

Executive Summary – Enforcement Matter – Case No. 40885
Amanda Koller, Christina Koller, and Johnny Minze Koller dba Koller Dairy
RN102792306
Docket No. 2010-2045-AGR-E

Order Type:

1660 Agreed Order

Findings Order Justification:

N/A

Media:

AGR

Small Business:

Yes

Location(s) Where Violation(s) Occurred:

Koller Dairy, 4752 Farm-to-Market Road 557, Camp County

Type of Operation:

Dairy operation

Other Significant Matters:

Additional Pending Enforcement Actions: No

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: None

Texas Register Publication Date: June 3, 2011

Comments Received: No

Penalty Information

Total Penalty Assessed: \$1,900

Amount Deferred for Expedited Settlement: \$380

Amount Deferred for Financial Inability to Pay: \$0

Total Paid to General Revenue: \$1,520

Total Due to General Revenue: \$0

Payment Plan: N/A

SEP Conditional Offset: \$0

Name of SEP: N/A

Compliance History Classifications:

Person/CN601418593, CN603464454, CN603464462 - Average

Site/RN - Average

Major Source: No

Statutory Limit Adjustment: N/A

Applicable Penalty Policy: September 2002

**Executive Summary – Enforcement Matter – Case No. 40885
Amanda Koller, Christina Koller, and Johnny Minze Koller dba Koller Dairy
RN102792306
Docket No. 2010-2045-AGR-E**

Investigation Information

Complaint Date(s): October 12, 2010

Complaint Information: The complainant alleged an almost continuous overflow of the retention control structure (“RCS”) into the creek.

Date(s) of Investigation: October 13, 2010

Date(s) of NOE(s): December 10, 2010

Violation Information

1. Failed to prevent an unauthorized discharge of wastewater from an animal feeding operation into or adjacent to water in the state. Specifically, process wastewater discharged from a hole in a riser at the land management unit was flowing to an unnamed creek that flows to a pond on adjacent property [TEX. WATER CODE § 26.121(a)(1) and 30 TEX. ADMIN. CODE § 321.31(a)].
2. Failed to maintain sufficient volume in the RCS to accommodate sludge, wastewaters, and contaminated storm water from the Facility. Specifically, the wastewater level in the RCS was approximately six inches from the top of the levee [30 TEX. ADMIN. CODE § 321.47(e)(1)].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

1. Stopped the unauthorized discharge from the land management unit by plugging a hole in a riser on October 15, 2010; and
2. Restored sufficient volume to the RCS on October 20, 2010 by lowering the RCS water level after pumping excess wastewater to the land management unit.

Technical Requirements:

N/A

Litigation Information

Date Petition(s) Filed: N/A

Date Answer(s) Filed: N/A

SOAH Referral Date: N/A

Hearing Date(s): N/A

Settlement Date: N/A

Executive Summary – Enforcement Matter – Case No. 40885
Amanda Koller, Christina Koller, and Johnny Minze Koller dba Koller Dairy
RN102792306
Docket No. 2010-2045-AGR-E

Contact Information

TCEQ Attorney: N/A

TCEQ Enforcement Coordinator: Thomas Jecha, P.G., Enforcement Division,
Enforcement Team 3, MC 169, (512) 239-2576; Laurie Eaves, Enforcement Division,
MC 219, (512) 239-4495

TCEQ SEP Coordinator: N/A

Respondent: Johnny Koller and Christina Koller, Owners, and Amanda Koller,
Leasee, Koller Dairy, 4752 Farm-to-Market Road 557, Pittsburg, Texas 75686

Respondent's Attorney: N/A



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

TCEQ

DATES	Assigned	13-Dec-2010	Screening	21-Dec-2010	EPA Due	
	PCW	11-Jan-2011				

RESPONDENT/FACILITY INFORMATION	
Respondent	Amanda Koller, Christina Koller, and Johnny Minze Koller dba Koller Dairy
Reg. Ent. Ref. No.	RN102792306
Facility/Site Region	5-Tyler
Major/Minor Source	Minor

CASE INFORMATION			
Enf./Case ID No.	40885	No. of Violations	2
Docket No.	2010-2045-AGR-E	Order Type	1660
Media Program(s)	Water Quality	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Thomas Jecha, P.G.
		EC's Team	Enforcement Team 3
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$10,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties) **Subtotal 1** **\$2,000**

ADJUSTMENTS (+/-) TO SUBTOTAL 1
Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

Compliance History **20.0%** Enhancement **Subtotals 2, 3, & 7** **\$400**

Notes: Enhancement for one previous enforcement order containing a denial of liability.

