

EXECUTIVE SUMMARY - ENFORCEMENT MATTER
DOCKET NO.: 2010-0863-AGR-E **TCEQ ID:** RN102287703 **CASE NO.:** 39755
RESPONDENT NAME: Robert William Strona dba Kings X Dairy

ORDER TYPE:		
<input type="checkbox"/> 1660 AGREED ORDER	<input checked="" 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: Kings X Dairy, 4898 Farm-to-Market Road 934, Itasca, Hill County</p> <p>TYPE OF OPERATION: Dairy farm</p> <p>SMALL BUSINESS: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>OTHER SIGNIFICANT MATTERS: A complaint was received on January 26, 2010, alleging an unauthorized discharge at the Facility which resulted in a fish kill. There is no record of additional pending enforcement actions regarding this facility location.</p> <p>INTERESTED PARTIES: A complaint was received, but the complainant has not expressed a desire to protest this action or to speak at Agenda.</p> <p>COMMENTS RECEIVED: The <i>Texas Register</i> comment period expired on November 15, 2010. No comments were received.</p> <p>CONTACTS AND MAILING LIST: TCEQ Attorney/SEP Coordinator: None TCEQ Enforcement Coordinator: Mr. Steve Villatoro, Enforcement Division, Enforcement Team 1, MC 169, (512) 239-4930; Ms. Laurie Eaves, Enforcement Division, MC 219, (512) 239-4495 Respondent: Mr. Robert Strona, Owner, Kings X Dairy, 4898 Farm-to-Market Road 934, Itasca, Texas 76055 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 checked="" type="checkbox"/> Complaint <input type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input checked="" type="checkbox"/> Records Review</p> <p>Date(s) of Complaints Relating to this Case: January 26, 2010</p> <p>Date of Investigation Relating to this Case: January 27, 2010 and May 25, 2010</p> <p>Date of NOV/NOE Relating to this Case: May 13, 2010 (NOE)</p> <p>Background Facts: This was a complaint investigation and a records review.</p> <p>WATER</p> <p>1) Failed to prevent the unauthorized discharge of wastewater into or adjacent to water in the state. Specifically, the center pivot on land management unit ("LMU") no. 8 became stuck and pumped approximately 100,000 gallons of wastewater onto one spot of the LMU, which caused a discharge of wastewater into a culvert under County Road 4281 and directly into Coleman Creek, killing approximately 60 fish [30 TEX. ADMIN. CODE § 321.40(d), TEX. WATER CODE § 26.121(a)(1), and Texas Pollutant Discharge Elimination System ("TPDES") General Permit No. TXG920164 Part III A.11(b)(1)].</p> <p>2) Failed to submit written notification to the Executive Director and the appropriate regional office within 14 days of an unauthorized discharge of wastewater. Specifically, the Respondent failed to provide written notification to the TCEQ of the discharge that was documented on January 27, 2010 [30 TEX. ADMIN. CODE § 321.44(a) and TPDES General Permit No. TXG920164 Part IV B.5].</p>	<p>Total Assessed: \$8,940</p> <p>Total Deferred: \$0 <input type="checkbox"/> Expedited Settlement <input type="checkbox"/> Financial Inability to Pay</p> <p>SEP Conditional Offset: \$0</p> <p>Total Paid (Due) to General Revenue: \$260 (remaining \$8,680 due in 35 monthly payments of \$248 each)</p> <p>Person Compliance History Classification <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Site 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>Findings Orders Justification:</p> <p>Environmental receptors have been exposed to pollutants which exceed levels that are protective.</p>	<p>Corrective Actions Taken:</p> <p>The Executive Director recognizes that by January 29, 2010, the Respondent repaired the center pivot to ensure the center pivot operates properly and stopped applying wastewater.</p> <p>Ordering Provisions:</p> <p>The Order will require the Respondent to:</p> <p>a. Within 30 days after the effective date of this Agreed Order:</p> <p>i. Submit written notification of the discharge documented on January 27, 2010; and</p> <p>ii. Conduct employee training to ensure the Executive Director and the appropriate regional office will be notified of any unauthorized discharge.</p> <p>b. Within 45 days after the effective date of this Agreed Order, submit written certification, including specific corrective actions that were implemented at the Facility to achieve compliance, including any records to demonstrate compliance with Ordering Provision a.</p>

