

EXECUTIVE SUMMARY - ENFORCEMENT MATTER
DOCKET NO. 2008-1630-AGR-E TCEQ ID RN101526796 CASE NO. 36660
RESPONDENT NAME: SONADOR DAIRY, L.L.C.

ORDER TYPE:		
<input checked="" type="checkbox"/> 1660 AGREED ORDER	<input type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING
<input type="checkbox"/> FINDINGS DEFAULT ORDER	<input type="checkbox"/> SHUTDOWN ORDER	<input type="checkbox"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
<input type="checkbox"/> AMENDED ORDER	<input type="checkbox"/> EMERGENCY ORDER	

CASE TYPE:		
<input type="checkbox"/> AIR	<input 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 VIOLATION(S) OCCURRED: 453 Humphrey Lane, approximately 1.5 miles north of the intersection of Farm-to-Market Road 69 and Highway 11, on the west side of Farm-to-Market Road 69, Como, Hopkins County

TYPE OF OPERATION: concentrated animal feeding operation/dairy

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 7, 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: Ms. Evette Alvarado, Water Enforcement Section, MC 169, (512) 239-2573
TCEQ Regional Contact: Mr. Noel Luper, Tyler Regional Office, MC R-5, (903) 535-5174
Respondent: Mr. Rene Coumans, Managing Member, Sonador Dairy, L.L.C., 3415 Farm-to-Market Road 1564 East, Como, Texas 75431
Respondent's Attorney: Not represented by counsel on this enforcement matter.

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 of Complaint Relating to this Case: None</p> <p>Date of Investigation Relating to this Case: July 1 - 11, 2008</p> <p>Date of NOE Relating to this Case: August 28, 2008</p> <p>Background Facts: The EDPRP was filed on April 28, 2009. Respondent filed an answer and the case was referred to SOAH. Settlement was achieved and the agreed order was signed on March 20, 2010.</p> <p>Current Compliance Status: Respondent has not yet submitted documentation to certify compliance with the technical requirements.</p> <p>AGR:</p> <ol style="list-style-type: none"> Failed to prevent a discharge of irrigation tailwater runoff from Land Management Unit ("LMU") No. 1 [30 TEX. ADMIN. CODE § 321.40(d) and CAFO General Permit No. TXG920804, Part III.A.11(b)(1)]. Failed to update the site map to include berms, water wells, dead animal burial sites, silage storage areas, and cooling ponds [30 TEX. ADMIN. CODE § 321.46(a)(7)(A) and CAFO General Permit No. TXG920804, Part III.A.2(a)]. Failed to collect and analyze a sample of manure each year for total nitrogen, total phosphorus, and total potassium [30 TEX. ADMIN. CODE § 321.36(e)(1) and CAFO General Permit No. TXG920804, Part III.A.11(e)(4)]. Failed to maintain and update records of the assumption for calculating the total amount of nitrogen and phosphorus applied per acre to each LMU at least monthly at the Facility [30 TEX. ADMIN. CODE § 321.46(d)(8)(D) and CAFO General Permit No. TXG920804, Part IV.A.2(b)(1)(iv)]. Failed to maintain drainage areas and berms to prevent ponding or puddling and ensure that contaminated runoff is directed into Retention Control Structure ("RCS") No. 2 as designed [30 TEX. ADMIN. CODE §§ 305.125(5) and 321.36(c) and CAFO General Permit No. TXG920804, Part V.D.]. Failed to maintain the embankment wall of RCS No. 2 to prevent erosion or deterioration [30 TEX. ADMIN. CODE § 305.125(5) and CAFO General Permit No. TXG920804, Part III.A.6(f)(3) and Part V.D.]. 	<p>Total Assessed: \$5,875</p> <p>Total Deferred: \$0 <input type="checkbox"/> Expedited Order <input type="checkbox"/> Financial Inability to Pay <input type="checkbox"/> SEP Conditional Offset</p> <p>Total Paid/Due to General Revenue: \$170/\$5,705</p> <p>Respondent paid \$170 of the administrative penalty. The remaining amount of \$5,705 shall be payable in 35 monthly payments of \$163 each.</p> <p>Site Compliance History Classification: <input checked="" type="checkbox"/> High <input type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Person Compliance History Classification: <input checked="" type="checkbox"/> High <input 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 Respondent implemented the following corrective measures at the Facility:</p> <ol style="list-style-type: none"> By July 11, 2008, ceased application of wastewater to LMU No. 1 and pumped the discharged wastewater into RCS No. 2; On November 7, 2008, submitted a record keeping system to ensure the assumption for calculating the total amount of nitrogen and phosphorus applied per acre to each LMU is updated at least monthly and maintained at the Facility; By October 14, 2008, submitted a manure sample for analysis of total nitrogen, total phosphorus, and total potassium; and By October 14, 2008, stabilized the embankment wall of RCS No. 2 to prevent erosion or deterioration, built up berms, relocated a fence line, and reworked soil in low areas to prevent ponding and puddling and to direct contaminated runoff into RCS No. 2 as designed. <p>Ordering Provisions:</p> <p>Respondent shall undertake the following technical requirements:</p> <ol style="list-style-type: none"> Within 30 days, update the site map to include berms, water wells, dead animal burial sites, silage storage areas, and cooling ponds, and Within 45 days, submit documentation demonstrating compliance with Ordering Provision No. 1.



