

Page 1 of 2

EXECUTIVE SUMMARY - ENFORCEMENT MATTER
DOCKET NO.: 2010-0341-AGR-E TCEQ ID: RN101513588 CASE NO.: 39242
RESPONDENT NAME: Jimmy Gaylon Beyer dba Beyer Dairy #1

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 AND HAZARDOUS WASTE
<input type="checkbox"/> PUBLIC WATER SUPPLY	<input type="checkbox"/> PETROLEUM STORAGE TANKS	<input type="checkbox"/> OCCUPATIONAL CERTIFICATION
<input checked="" type="checkbox"/> WATER QUALITY	<input type="checkbox"/> SEWAGE SLUDGE	<input type="checkbox"/> UNDERGROUND INJECTION CONTROL
<input type="checkbox"/> MUNICIPAL SOLID WASTE	<input type="checkbox"/> RADIOACTIVE WASTE	<input type="checkbox"/> DRY CLEANER REGISTRATION
<p>SITE WHERE VIOLATION(S) OCCURRED: Beyer Dairy #1, located on the south side of the intersection of Farm-to-Market Road ("FM") 219 and FM 2303, approximately five miles east of Lingleville, Erath County</p> <p>TYPE OF OPERATION: Dairy</p> <p>SMALL BUSINESS: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>OTHER SIGNIFICANT MATTERS: There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.</p> <p>INTERESTED PARTIES: No one other than the ED and the Respondent has expressed an interest in this matter.</p> <p>COMMENTS RECEIVED: The <i>Texas Register</i> comment period expired on July 26, 2010. No comments were received.</p> <p>CONTACTS AND MAILING LIST: TCEQ Attorney/SEP Coordinator: None TCEQ Enforcement Coordinator: Ms. Evette Alvarado, Enforcement Division, Enforcement Team 1, MC 169, (512) 239-2573; Ms. Laurie Eaves, Enforcement Division, MC 219, (512) 239-4495 Respondent: Mr. Jimmy Gaylon Beyer, Owner, Beyer Dairy #1, 8892 South United States Highway 377, Suite G, Dublin, Texas 76446 Respondent's Attorney: Not represented by counsel on this enforcement matter</p>		

VIOLATION SUMMARY CHART:

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p>Type of Investigation: <input type="checkbox"/> Complaint <input checked="" type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input type="checkbox"/> Records Review</p> <p>Date(s) of Complaints Relating to this Case: None</p> <p>Date of Investigation Relating to this Case: January 12, 2010</p> <p>Date of NOV/NOE Relating to this Case: February 19, 2010 (NOE)</p> <p>Background Facts: This was a routine investigation.</p> <p>WATER</p> <p>Failure to increase the size of the existing retention control structure ("RCS") to meet the total capacity required by permit. Specifically, modifications to increase the capacity of the RCS at the Facility to 75.05 acre-feet were required by August 9, 2009, and had not been completed at the time of the investigation [30 TEX. ADMIN. CODE §§ 305.125(1) and 321.36(b) and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0003234000, Special Provisions A.1 and A.2].</p>	<p>Total Assessed: \$3,780</p> <p>Total Deferred: \$756 <input checked="" type="checkbox"/> Expedited Settlement <input type="checkbox"/> Financial Inability to Pay</p> <p>SEP Conditional Offset: \$0</p> <p>Total Paid to General Revenue: \$3,024</p> <p>Site Compliance History Classification <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Person Compliance History Classification <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Major Source: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>Applicable Penalty Policy: September 2002</p>	<p>Ordering Provisions:</p> <p>The Order will require the Respondent to:</p> <p>a. Within 90 days after the effective date of this Agreed Order:</p> <p>i. Complete modifications to the RCS to increase the capacity to 75.05 acre-feet; or</p> <p>ii. Develop and submit a closure plan for the RCS in the event that the Confined Animal Feeding Operation will cease operation.</p> <p>b. Within 105 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 a.</p>

Additional ID No(s): WQ0003234000



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

DATES	Assigned	22-Feb-2010	Screening	3-Mar-2010	EPA Due	
	PCW	3-Mar-2010				

RESPONDENT/FACILITY INFORMATION			
Respondent	Jimmy Gaylon Beyer dba Beyer Dairy #1		
Reg. Ent. Ref. No.	RN101513588		
Facility/Site Region	4-Stephenville	Major/Minor Source	Minor

CASE INFORMATION			
Enf./Case ID No.	39242	No. of Violations	1
Docket No.	2010-0341-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**

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History Enhancement **Subtotals 2, 3, & 7**