Additional ID No(s): TXG920164



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

DATES	Assigned	17-May-2010		
	PCW	25-May-2010	Screening	25-May-2010
			EPA Due	

RESPONDENT/FACILITY INFORMATION			
Respondent	Robert William Strona dba Kings X Dairy		
Reg. Ent. Ref. No.	RN102287703		
Facility/Site Region	9-Waco	Major/Minor Source	Minor

CASE INFORMATION			
Enf./Case ID No.	39755	No. of Violations	2
Docket No.	2010-0863-AGR-E	Order Type	Findings
Media Program(s)	Water Quality	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Steve Villatoro
		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)	<i>Subtotal 1</i>	\$11,000
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ADJUSTMENTS (+/-) TO SUBTOTAL 1		
<small>Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the Indicated percentage.</small>		

Compliance History	4.0% Enhancement	<i>Subtotals 2, 3, & 7</i>	\$440
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Notes: The penalty is enhanced due to two NOV's with unrelated violations.

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

Good Faith Effort to Comply Total Adjustments	<i>Subtotal 5</i>	\$2,500
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Economic Benefit	0.0% Enhancement*	<i>Subtotal 6</i>	\$0
Total EB Amounts	\$6	<small>*Capped at the Total EB \$ Amount</small>	
Approx. Cost of Compliance	\$825		

SUM OF SUBTOTALS 1-7	<i>Final Subtotal</i>	\$8,940
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OTHER FACTORS AS JUSTICE MAY REQUIRE	0.0%	<i>Adjustment</i>	\$0
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

Final Penalty Amount \$8,940

STATUTORY LIMIT ADJUSTMENT	<i>Final Assessed Penalty</i>	\$8,940
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DEFERRAL	0.0% Reduction	<i>Adjustment</i>	\$0
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Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes: No deferral is recommended for Findings Orders.

PAYABLE PENALTY	\$8,940
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Screening Date 25-May-2010

Docket No. 2010-0863-AGR-E

PCW

Respondent Robert William Strona dba Kings X Dairy

Policy Revision 2 (September 2002)

Case ID No. 39755

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN102287703

Media [Statute] Water Quality

Enf. Coordinator Steve Villatoro

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	2	4%
Orders	Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (number of judgements or consent decrees meeting criteria)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (number of counts)	0	0%
Emissions	Chronic excessive emissions events (number of events)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which notices were submitted)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which violations were disclosed)	0	0%
<i>Please Enter Yes or No</i>			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 4%

>> 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

The penalty is enhanced due to two NOVs with unrelated violations.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 4%

Screening Date 25-May-2010

Docket No. 2010-0863-AGR-E

PCW

Respondent Robert William Strona dba Kings X Dalry

Policy Revision 2 (September 2002)

Case ID No. 39755

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN102287703

Media [Statute] Water Quality

Enf. Coordinator Steve Villatoro

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code § 321.40(d), Tex. Water Code 26.121(a)(1), and Texas Pollutant Discharge Elimination System General Permit No. TXG920164 Part III-A.11(b)(1)

Violation Description Failed to prevent the unauthorized discharge of wastewater into or adjacent to water in the state, as documented during an investigation conducted on January 27, 2010. Specifically, the center pivot on land management unit ("LMU") no. 8 became stuck and pumped approximately 100,000 gallons of wastewater onto one spot of the LMU, which caused a discharge of wastewater into a culvert under County Road 4281 and directly into Coleman Creek, killing approximately 60 fish.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR	Harm			Percent	
	Release	Major	Moderate		Minor
	Actual	x			
	Potential				50%

>> Programmatic Matrix

	Falsification	Major	Moderate	Minor	Percent
					0%

Matrix Notes Human health or the environment has been exposed to significant amounts of pollutants that exceed protective levels as a result of this violation.