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision June 12, 2008

TCEQ

DATES	Assigned	2-Sep-2008			
	PCW	25-Mar-2009	Screening	9-Oct-2008	EPA Due

RESPONDENT/FACILITY INFORMATION					
Respondent	Sonador Dairy, L.L.C.				
Reg. Ent. Ref. No.	RN101526796				
Facility/Site Region	5-Tyler	Major/Minor Source	Minor		

CASE INFORMATION					
Enf./Case ID No.	36660	No. of Violations	6		
Docket No.	2008-1630-AGR-E	Order Type	1660		
Media Program(s)	Water Quality	Government/Non-Profit	No		
Multi-Media		Enf. Coordinator	Evette Alvarado		
		EC's Team	Enforcement Team 1		
Admin. Penalty \$ Limit	Minimum	\$0	Maximum	\$10,000	

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)	Subtotal 1	\$7,600
---	-------------------	---------

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History	-10.0% Enhancement	Subtotals 2, 3, & 7	-\$760
---------------------------	--------------------	--------------------------------	--------

Notes: Reduction due to High Performer Classification.

Culpability	No	0.0% Enhancement	Subtotal 4	\$0
--------------------	----	------------------	-------------------	-----

Notes: The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply Total Adjustments	Subtotal 5	\$1,085
--	-------------------	---------

Economic Benefit	0.0% Enhancement*	Subtotal 6	\$0
-------------------------	-------------------	-------------------	-----

Total EB Amounts	\$142	*Capped at the Total EB \$ Amount
Approx. Cost of Compliance	\$1,150	

SUM OF SUBTOTALS 1-7	Final Subtotal	\$5,755
-----------------------------	-----------------------	---------

OTHER FACTORS AS JUSTICE MAY REQUIRE	2.1%	Adjustment	\$120
---	------	-------------------	-------

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes: Enhancement to recover avoided costs associated with the violations.

Final Penalty Amount \$5,875

STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$5,875
-----------------------------------	-------------------------------	---------

DEFERRAL	0.0% Reduction	Adjustment	\$0
-----------------	----------------	-------------------	-----

Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes: Deferral not offered for non-expedited settlement.

PAYABLE PENALTY	\$5,875
------------------------	---------

Screening Date 9-Oct-2008

Docket No. 2008-1630-AGR-E

PCW

Respondent Sonador Dairy, L.L.C.