Notes

Culpability Enhancement **Subtotal 4**

Notes

Good Faith Effort to Comply Total Adjustments **Subtotal 5**

Economic Benefit Enhancement* **Subtotal 6**

Total EB Amounts *Capped at the Total EB \$ Amount
Approx. Cost of Compliance

SUM OF SUBTOTALS 1-7 **Final Subtotal**

OTHER FACTORS AS JUSTICE MAY REQUIRE **Adjustment**

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes

Final Penalty Amount

STATUTORY LIMIT ADJUSTMENT **Final Assessed Penalty**

DEFERRAL Reduction **Adjustment**

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

Notes

PAYABLE PENALTY

Screening Date 3-Mar-2010

Docket No. 2010-0341-AGR-E

PCW

Respondent Jimmy Gaylon Beyer dba Beyer Dairy #1

Policy Revision 2 (September 2002)

Case ID No. 39242

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101513588

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 (number of NOVs meeting criteria)	0	0%
	Other written NOVs	3	6%
Orders	Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)	1	20%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (number of judgements or consent decrees meeting criteria)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (number of counts)	0	0%
Emissions	Chronic excessive emissions events (number of events)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which notices were submitted)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which violations were disclosed)	0	0%
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) 26%

>> 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 agreed order with denial of liability and three previous NOVs with unrelated violations.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 26%

Screening Date 3-Mar-2010

Docket No. 2010-0341-AGR-E

PCW

Respondent Jimmy Gaylon Beyer dba Beyer Dairy #1

Policy Revision 2 (September 2002)

Case ID No. 39242

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101513588

Media [Statute] Water Quality

Enf. Coordinator Evette Alvarado

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code §§ 305.126(1), 321.36(b), and Texas Pollutant Discharge Elimination System Permit No. WQ0003234000, Special Provisions A.1 and A.2

Violation Description Failed to increase the size of the existing retention control structure ("RCS") to meet the total capacity required by permit, as documented during an investigation conducted on January 12, 2010. Specifically, modifications to increase the capacity of the RCS at the Facility to 75.05 acre-feet were required by August 9, 2009, and had not been completed at the time of the investigation.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

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 as a result of this violation.

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events 3 Number of violation days 206

mark only one with an x	daily	
	weekly	
	monthly	
	quarterly	x
	semiannual	
	annual	
	single event	

Violation Base Penalty \$3,000

Three quarterly events are recommended from the date the modifications were due (August 9, 2009) to the screening date (March 3, 2010).

Good Faith Efforts to Comply

0.0% Reduction \$0

	Before NOV	NOV to EDRPF/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 \$3,000

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$461

Violation Final Penalty Total \$3,780

This violation Final Assessed Penalty (adjusted for limits) \$3,780

Economic Benefit Worksheet

Respondent Jimmy Gaylon Beyer dba Beyer Dairy #1
Case ID No. 39242
Reg. Ent. Reference No. RN101513588
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
Delayed Costs							
Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction	\$5,000	9-Aug-2009	3-Dec-2010	1.32	\$22	\$439	\$461
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 increase the size of the existing RCS to the required capacity of 75.05 acre-feet. Date required is the date by which the modifications were required. 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 \$5,000
TOTAL \$461

Compliance History Report

Customer/Respondent/Owner-Operator: CN602764755 BEYER, JIMMY GAYLON Classification: AVERAGE Rating: 6.15
Regulated Entity: RN101513588 BEYER DAIRY # 1 Classification: AVERAGE Site Rating: 9.78
ID Number(s): WASTEWATER AGRICULTURE PERMIT WQ0003234000
 WASTEWATER AGRICULTURE EPA ID TX0123765
Location: South side of the intersectoin of Farm-to-Market Road ("FM")
 219 and FM 2303, approximately five miles east of
 Lingleville, Erath County
TCEQ Region: REGION 04 - DFW METROPLEX
Date Compliance History Prepared: March 03, 2010
Agency Decision Requiring Compliance History: Enforcement
Compliance Period: March 03, 2005 to March 03, 2010

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

Name: Evette Alvarado **Phone:** 512 - 239 - 2573

Site Compliance History Components

1. Has the site been in existence and/or operation for the full five year compliance period? No
2. Has there been a (known) change in ownership/operator of the site during the compliance period? Yes
3. If Yes, who is the current owner/operator?

OPR	Heath Haedge
OPR	Milk Ranch, LLC
4. If Yes, who was/were the prior owner(s)/operator(s) ?

OWNOPR	BEYER, JIMMY GAYLON
OWNOPR	N/A
OWN	The Edith E. Beyer Regular Marital Trust
OPR	KOKE, JOHAN GERRIT
5. When did the change(s) in owner or operator occur?