Adjustment \$5,000

\$5,000

Violation Events

Number of Violation Events 2 Number of violation days 2

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

Violation Base Penalty \$10,000

Two daily events are recommended based on the investigation date (January 27, 2010) to the date the discharge was stopped and corrective action was taken (January 29, 2010).

Good Faith Efforts to Comply

25.0% Reduction

\$2,500

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

Notes The Respondent achieved compliance on January 29, 2010.

Violation Subtotal \$7,500

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$0

Violation Final Penalty Total \$7,900

This violation Final Assessed Penalty (adjusted for limits) \$7,900

Economic Benefit Worksheet

Respondent: Robert William Strona dba Kings X Dairy

Case ID No.: 39755

Reg. Ent. Reference No.: RN102287703

Media: Water Quality

Violation No.: 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost <small>No commas or \$</small>	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)	\$500	27-Jan-2010	29-Jan-2010	0.01	\$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 estimated cost to repair the center pivot to ensure the center pivot operates properly. Date required is the date the violation was documented. 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

\$500

TOTAL

\$0

Screening Date 25-May-2010

Docket No. 2010-0863-AGR-E

PCW

Respondent Robert William Strona dba Kings X Dairy

Policy Revision 2 (September 2002)

Case ID No. 39755

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN102287703

Media [Statute] Water Quality

Enf. Coordinator Steve Villatoro

Violation Number 2

Rule Cite(s) 30-Tex. Admin. Code § 321.44(a) and Texas Pollutant Discharge Elimination System General Permit No. TXG920164 Part IV.B.5

Violation Description

Failed to submit written notification to the Executive Director and the appropriate regional office within 14 days of an unauthorized discharge of wastewater. Specifically, the Respondent failed to provide written notification to the TCEQ of the discharge that was documented on January 27, 2010.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

Release	Harm			Percent
	Major	Moderate	Minor	
Actual				0%
Potential				

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
	X			10%

Matrix Notes

100% of the rule requirement was not met.

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events 1 Number of violation days 118

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

Violation Base Penalty \$1,000

One single event is recommended.

Good Faith Efforts to Comply

0.0% Reduction

\$0

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

Notes

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

Violation Subtotal \$1,000

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$8

Violation Final Penalty Total \$1,040

This violation Final Assessed Penalty (adjusted for limits) \$1,040

Economic Benefit Worksheet

Respondent: Robert William Strona dba Kings X Dairy
Case ID No: 39755
Reg. Ent. Reference No: RN102287703
Media: Water Quality
Violation No: 2

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling	\$100	10-Feb-2010	31-Dec-2010	0.89	\$4	n/a	\$4
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$25	10-Feb-2010	31-Dec-2010	0.89	\$1	n/a	\$1

Notes for DELAYED costs

The estimated cost to submit written notification to the Executive Director and the appropriate regional office within 14 days of a discharge and to conduct training to ensure notifications are properly submitted. Date required is the date the notice was due. Final date is the estimated date of compliance

Avoided Costs

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

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

Notes for AVOIDED costs

Approx. Cost of Compliance

\$125

TOTAL

\$6

Compliance History Report

Customer/Respondent/Owner-Operator:	CN601214364 STRONA, ROBERT WILLIAM	Classification: AVERAGE	Rating: 0.25
Regulated Entity:	RN102287703 KINGS X DAIRY	Classification: AVERAGE	Site Rating: 0.25
ID Number(s):	WASTEWATER AGRICULTURE PERMIT		TXG920164
Location:	4898 FM 934, ITASCA, TX, 76055		
TCEQ Region:	REGION 09 - WACO		
Date Compliance History Prepared:	May 25, 2010		
Agency Decision Requiring Compliance History:	Enforcement		
Compliance Period:	May 25, 2005 to May 25, 2010		

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

Name: Steve Villatoro Phone: 512-239-4930

Site Compliance History Components

1. Has the site been in existence and/or operation for the full five year compliance period? Yes
2. Has there been a (known) change in ownership/operator of the site during the compliance period? No
3. If Yes, who is the current owner/operator? N/A
4. If Yes, who was/were the prior owner(s)/operator(s) ? N/A
5. When did the change(s) in owner or operator occur? N/A
6. Rating Date: 9/1/2009 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.