Policy Revision 2 (September 2002)

Case ID No. 36660

PCW Revision June 12, 2008

Reg. Ent. Reference No. RN101526796

Media [Statute] Water Quality

Enf. Coordinator Evette Alvarado

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	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%
<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) 0%

>> **Repeat Violator (Subtotal 3)**

No

Adjustment Percentage (Subtotal 3) 0%

>> **Compliance History Person Classification (Subtotal 7)**

High Performer

Adjustment Percentage (Subtotal 7) -10%

>> **Compliance History Summary**

Compliance History Notes Reduction due to High Performer Classification.

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

Screening Date 9-Oct-2008 **Docket No.** 2008-1630-AGR-E **PCW**
Respondent Sonador Dairy, L.L.C. *Policy Revision 2 (September 2002)*
Case ID No. 36660 *PCW Revision June 12, 2008*
Reg. Ent. Reference No. RN101526796
Media [Statute] Water Quality
Enf. Coordinator Evette Alvarado

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 checked="" type="text" value="x"/>	<input type="text"/>	<input type="text" value="25%"/>
	Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>	

>> Programmatic Matrix

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

Matrix Notes

Adjustment

Violation Events

Number of Violation Events Number of violation days

mark only one with an x

daily	<input type="text"/>
monthly	<input checked="" type="text" value="x"/>
quarterly	<input type="text"/>
semiannual	<input type="text"/>
annual	<input type="text"/>
single event	<input type="text"/>

Violation Base Penalty

Good Faith Efforts to Comply Reduction

	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary	<input type="text"/>	<input type="text"/>
Ordinary	<input checked="" type="text" value="x"/>	<input type="text"/>
N/A	<input type="text"/>	(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 Sonador Dairy, L.L.C.
Case ID No. 36660
Reg. Ent. Reference No. RN101526796
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	\$100	11-Jul-2008	11-Jul-2008	0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost for the labor of three workers to stop the irrigation of LMU No. 1 and pump wastewater into RCS No. 2. Date required is the date the discharge was documented and final date is when compliance was achieved.

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 9-Oct-2008 **Docket No.** 2008-1630-AGR-E **PCW**
Respondent Sonador Dairy, L.L.C. *Policy Revision 2 (September 2002)*
Case ID No. 36660 *PCW Revision June 12, 2008*
Reg. Ent. Reference No. RN101526796
Media [Statute] Water Quality
Enf. Coordinator Evette Alvarado

Violation Number 2
Rule Cite(s) 30 Tex. Admin. Code § 321.46(a)(7)(A) and CAFO General Permit No. TXG920804, Part III.A.2(a)
Violation Description Failed to update the site map to include berms, water wells, dead animal burial sites, silage storage areas, and cooling ponds.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual				0%
	Potential				

>> Programmatic Matrix

	Falsification	Major	Moderate	Minor	Percent
			x		5%

Matrix Notes 42% of the permit requirement was not met.

Adjustment \$9,500

\$500

Violation Events

Number of Violation Events 1 100 Number of violation days

mark only one with an x

daily	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty \$500

One single event is recommended based upon the July 1, 2008 investigation date.

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 \$500

Economic Benefit (EB) for this violation Statutory Limit Test

Estimated EB Amount \$9

Violation Final Penalty Total \$459

This violation Final Assessed Penalty (adjusted for limits) \$459

Economic Benefit Worksheet

Respondent Sonador Dairy, L.L.C.
Case ID No. 36660
Reg. Ent. Reference No. RN101526796
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				0.00	\$0	n/a	\$0
Other (as needed)	\$200	1-Jul-2008	15-May-2009	0.87	\$9	n/a	\$9

Notes for DELAYED costs

Estimated cost to update the site map to include berms, water wells, dead animal burial sites, silage storage areas, and cooling ponds. Date required is the investigation date and 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