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

Notes: The Respondents do not meet the culpability criteria.

Good Faith Effort to Comply Total Adjustments **Subtotal 5** **\$500**

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

Total EB Amounts \$0
Approx. Cost of Compliance \$230
*Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7 **Final Subtotal** **\$1,900**

OTHER FACTORS AS JUSTICE MAY REQUIRE **0.0%** **Adjustment** **\$0**

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

Final Penalty Amount **\$1,900**

STATUTORY LIMIT ADJUSTMENT **Final Assessed Penalty** **\$1,900**

DEFERRAL **20.0%** Reduction **Adjustment** **-\$380**

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

Notes:

Deferral offered for expedited settlement.

PAYABLE PENALTY **\$1,520**

Screening Date 21-Dec-2010

Docket No. 2010-2045-AGR-E

PCW

Respondent Amanda Koller, Christina Koller, and Johnny Minzi

Policy Revision 2 (September 2002)

Case ID No. 40885

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN102792306

Media [Statute] Water Quality

Enf. Coordinator Thomas Jecha, P.G.

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written notices of violation ("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>)	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 (<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) 20%

>> 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 for one previous enforcement order containing a denial of liability.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 20%

Screening Date 21-Dec-2010

Docket No. 2010-2045-AGR-E

PCW

Respondent Amanda Koller, Christina Koller, and Johnny Minze Koller dba K

Policy Revision 2 (September 2002)

Case ID No. 40885

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN102792306

Media [Statute] Water Quality

Enf. Coordinator Thomas Jecha, P.G.

Violation Number 1

Rule Cite(s) 30 Tex. Water Code 26.121(a)(1) and 30 Tex. Admin. Code § 321.31(a)

Violation Description Failed to prevent an unauthorized discharge of wastewater from an animal feeding operation into or adjacent to water in the state. Specifically, an unknown amount of process wastewater discharged from a hole in a riser at the land management unit, flowed to an unnamed creek that flows to a pond on adjacent property.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

Table with columns: Release (Actual, Potential), Harm (Major, Moderate, Minor), and Percent (10%).

>> Programmatic Matrix

Table with columns: Falsification, Major, Moderate, Minor, and Percent (0%).

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

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events 1 Number of violation days 2

Table for event frequency: daily, weekly, monthly, quarterly (marked with x), semiannual, annual, single event.

Violation Base Penalty \$1,000

One quarterly event is recommended from the October 13, 2010 investigation until compliance was achieved on October 15, 2010.

Good Faith Efforts to Comply

25.0% Reduction

\$250

Table for Good Faith Efforts: Extraordinary, Ordinary (marked with x), N/A (mark with x).

Notes Compliance was achieved on October 15, 2010.

Violation Subtotal \$750

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$0

Violation Final Penalty Total \$950

This violation Final Assessed Penalty (adjusted for limits) \$950

Economic Benefit Worksheet

Respondent Amanda Koller, Christina Koller, and Johnny Minze Koller dba Koller Dairy
Case ID No. 40885
Reg. Ent. Reference No. RN102792306
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
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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				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)	\$30	13-Oct-2010	15-Oct-2010	0.01	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to fix the leak in a riser that allowed wastewater to flow from the LMU. The date required is the investigation date and the 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

\$30

TOTAL

\$0

Screening Date 21-Dec-2010

Docket No. 2010-2045-AGR-E

PCW

Respondent Amanda Koller, Christina Koller, and Johnny Minze Koller dba Kc

Policy Revision 2 (September 2002)

Case ID No. 40885

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN102792306

Media [Statute] Water Quality

Enf. Coordinator Thomas Jecha, P.G.