N/A

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

N/A

C. Chronic excessive emissions events.

N/A

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

1	02/27/2007	(541464)
2	08/29/2008	(701657)
3	02/06/2009	(724750)
4	02/26/2010	(792969)
5	05/03/2010	(800053)
6	05/14/2010	(799350)

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

Date:	09/03/2008 (701657)	CN601214364	
Self:	NO		Classification: Minor
Citation:	30 TAC Chapter 321, SubChapter B 321.39(b)(5)		
Description:	Failure to prevent the growth of trees such that that the root zone would intrude or compromise the structure of the retention control structure liner.		
Date:	02/26/2010 (792969)	CN601214364	
Self:	NO		Classification: Moderate
Citation:	30 TAC Chapter 321, SubChapter B 321.48(c)(1) CAFO GP; Part III; Section A(9)(g) PERMIT		
Description:	Failure to have a licensed Texas professional engineer review existing liner documentation, complete a site evaluation of the structural controls, and certify a report of their finding once every five years.		

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
ROBERT WILLIAM STRONA DBA
KINGS X DAIRY
RN102287703

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BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

AGREED ORDER
DOCKET NO. 2010-0863-AGR-E

At its _____ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding Robert William Strona dba Kings X Dairy ("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 presented this agreement to the Commission.

The Respondent understands that he has certain procedural rights at certain points in the enforcement process, including, but not limited to, the right to formal notice of violations, notice of an evidentiary hearing, the right to an evidentiary hearing, and a right to appeal. By entering into this Agreed Order, the Respondent agrees to waive all notice and procedural rights.

It is further understood and agreed that this Order represents the complete and fully-integrated settlement of the parties. 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. The duties and responsibilities imposed by this Agreed Order are binding upon the Respondent.

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

I. FINDINGS OF FACT

1. The Respondent owns and operates a dairy farm located at 4898 Farm-to-Market Road 934 in Itasca, Hill County, Texas (the "Facility").

2. The Respondent has discharged agricultural waste into or adjacent to any water in the state under TEX. WATER CODE ch. 26.
3. During an investigation on January 27, 2010, TCEQ staff documented that the center pivot on land management unit ("LMU") no. 8 became stuck and pumped approximately 100,000 gallons of wastewater onto one spot of the LMU, which caused a discharge of wastewater into a culvert under County Road 4281 and directly into Coleman Creek, killing approximately 60 fish.
4. During a record review on May 25, 2010 TCEQ staff documented that the Respondent did not submit written notification to the TCEQ of the discharge that was documented on January 27, 2010.
5. The Respondent received notice of the violations on May 18, 2010.
6. The Executive Director recognizes that by January 29, 2010, the Respondent repaired the center pivot to ensure the center pivot operates properly and stopped applying wastewater.

II. CONCLUSIONS OF LAW

1. The Respondent is subject to the jurisdiction of the TCEQ pursuant to TEX. WATER CODE chs. 7 and 26 and the rules of the Commission.
2. As evidenced by Findings of Fact No. 3, the Respondent failed to prevent the unauthorized discharge of wastewater into or adjacent to water in the state, in violation of 30 TEX. ADMIN. CODE § 321.40(d), TEX. WATER CODE § 26.121(a)(1), and Texas Pollutant Discharge Elimination System ("TPDES") General Permit No. TXG920164 Part III A.11(b)(1).
3. As evidenced by Findings of Fact No. 4, the Respondent failed to submit written notification to the Executive Director and the appropriate regional office within 14 days of an unauthorized discharge of wastewater, in violation of 30 TEX. ADMIN. CODE § 321.44(a) and TPDES General Permit No. TXG920164 Part IV B.5.
4. Pursuant to TEX. WATER CODE § 7.051, the Commission has the authority to assess an administrative penalty against the Respondent for violations of the Texas Water Code and the Texas Health and Safety Code within the Commission's jurisdiction; for violations of rules adopted under such statutes; or for violations of orders or permits issued under such statutes.
5. An administrative penalty in the amount of Eight Thousand Nine Hundred Forty Dollars (\$8,940) is justified by the facts recited in this Agreed Order, and considered in light of the factors set forth in TEX. WATER CODE § 7.053. The Respondent has paid Two Hundred Sixty Dollars (\$260) of the administrative penalty. The remaining amount of Eight Thousand Six Hundred Eighty Dollars (\$8,680) of the administrative penalty shall be payable in thirty-five monthly payments of Two Hundred Forty-Eight Dollars (\$248) each. The next monthly payment shall be paid within 30 days after the effective date of this Agreed Order. The subsequent payments shall each be paid not later than 30 days following the due date of the previous payment until paid in full. If