\$9

Screening Date 9-Oct-2008 **Docket No.** 2008-1630-AGR-E **PCW**
Respondent Sonador Dairy, L.L.C. *Policy Revision 2 (September 2002)*
Case ID No. 36660 *PCW Revision June 12, 2008*
Reg. Ent. Reference No. RN101526796
Media [Statute] Water Quality
Enf. Coordinator Evette Alvarado

Violation Number 3
Rule Cite(s) 30 Tex. Admin. Code § 321.36(e)(1) and CAFO General Permit No. TXG920804, Part III.A.11(e)(4)
Violation Description
 Failed to collect and analyze a sample of manure each year for total nitrogen, total phosphorus, and total potassium. Specifically, a sample of manure had not been analyzed prior to the investigation, yet records showed a total of 440 tons of manure had been land applied between January and June of 2008.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR	Harm				
	Release	Major	Moderate		Minor
	Actual				
	Potential			x	Percent 5%

>> Programmatic Matrix

	Falsification	Major	Moderate	Minor	
					Percent 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 \$9,500

\$500

Violation Events

Number of Violation Events 1 100 Number of violation days

<i>mark only one with an x</i>	daily	
	monthly	
	quarterly	
	semiannual	
	annual	
	single event	x

Violation Base Penalty \$500

One single event is recommended based upon the July 1, 2008 investigation date.

Good Faith Efforts to Comply 10.0% Reduction \$50

	Before NOV	NOV to EDRP/Settlement Offer
Extraordinary		
Ordinary		x
N/A		(mark with x)

Notes
The Respondent collected a sample of manure for analysis by October 14, 2008.

Violation Subtotal \$450

Economic Benefit (EB) for this violation **Statutory Limit Test**

Estimated EB Amount \$120 **Violation Final Penalty Total** \$408

This violation Final Assessed Penalty (adjusted for limits) \$408

Economic Benefit Worksheet

Respondent Sonador Dairy, L.L.C.
Case ID No. 36660
Reg. Ent. Reference No. RN101526796
Media Water Quality
Violation No. 3

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

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	\$150	10-Jan-2008	14-Oct-2008	0.76	\$6	\$114	\$120
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

Estimated cost of sampling and analyzing an annual manure sample. Date required is the date land application of manure began. Final date is the date the manure sample was taken and compliance was achieved.

Approx. Cost of Compliance

\$150

TOTAL

\$120

Screening Date 9-Oct-2008 **Docket No.** 2008-1630-AGR-E **PCW**
Respondent Sonador Dairy, L.L.C. *Policy Revision 2 (September 2002)*
Case ID No. 36660 *PCW Revision June 12, 2008*
Reg. Ent. Reference No. RN101526796
Media [Statute] Water Quality
Enf. Coordinator Evette Alvarado

Violation Number 4
Rule Cite(s) 30 Tex. Admin. Code § 321.46(d)(8)(D) and CAFO General Permit No. TXG920804, Part IV.A.2(b)(1)(iv)
Violation Description Failed to maintain updated records of the assumption for calculating the total amount of nitrogen and phosphorus applied per acre to each LMU at least monthly at the Facility.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual				0%
	Potential				

>> Programmatic Matrix

	Falsification	Major	Moderate	Minor	Percent
				x	1%

Matrix Notes Over 70% of the permit requirement was met.

Adjustment \$9,900

\$100

Violation Events

		1	100	Number of violation days	
<i>mark only one with an x</i>	daily				Violation Base Penalty \$100
	monthly				
	quarterly				
	semiannual				
	annual				
	single event		x		

One single event is recommended based upon the July 1, 2008 investigation date.

Good Faith Efforts to Comply 10.0% Reduction \$10

	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary		x
N/A		(mark with x)

Notes The Respondent returned to compliance by November 7, 2008.