Violation Number 2

Rule Cite(s) 30 Tex. Admin. Code § 321.47(e)(1)

Violation Description Failed to maintain sufficient volume in the retention control structure ("RCS") to accommodate sludge, wastewaters, and contaminated storm water from the Facility. Specifically, the wastewater level in the RCS was approximately six inches from the top of the levee.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential		x	

Percent 10%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0%

Matrix Notes Human health or the environment could be exposed to significant amounts of pollutants as a result of the violation.

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events 1

7 Number of violation days

daily	
weekly	
monthly	
quarterly	x
semiannual	
annual	
single event	

mark only one with an x

Violation Base Penalty \$1,000

One quarterly event is recommended from the October 13, 2010 investigation until compliance was achieved on October 20, 2010.

Good Faith Efforts to Comply

25.0% Reduction

\$250

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

Notes Compliance was achieved on October 20, 2010.

Violation Subtotal \$750

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$0

Violation Final Penalty Total \$950

This violation Final Assessed Penalty (adjusted for limits) \$950

Economic Benefit Worksheet

Respondent Amanda Koller, Christina Koller, and Johnny Minze Koller dba Koller Dairy
Case ID No. 40885
Reg. Ent. Reference No. RN102792306
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
<small>No commas or \$</small>							

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	13-Oct-2010	20-Oct-2010	0.02	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to fix electrical problems and pump the RCS to reduce the wastewater level. The date required is the investigation date and the 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

\$200

TOTAL

\$0

Compliance History

Customer/Respondent/Owner-Operator: CN603464462 KOLLER, AMANDA Classification: AVERAGE Rating: 22.50
Regulated RN102792306 KOLLER DAIRY Classification: AVERAGE Site Rating: 22.50
ID Number(s): WATER QUALITY NON PERMITTED ID NUMBER R05AG0230
Location: 4752 FM 557, Camp Co, Tx
TCEQ Region: REGION 05 - TYLER
Date Compliance History Prepared: December 15, 2010
Agency Decision Requiring Compliance Enforcement
Compliance Period: December 15, 2005 to December 15, 2010
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History
Name: Thomas Jecha, P.G. Phone: 239 - 2576

Site Compliance History Components

1. Has the site been in existence and/or operation for the full five year compliance Yes
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? AMANDA, CHRISTINA, JOHN KOLLER
4. If Yes, who was/were the prior owner(s)/operator(s)? JOHN KOLLER
5. When did the change(s) in owner or operator occur? 04/03/2009

Rating Date: 9/1/2010 Repeat Violator: NO

Components (Multimedia) for the Site :

- A. Final Enforcement Orders, court judgments, and consent decrees of the State of Texas and the federal government.
Effective Date: 12/18/2009 ADMINORDER 2009-1020-AGR-E
Classification: Moderate
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)(1)
Description: Failed to prevent an unauthorized discharge of wastewater from an animal feeding operation into or adjacent to water in the state.
- 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.)
02/01/2008 (616562)
- E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)
N/A
- F. Environmental
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

Compliance History

Customer/Respondent/Owner-Operator: CN603464454 KOLLER, CHRISTINA Classification: AVERAGE Rating: 22.50
Regulated RN102792306 KOLLER DAIRY Classification: AVERAGE Site Rating: 22.50
ID Number(s): WATER QUALITY NON PERMITTED ID NUMBER R05AG0230
Location: 4752 FM 557, Camp Co, TX
TCEQ Region: REGION 05 - TYLER
Date Compliance History Prepared: January 12, 2011
Agency Decision Requiring Compliance Enforcement
Compliance Period: December 15, 2005 to December 15, 2010
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History
Name: Thomas Jecha Phone: 239 - 2576

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? Yes
 3. If Yes, who is the current owner/operator? AMANDA, CHRISTINA, JOHN KOLLER
 4. If Yes, who was/were the prior owner(s)/operator(s)? OWN JOHN KOLLER
 5. When did the change(s) in owner or operator occur? 04/03/2009
- (Rating Date: 9/1/2010 Repeat Violator: NO

