/Respondent/Owner-Operator: CN603439175 Lone Oak Feeders, Inc. Classification: Average Rating: 0.50  
Regulated Entity: RN102887080 LONE OAK Classification: Average Site Rating: 0.50  
ID Number(s): WASTEWATER AGRICULTURE PERMIT TXG921109  
Location: 2580 FM 847 IN ERATH COUNTY, TX, 76401  
TCEQ Region: REGION 04 - DFW METROPLEX  
Date Compliance History Prepared: March 01, 2010  
Agency Decision Requiring Compliance History: Enforcement  
Compliance Period: March 01, 2005 to March 01, 2010  
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.

### Components (Multimedia) for the Site :

- A. Final Enforcement Orders, court judgements, and consent decrees of the state of Texas and the federal government.

N/A

- B. Any criminal convictions of the state of Texas and the federal government.

N/A

- C. Chronic excessive emissions events.

N/A

- D. The approval dates of investigations. (CCEDS Inv. Track. No.)

1	07/28/2005	(401664)
2	12/15/2005	(449479)
3	11/22/2006	(519358)
4	02/27/2008	(637011)
5	02/16/2010	(787705)

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

Date: 02/27/2009 (736541) CN601708837

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 321, SubChapter B 321.39(g)(2)  
TXG92000/PartIIIB(5) OP

Description: Failure to maintain crops ,vegetation, forage growth or post harvest residue in the normal growing season in pastures.

- 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  
LONE OAK FEEDERS, INC.  
RN102887080**

§  
§  
§  
§  
§

**BEFORE THE  
TEXAS COMMISSION ON  
ENVIRONMENTAL QUALITY**

## **AGREED ORDER DOCKET NO. 2010-0408-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 Lone Oak Feeders, Inc. ("the Respondent") under the authority of TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent appear before the Commission and together stipulate that:

1. The Respondent owns and operates a concentrated animal feeding operation ("CAFO") at 2580 Farm-to-Market Road 847 in Erath County, Texas (the "Site").
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 notice of the violations alleged in Section II ("Allegations") on or about February 10, 2010.
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 One Thousand Six Hundred Thirty Dollars (\$1,630) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid One Thousand Three Hundred Four Dollars (\$1,304) of the

administrative penalty and Three Hundred Twenty-Six Dollars (\$326) is deferred contingent upon the Respondent's timely and satisfactory compliance with all the terms of this Agreed Order. The deferred amount will be waived upon full compliance with the terms of this Agreed Order. If the Respondent fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require the Respondent to pay all or part of the deferred penalty.

7. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.
8. The Executive Director of the TCEQ and the Respondent have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
9. The Executive Director recognizes that the Respondent has implemented the following corrective measures at the Site:
  - a. On February 8, 2010, submitted the requested records including a recharge feature certification, soil analysis sample results, and copies of the drainage area calculations for the additional acreage identified in the March 6, 2009 Notice of Change; and
  - b. On March 26, 2010, purchased and installed the rain gauge capable of measuring the design rainfall event at the Site.
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 Site, the Respondent is alleged to have:

1. Failed to submit records within five days of a written request, in violation of 30 TEX. ADMIN. CODE § 321.46(d) and Texas Pollutant Discharge Elimination System ("TPDES") CAFO General Permit No. TXG921109 Part IV.A., as documented during an investigation conducted on January 8, 2010. Specifically, the investigator requested records on January 8, 2010 and did not receive the requested records until February 8, 2010. The requested records included a recharge feature certification, soil analysis sample results, and copies of the drainage area calculations for the additional acreage identified in the March 6, 2009 Notice of Change.
2. Failed to maintain a rain gauge capable of measuring the design rainfall event at the Site, in violation of 30 TEX. ADMIN. CODE § 321.39(b)(4) and TPDES CAFO General Permit No.

TXG921109 Part III.A.9.(d), as documented during an investigation conducted on January 8, 2010.

3. Failed to maintain vegetation, crops, forage growth, or post harvest residues in the normal growing season in pastures that maintain animals and to maintain and manage control facilities to retain all contaminated rainfall runoff from open lots and associated areas, in violation of 30 Tex. Admin.Code §§ 321.36(c) and 321.39(g)(2) and TPDES CAFO General Permit No. TXG921109 Part III. A.6.(c) and Part III.B.5., as documented during an investigation conducted on January 8, 2010. Specifically, the investigator documented that animals were in uncontained lots that were devoid of vegetation and that land management unit ("LMU") 2 was devoid of vegetation.

### 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: Lone Oak Feeders, Inc., Docket No. 2010-0408-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:
  - a. Within 60 days after the effective date of this Agreed Order, re-establish and maintain vegetative cover in the pens that maintain animals, in accordance with 30 TEX. ADMIN. CODE § 321.39(g)(2);
  - b. Within 60 days after the effective date of this Agreed Order, construct control facilities to manage waste, storm water, and wastewater from the open lots and associated areas in a manner that will protect surface and ground water quality, in accordance with 30 TEX. ADMIN. CODE § 321.36(c); and
  - 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. and 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  
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 the Site operations referenced in this Agreed Order.
4. If the Respondent fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, the Respondent's failure to comply is not a violation of this Agreed Order. The Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The Respondent shall notify the Executive Director within seven days after the Respondent becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
5. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by the Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
6. This Agreed Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
7. This Agreed Order may be executed in multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreed Order may be transmitted

by facsimile transmission to the other parties, which shall constitute an original signature for all purposes under this Agreed Order.

8. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to the Respondent, or three days after the date on which the Commission mails notice of the Order to the Respondent, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

## SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

\_\_\_\_\_  
For the Commission

John Sredlin  
\_\_\_\_\_  
For the Executive Director

6/22/2010  
\_\_\_\_\_  
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.

Michael Henderson  
\_\_\_\_\_  
Signature

5/17/10  
\_\_\_\_\_  
Date

Michael Henderson  
\_\_\_\_\_  
Name (Printed or typed)  
Authorized Representative of  
Lone Oak Feeders, Inc.

President  
\_\_\_\_\_  
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.