Violation Subtotal \$90

Economic Benefit (EB) for this violation Statutory Limit Test

Estimated EB Amount \$4 **Violation Final Penalty Total** \$82

This violation Final Assessed Penalty (adjusted for limits) \$82

Economic Benefit Worksheet

Respondent Sonador Dairy, L.L.C.
Case ID No. 36660
Reg. Ent. Reference No. RN101526796
Media Water Quality
Violation No. 4

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	\$200	1-Jul-2008	7-Nov-2008	0.35	\$4	n/a	\$4
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to develop a record-keeping system to ensure the assumption for calculating the total amount of nitrogen and phosphorus applied per acre to each field is updated at least monthly. Date required is the investigation date and final date is the date compliance was achieved.

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

\$4

Screening Date 9-Oct-2008 **Docket No.** 2008-1630-AGR-E **PCW**
Respondent Sonador Dairy, L.L.C. *Policy Revision 2 (September 2002)*
Case ID No. 36660 *PCW Revision June 12, 2008*
Reg. Ent. Reference No. RN101526796
Media [Statute] Water Quality
Enf. Coordinator Evette Alvarado

Violation Number 5
Rule Cite(s) 30 Tex. Admin. Code §§ 305.125(5), 321.36(c), and CAFO General Permit No. TXG920804, Part V.D.

Violation Description
 Failed to maintain drainage areas and berms to prevent ponding or puddling and ensure that contaminated runoff is directed into RCS No. 2 as designed. Specifically, there was significant ponding or puddling of water in a low area southwest of RCS No. 1, south of the open lot and cooling pond. This area was designed to drain into RCS No. 2, but instead, due to the lack of soil grading, the water had accumulated. Additionally, there was potential for contaminated runoff to enter a pond on the adjacent property, to enter a cooling pond at the Facility, or to go towards a private well because the existing berms in those areas had not been maintained.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual				10%
	Potential		x		

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	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 days

<i>mark only one with an x</i>	daily	
	monthly	
	quarterly	x
	semiannual	
	annual	
	single event	

Violation Base Penalty \$2,000

Two quarterly events are recommended from the July 1, 2008 investigation date to the October 9, 2008 screening date.

Good Faith Efforts to Comply 10.0% Reduction \$200

	Before NOV	NOV to EDRP/Settlement Offer
Extraordinary		
Ordinary		x
N/A		(mark with x)

Notes
 The Respondent reworked soil in low areas, relocated a fence line, and built up berms to achieve compliance by October 14, 2008.

Violation Subtotal \$1,800

Economic Benefit (EB) for this violation **Statutory Limit Test**

Estimated EB Amount \$8 **Violation Final Penalty Total** \$1,633

This violation Final Assessed Penalty (adjusted for limits) \$1,633

Economic Benefit Worksheet

Respondent Sonador Dairy, L.L.C.
Case ID No. 36660
Reg. Ent. Reference No. RN101526796
Media Water Quality
Violation No. 5

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	\$400	1-Jul-2008	14-Oct-2008	0.29	\$0	\$8	\$8
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to prevent ponding in low areas by reworking the soil in those areas and to ensure runoff is directed into RCS No. 2 by the construction or rebuilding of berms and moving fencelines. Date required is the investigation date and 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

\$400

TOTAL

\$8

Screening Date 9-Oct-2008 **Docket No.** 2008-1630-AGR-E **PCW**
Respondent Sonador Dairy, L.L.C. *Policy Revision 2 (September 2002)*
Case ID No. 36660 *PCW Revision June 12, 2008*
Reg. Ent. Reference No. RN101526796
Media [Statute] Water Quality
Enf. Coordinator Evette Alvarado

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"/>	
Potential	<input type="text"/>	<input checked="" type="text" value="x"/>	<input type="text"/>		

>> Programmatic Matrix

Matrix Notes	Falsification	Major	Moderate	Minor	Percent
	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	