Components (Multimedia) for the Site :

- A. Final Enforcement Orders, court judgments, and consent decrees of the State of Texas and the federal government.
Effective Date: 12/18/2009 ADMINORDER 2009-1020-AGR-E
Classification: Moderate
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)(1)
Description: Failed to prevent an unauthorized discharge of wastewater from an animal feeding operation into or adjacent to water in the state.
- 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.)
(616562)
1 2/1/08
- E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)
N/A
- F. Environmental
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

Compliance History

Customer/Respondent/Owner-Operator: CN601418593 KOLLER, JOHNNY MINZE Classification: AVERAGE Rating: 22.50
Regulated RN102792306 KOLLER DAIRY Classification: AVERAGE Site Rating: 22.50
ID Number(s): WATER QUALITY NON PERMITTED ID NUMBER R05AG0230
Location: 4752 FM 557, Camp Co, TX
TCEQ Region: REGION 05 - TYLER
Date Compliance History Prepared: January 12, 2011
Agency Decision Requiring Compliance Enforcement
Compliance Period: December 15, 2005 to December 15, 2010

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

Name: Thomas Jecha Phone: 239 - 2576

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? Yes
3. If Yes, who is the current owner/operator? AMANDA, CHRISTINA, JOHN KOLLER
4. If Yes, who was/were the prior owner(s)/operator(s)? JOHN KOLLER
5. When did the change(s) in owner or operator occur? 04/03/2009

Rating Date: 9/1/2010 Repeat Violator: NO

Components (Multimedia) for the Site :

- A. Final Enforcement Orders, court judgments, and consent decrees of the State of Texas and the federal government.
Effective Date: 12/18/2009 ADMINORDER 2009-1020-AGR-E
Classification: Moderate
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)(1)
Description: Failed to prevent an unauthorized discharge of wastewater from an animal feeding operation into or adjacent to water in the state.
- 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.)
02/01/2008 (616562)
- E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)
N/A
- F. Environmental
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	§	BEFORE THE
ENFORCEMENT ACTION	§	
CONCERNING	§	
AMANDA KOLLER, CHRISTINA	§	TEXAS COMMISSION ON
KOLLER, AND JOHNNY MINZE	§	
KOLLER DBA KOLLER DAIRY	§	
RN102792306	§	ENVIRONMENTAL QUALITY

**AGREED ORDER
DOCKET NO. 2010-2045-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 Amanda Koller, Christina Koller, and Johnny Minze Koller dba Koller Dairy ("the Respondents") under the authority of TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondents appear before the Commission and together stipulate that:

1. The Respondents own and operate a dairy operation located at 4752 Farm-to-Market Road 557 in Camp County, Texas (the "Facility").
2. The Respondents have discharged agricultural waste into or adjacent to any water in the state under TEX. WATER CODE ch. 26.
3. The Commission and the Respondents agree that the Commission has jurisdiction to enter this Agreed Order, and that the Respondents are subject to the Commission's jurisdiction.
4. The Respondents received notice of the violations alleged in Section II ("Allegations") on or about December 15, 2010.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by the Respondents of any violation alleged in Section II ("Allegations"), nor of any statute or rule.

6. An administrative penalty in the amount of One Thousand Nine Hundred Dollars (\$1,900) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondents have paid One Thousand Five Hundred Twenty Dollars (\$1,520) of the administrative penalty and Three Hundred Eighty Dollars (\$380) is deferred contingent upon the Respondents' 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 Respondents fail to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require the Respondents 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 Respondents have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
9. The Executive Director recognizes that the Respondents implemented the following corrective measures at the Facility:
 - a. Stopped the unauthorized discharge from the land management unit by plugging a hole in a riser on October 15, 2010; and
 - b. Restored sufficient volume to the retention control structure ("RCS") on October 20, 2010 by lowering the RCS water level after pumping excess wastewater to the land management unit.
10. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that the Respondents have not complied with one or more of the terms or conditions in this Agreed Order.
11. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
12. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

II. ALLEGATIONS

As owner and operator of the Facility, the Respondents are alleged to have:

1. Failed to prevent an unauthorized discharge of wastewater from an animal feeding operation into or adjacent to water in the state, in violation of TEX. WATER CODE § 26.121(a)(1) and 30 TEX. ADMIN. CODE § 321.31(a), as documented during an investigation conducted on October 13, 2010. Specifically, process wastewater discharged from a hole in a riser at the land management unit was flowing to an unnamed creek that flows to a pond on adjacent property.