04/21/2005	N/A	
	OWN	The Edith E. Beyer Regular Marital Trust
	OPR	KOKE, JOHAN GERRIT
06/06/2006	OWNOPR	BEYER, JIMMY GAYLON
6. Rating Date: 9/1/2009 Repeat Violator: NO

Components (Multimedia) for the Site :

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

Effective Date: 10/04/2007	ADMINORDER 2007-0578-AGR-E
Classification: Major	
Citation: 30 TAC Chapter 321, SubChapter B 321.42(s)	
Description: Failure to develop and operate under a comprehensive nutrient management plan (CNMP) certified by the Texas State Soil and Water Conservation Board by December 31, 2006.	
- 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	07/29/2005	(402645)
2	01/05/2006	(451039)
3	03/29/2006	(452938)
4	02/26/2007	(541768)
5	03/15/2007	(543339)
6	02/15/2008	(617187)
7	04/06/2008	(612005)
8	01/23/2009	(722479)
9	02/19/2010	(791102)
- E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)**

Self NO Classification: Minor
 Citation: 30 TAC Chapter 321, SubChapter B 321.42(j)
 Description: Failure to submit soil testing results of all samples within 60 days of the date the samples were taken

Self NO Classification: Moderate
 Citation: 30 TAC Chapter 321, SubChapter B 321.39(f)(11)
 Description: Failure to maintain the required 25-year, 24-hour storm water storage capacity within the retention control structure.
 Date: 03/17/2006 (452938) CN602764755

Self NO Classification: Minor
 Citation: 30 TAC Chapter 321, SubChapter B 321.35(e)
 Description: Failure to add new operator to the TPDES registration as required.

Self NO Classification: Minor
 Citation: 30 TAC Chapter 321, SubChapter B 321.41(d)
 Description: Failure to provide quarterly inspection reports of designated equipment and facility areas

Self NO Classification: Minor
 Citation: (V) PERMIT
 30 TAC Chapter 321, SubChapter B 321.39(f)(28)
 Description: Failure to take soil samples from each land management unit owned, operated or controlled by this regulated entity and utilized at any time for waste and/or wastewater application annually.
 Date: 01/25/2007 (541768)

Self NO Classification: Minor
 Citation: 30 TAC Chapter 321, SubChapter B 321.40(1)
 Description: Failure to maintain vegetative cover and control waste accumulation at the dry cow feeding area.

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
JIMMY GAYLON BEYER DBA
BEYER DAIRY #1
RN101513588

§
§
§
§
§
§

BEFORE THE

TEXAS COMMISSION ON

ENVIRONMENTAL QUALITY

AGREED ORDER
DOCKET NO. 2010-0341-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 Jimmy Gaylon Beyer dba Beyer Dairy #1 ("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 dairy located on the south side of the intersection of Farm-to-Market Road ("FM") 219 and FM 2303, approximately five miles east of Lingleville in Erath County, Texas (the "Facility").
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 24, 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 Three Thousand Seven Hundred Eighty Dollars (\$3,780) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid Three Thousand Twenty-Four Dollars (\$3,024) of the administrative penalty and Seven Hundred Fifty-Six Dollars (\$756) 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 may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
10. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
11. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

II. ALLEGATIONS

As owner and operator of the Facility, the Respondent is alleged to have failed to increase the size of the existing retention control structure ("RCS") to meet the total capacity required by permit, in violation of 30 TEX. ADMIN. CODE §§ 305.125(1), 321.36(b), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0003234000, Special Provisions A.1 and A.2, as documented during an investigation conducted on January 12, 2010. Specifically, modifications to increase the capacity of the RCS at the Facility to 75.05 acre-feet were required by August 9, 2009, and had not been completed at the time of the investigation.

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: Jimmy Gaylon Beyer dba Beyer Dairy #1, Docket No. 2010-0341-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 90 days after the effective date of this Agreed Order:
 - i. Complete modifications to the RCS to increase the capacity to 75.05 acre-feet as required by TPDES Permit No. WQ0003234000; or
 - ii. Develop and submit a closure plan for the RCS in the event that the CAFO will cease operation. The plan shall be developed in accordance with TPDES Permit No. WQ0003234000, Operation and Maintenance of RCS, Part VII.A.5.(a)(9), and submitted to:

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

and:

CAFO Team
Water Quality Division, MC 150
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

- b. Within 105 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 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 this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, 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 Facility operations referenced in this Agreed Order.
4. If the Respondent fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, the Respondent's failure to comply is not a violation of this Agreed Order. The Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The Respondent shall notify the Executive Director within seven days after the Respondent becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
5. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by the Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
6. This Agreed Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.

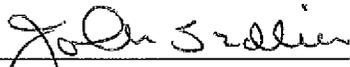
7. This Agreed Order may be executed in multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreed Order may be transmitted by facsimile transmission to the other parties, which shall constitute an original signature for all purposes 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



For the Executive Director

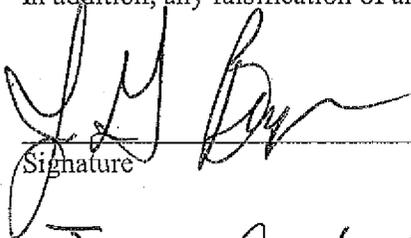
7/1/2010
Date

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.



Signature

5-26-10
Date

Jimmy Gaylon Beyer
Name (Printed or typed)
Authorized Representative of
Jimmy Gaylon Beyer dba Beyer Dairy #1

Owner
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.