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

Violation Events

Number of Violation Events Number of violation days
mark only one with an x

daily	<input type="text"/>
monthly	<input type="text"/>
quarterly	<input checked="" type="text" value="x"/>
semiannual	<input type="text"/>
annual	<input type="text"/>
single event	<input type="text"/>

Violation Base Penalty

Good Faith Efforts to Comply Reduction

Extraordinary	Before NOV	NOV to EDRP/Settlement Offer
	<input type="text"/>	<input type="text"/>
	Ordinary	<input checked="" type="text" value="x"/>
N/A	<input type="text"/> (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 Sonador Dairy, L.L.C.
Case ID No. 36660
Reg. Ent. Reference No. RN101526796
Media Water Quality
Violation No. 6

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	\$100	1-Jul-2008	14-Oct-2008	0.29	\$0	\$2	\$2
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to relocate an existing fence and cover area in permanent vegetation. Date required is the investigation date and final date is the date compliance was achieved.

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

\$2

Compliance History

Customer/Respondent/Owner-Operator: CN603066721 Sonador Dairy, L.L.C. Classification: HIGH Rating: 0.00
Regulated Entity: RN101526796 SONADOR DAIRY Classification: HIGH Site Rating: 0.00
ID Number(s): WASTEWATER AGRICULTURE PERMIT TXG920804
Location: 453 Humphrey Lane, approx. 1.5 mi. N. of intersect.
FM 69 and Hwy 11 on W. side of FM 69, Hopkins Co., TX.
TCEQ Region: REGION 05 - TYLER
Date Compliance History Prepared: October 09, 2008
Agency Decision Requiring Compliance History: Enforcement
Compliance Period: October 09, 2003 to October 09, 2008
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History
Name: Merrilee G. Hupp Phone: 512-239-4490

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 of the site during the compliance period? Yes
3. If Yes, who is the current owner? Sonador Dairy, L.L.C.
4. If Yes, who was/were the prior owner(s)? Daniel Wayne Humphrey dba Dan Humphrey Dairy
5. When did the change(s) in ownership occur? August 9, 2006

Components (Multimedia) for the Site :

- A. Final Enforcement Orders, court judgments, 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 06/10/2004 (274535)
 - 2 07/11/2007 (566490)
 - 3 08/25/2008 (688432)
 - 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
SONADOR DAIRY, L.L.C.;
RN101526796**

§
§
§
§
§

**BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY**

**AGREED ORDER
DOCKET NO. 2008-1630-AGR-E**

I. JURISDICTION AND STIPULATIONS

At its _____ agenda, the Texas Commission on Environmental Quality (“Commission” or “TCEQ”) considered this agreement of the parties, resolving an enforcement action regarding Sonador Dairy, L.L.C. (“Sonador Dairy”) under the authority of TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, represented by the Litigation Division, and Sonador Dairy appear before the Commission and together stipulate that:

1. Sonador Dairy owns and operates a dairy located at 453 Humphrey Lane, approximately 1.5 miles north of the intersection of Farm-to-Market Road 69 and Highway 11, on the west side of Farm-to-Market Road 69, Como, Hopkins County, Texas (the “Facility”). Sonador Dairy has discharged waste from the Facility into or adjacent to any water in the state or has committed another act that has caused or will cause pollution of any water in the state under the Texas Water Code.
2. This Agreed Order is entered into pursuant to TEX. WATER CODE §§ 7.051 and 7.070. The Commission has jurisdiction of this matter pursuant to TEX. WATER CODE § 5.013 because it alleges violations of TEX. WATER CODE ch. 26 and TCEQ rules.
3. The Commission and Sonador Dairy agree that the Commission has jurisdiction to enter this Agreed Order, and that Sonador Dairy is subject to the Commission's jurisdiction.
4. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by Sonador Dairy of any violation alleged in Section II (“Allegations”), nor of any statute or rule.
5. An administrative penalty in the amount of five thousand eight hundred seventy-five dollars (\$5,875.00) is assessed by the Commission in settlement of the violations alleged in Section II. Sonador Dairy paid one hundred seventy dollars (\$170.00) of the administrative penalty. The remaining amount of five thousand seven hundred five dollars (\$5,705.00) of the administrative penalty shall be payable in 35 monthly payments of one hundred sixty-three