2. Failed to maintain sufficient volume in the RCS to accommodate sludge, wastewaters, and contaminated storm water from the Facility, in violation of 30 TEX. ADMIN. CODE § 321.47(e)(1), as documented during an investigation conducted on October 13, 2010. Specifically, the wastewater level in the RCS was approximately six inches from the top of the levee.

III. DENIALS

The Respondents generally deny each allegation in Section II ("Allegations").

IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that the Respondents pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and the Respondents' 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: Amanda Koller, Christina Koller, and Johnny Minze Koller dba Koller Dairy, Docket No. 2010-2045-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. The Respondents are jointly and severally liable for the violations documented in this Agreed Order, and are jointly and severally liable for timely and satisfactory compliance with all terms and conditions of this Agreed Order.
3. The provisions of this Agreed Order shall apply to and be binding upon the Respondents. The Respondents are 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 Respondents fail 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 Respondents' failure to comply is not a violation of this Agreed Order. The Respondents shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The Respondents shall notify the Executive Director within seven days after the Respondents become 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

Respondents shall be made in writing to the Executive Director. Extensions are not effective until the Respondents receive 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 Respondents 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 separate and multiple counterparts, which together shall constitute a single instrument. Any page of this Agreed Order may be copied, scanned, digitized, converted to electronic portable document format ("pdf"), or otherwise reproduced and may be transmitted by digital or electronic transmission, including but not limited to facsimile transmission and electronic mail. Any signature affixed to this Agreed Order shall constitute an original signature for all purposes and may be used, filed, substituted, or issued for any purpose for which an original signature could be used. The term "signature" shall include manual signatures and true and accurate reproductions of manual signatures created, executed, endorsed, adopted, or authorized by the person or persons to whom the signatures are attributable. Signatures may be copied or reproduced digitally, electronically, by photocopying, engraving, imprinting, lithographing, electronic mail, facsimile transmission, stamping, or any other means or process which the Executive Director deems acceptable. In this paragraph exclusively, the terms "electronic transmission", "owner", "person", "writing", and "written" shall have the meanings assigned to them under TEX. BUS. ORG. CODE § 1.002.
8. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to the Respondents, or three days after the date on which the Commission mails notice of the Order to the Respondents, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

Amanda Koller, Christina Koller, and Johnny Minze Koller dba Koller Dairy
 DOCKET NO. 2010-2045-AGR-E
 Page 5

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

John S. Solier
 For the Executive Director

6/10/2011
 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.

AK Koller
 Signature

4-27-2010
 Date

Amanda Koller
 Name (Printed or typed)
 Authorized Representative of
 Amanda Koller dba Koller Dairy

leasee
 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.

Amanda Koller, Christina Koller, and Johnny Minze Koller dba Koller Dairy
 DOCKET NO. 2010-2045-AGR-E
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SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

 For the Commission

John Srdelic
 For the Executive Director

6/10/2011
 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]
 Signature

4-26-2011
 Date

Christina Koller
 Name (Printed or typed)
 Authorized Representative of
 Christina Koller dba Koller 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 IV, Paragraph 1 of this Agreed Order.

Amanda Koller, Christina Koller, and Johnny Minze Koller dba Koller Dairy

DOCKET NO. 2010-2045-AGR-E

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SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

John Scellin
For the Executive Director

6/10/2011
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]
Signature

4-26-11
Date

JOHNNY KOLLER
Name (Printed or typed)
Authorized Representative of
Johnny Minze Koller dba Koller 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 IV, Paragraph 1 of this Agreed Order.