the Respondent fails to timely and satisfactorily comply with the payment requirements of this Agreed Order, the Executive Director may, at the Executive Director's option, accelerate the maturity of the remaining installments, in which event the unpaid balance shall become immediately due and payable without demand or notice. In addition, the failure of the Respondent to meet the payment schedule of this Agreed Order constitutes the failure by the Respondent to timely and satisfactorily comply with all the terms of this Agreed Order.

III. ORDERING PROVISIONS

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

1. The Respondent is assessed an administrative penalty in the amount of Eight Thousand Nine Hundred Forty Dollars (\$8,940) as set forth in Section II, Paragraph 5 above, for violations of TCEQ rules and state statutes. The payment of this administrative penalty and the Respondent's compliance with all the terms and conditions set forth in this Agreed Order completely resolve the violations set forth by this Agreed Order in this action. However, the Commission shall not be constrained in any manner from requiring corrective actions or penalties for other violations that are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: Robert William Strona dba Kings X Dairy, Docket No. 2010-0863-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 30 days after the effective date of this Agreed Order:
 - i. Submit written notification of the discharge documented on January 27, 2010, in accordance with 30 TEX. ADMIN. CODE § 321.44(a) and TPDES General Permit No. TXG920164 Part IV B.5 to:

Water Section, Manager
Waco Regional Office
Texas Commission on Environmental Quality
6801 Sanger Ave., Ste. 2500
Waco, Texas 76710-7826
 - ii. Conduct employee training to ensure the Executive Director and the appropriate regional office will be notified of any unauthorized discharge in accordance with

30 TEX. ADMIN. CODE § 321.44(a) and TPDES Permit No. TXG920164 Part IV B.5.

- b. Within 45 days after the effective date of this Agreed Order, submit written certification, including specific corrective actions that were implemented at the Facility to achieve compliance, including any 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 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
Waco Regional Office
Texas Commission on Environmental Quality
6801 Sanger Ave., Ste. 2500
Waco, Texas 76710-7826

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. The Executive Director may refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings without notice to the Respondent if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
7. 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.
8. 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.
9. 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.
10. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties. By law, the effective date of this Agreed Order is the third day after the mailing date, as provided by 30 TEX. ADMIN. CODE § 70.10(b) and TEX. GOV'T CODE § 2001.142.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

John Szolien
For the Executive Director

Date 10/22/2010

I, the undersigned, have read and understand the attached Agreed Order in the matter of Robert William Strona dba Kings X Dairy. I am authorized to agree to the attached Agreed Order on behalf of Robert William Strona dba Kings X Dairy, and do agree to the specified terms and conditions. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I understand that by entering into this Agreed Order, Robert William Strona dba Kings X Dairy waives certain procedural rights, including, but not limited to, the right to formal notice of violations addressed by this Agreed Order, notice of an evidentiary hearing, the right to an evidentiary hearing, and the right to appeal. I agree to the terms of the Agreed Order in lieu of an evidentiary hearing. This Agreed Order constitutes full and final adjudication by the Commission of the violations set forth in this Agreed Order.

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.

Robert Strona
Signature

9/1/10
Date

ROBERT STRONA
Name (Printed or typed)
Authorized Representative of
Robert William Strona dba Kings X Dairy

OWNER
Title

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