dollars (\$163.00) each. The first monthly payment shall be paid within 30 days after the effective date of this Agreed Order. The subsequent payments shall be paid not later than 30 days following the due date of the previous payment. If Sonador Dairy fails to timely and satisfactorily comply with the payment requirements of this Agreed Order, including the payment schedule, the Executive Director may, at his 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, Sonador Dairy's failure to meet the payment schedule of this Agreed Order constitutes the failure by Sonador Dairy to timely and satisfactorily comply with all of the terms of this Agreed Order.

6. 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.
7. The Executive Director of the TCEQ and Sonador Dairy agree on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
8. The Executive Director recognizes that the Sonador Dairy has implemented the following corrective measures at the Facility:
 - a. By July 11, 2008, ceased application of wastewater to Land Management Unit ("LMU") No. 1 and pumped the discharged wastewater into Retention Control Structure ("RCS") No. 2;
 - b. On November 7, 2008, submitted a record keeping system to ensure the assumption for calculating the total amount of nitrogen and phosphorus applied per acre to each LMU is updated at least monthly and maintained at the Facility;
 - c. By October 14, 2008, submitted a manure sample for analysis of total nitrogen, total phosphorus, and total potassium; and
 - d. By October 14, 2008, stabilized the embankment wall of RCS No. 2. to prevent erosion or deterioration, built up berms , relocated a fence line, and reworked soil in low areas to prevent ponding and puddling and to direct contaminated runoff into RCS No. 2 as designed.
9. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that Sonador Dairy has not complied with one or more of the terms or conditions in this Agreed Order.
10. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.

11. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

II. ALLEGATIONS

1. During an investigation conducted on July 1 - 11, 2008, a TCEQ Tyler Regional Office investigator documented that Sonador Dairy violated:
 - a. 30 TEX. ADMIN. CODE § 321.40(d) and CAFO General Permit No. TXG920804, Part III. A.11(b)(1), by failing to prevent a discharge of irrigation tailwater runoff from LMU No. 1. Specifically, wastewater from LMU No. 1 located on the West side of Farm-to-Market Road (“FM”) 69 entered the ditch along FM 69 and flowed south to a tributary leading to East Caney Creek;
 - b. 30 TEX. ADMIN. CODE § 321.46(a)(7)(A) and CAFO General Permit No. TXG920804, Part III.A.2(a), by failing to update the site map to include berms, water wells, dead animal burial sites, silage storage areas, and cooling ponds;
 - c. 30 TEX. ADMIN. CODE § 321.36(e)(1) and CAFO General Permit No. TXG920804, Part III. A.11(e)(4), by failing to collect and analyze a sample of manure each year for total nitrogen, total phosphors, and total potassium. Specifically, a sample of manure had not been analyzed prior to the investigation, yet records showed a total of 440 tons of manure had been applied between January and June of 2008;
 - d. 30 TEX. ADMIN. CODE § 321.46(d)(8)(D) and CAFO General Permit No. TXG920804, Part IV. A.2(b)(1)(iv), by failing to maintain and update, at least monthly, records of the basis for calculating the total amount of nitrogen and phosphorus of the manure applied per acre to each LMU at the Facility;
 - e. 30 TEX. ADMIN. CODE §§ 305.125(5) and 321.36(c), and CAFO General Permit No. TXG920804, Part V. D., by failing to maintain drainage areas and berms to prevent ponding or puddling and ensure that contaminated runoff is directed into RCS No. 2 as designed. Specifically, there was significant ponding or puddling of water in a low area southwest of RCS No. 1, south of the open lot and cooling pond. This area was designed to drain into RCS No. 2, but instead, due to the lack of soil grading, the water accumulated. Additionally, there was potential for contaminated runoff to enter a pond on the adjacent property, to enter a cooling pond at the Facility or go towards a private well because the existing berms had not been maintained; and

- f. 30 TEX. ADMIN. CODE § 305.125(5) and CAFO General Permit No. TXG920804, Part III.A.6(f)(3) and Part V.D., by failing to maintain the embankment wall of RCS No. 2 to prevent erosion or deterioration.
2. Sonador Dairy received notice of the violations on or about September 2, 2008.

III. DENIALS

Sonador Dairy generally denies each allegation in Section II (“Allegations”).

IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that Sonador Dairy pay an administrative penalty as set forth in Section I, Paragraph 5, above, for violations of TCEQ rules and state statutes. The payment of this administrative penalty and Sonador Dairy’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 considering or requiring corrective action or penalties for violations which are not raised here. Administrative penalty payments shall be made payable to “Texas Commission on Environmental Quality” and shall be sent with the notation “Re: Sonador Dairy, L.L.C., Docket No. 2008-1630-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. Sonador Dairy shall undertake the following technical requirements:
 - a. Within 30 days after the effective date of this Agreed Order, Sonador Dairy shall update the site map to include berms, water wells, dead animal burial sites, silage storage areas, and cooling ponds, in accordance with 30 TEX. ADMIN. CODE § 321.46(a)(7)(A) and CAFO General Permit No. TXG920804, Part III.A.2(a); and
 - b. Within 45 days after the effective date of this Agreed Order, Sonador Dairy shall submit written certification and detailed supporting documentation, including photographs, receipts, and other records, to demonstrate compliance with Ordering Provision No. 2.a.. 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.”

Sonador Dairy shall submit the written certification and copies of documentation necessary to demonstrate compliance with Ordering Provision No. 2.a.to:

Order Compliance Team
Enforcement Division, MC 149A
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

and

Water Section Manager
Texas Commission on Environmental Quality
Tyler Regional Office
2916 Teague Drive
Tyler, Texas 75701-3734

3. The provisions of this Agreed Order shall apply to and be binding upon Sonador Dairy. Sonador Dairy is ordered to give notice of this Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
4. If Sonador Dairy 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, Sonador Dairy's failure to comply is not a violation of this Agreed Order. Sonador Dairy shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. Sonador Dairy shall notify the Executive Director within seven days after Sonador Dairy 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 Sonador Dairy shall be made in writing to the Executive Director. Extensions are not effective until Sonador Dairy 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 Sonador Dairy 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.
8. Under 30 TEX. ADMIN. CODE § 70.10(b) and TEX. GOV'T CODE § 2001.142, the effective date of this Agreed Order is the date of hand-delivery of this Agreed Order to Sonador Dairy, or three days after the date on which the Commission mails notice of this Agreed Order to Sonador Dairy, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

Sonador Dairy, L.L.C.
TCEQ Docket No. 2008-1630-AGR-E
Page 7

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

[Handwritten Signature]

For the Executive Director

7/21/2010

Date

I, the undersigned, have read and understand the attached Agreed Order. I represent that I am authorized to agree to the attached Agreed Order on behalf of the entity, if any, 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 my failure to comply with the Ordering Provisions in this order and/or my failure to timely pay the penalty amount, may result in:

- A negative impact on Sonador Dairy's compliance history;
- Greater scrutiny of any permit applications submitted by Sonador Dairy;
- 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 against Sonador Dairy;
- Automatic referral to the Attorney General's Office of any future enforcement actions against Sonador Dairy; and
- TCEQ seeking other relief as authorized by law.

In addition, I understand that any falsification of any compliance documents may result in criminal prosecution.

[Handwritten Signature]
Signature

3/20/2010
Date

R. Coumans
Name (Printed or typed)
Authorized Representative of Sonador Dairy, L.L.C.

man member
Title