Executive Summary – Enforcement Matter – Case No. 62556 Vander Horst Enterprises, LLC and 360 AG MANAGEMENT LLC RN102739307 Docket No. 2022-0795-AGR-E

Order Type:

1660 Agreed Order

Findings Order Justification:

N/A **Media**:

AGR

Small Business:

No

Location(s) Where Violation(s) Occurred:

Sierra Dairy, 9715 Farm-to-Market Road 2156, Dublin, Erath County

Type of Operation:

Concentrated animal feeding operation ("CAFO")

Other Significant Matters:

Additional Pending Enforcement Actions: No

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: None

Texas Register Publication Date: November 3, 2023

Comments Received: No

Penalty Information

Total Penalty Assessed: \$17,213

Amount Deferred for Expedited Settlement: \$3,442

Total Paid to General Revenue: \$13,771 **Total Due to General Revenue:** \$0

Payment Plan: N/A

Compliance History Classifications:

Person/CN - Satisfactory

Site/RN - High

Major Source: No

Statutory Limit Adjustment: N/A

Applicable Penalty Policy: January 2021

Investigation Information

Complaint Date(s): N/A

Complaint Information: N/A

Date(s) of Investigation: February 22, 2022 through March 7, 2022

Date(s) of NOE(s): May 10, 2022

Executive Summary – Enforcement Matter – Case No. 62556 Vander Horst Enterprises, LLC and 360 AG MANAGEMENT LLC RN102739307 Docket No. 2022-0795-AGR-E

Violation Information

- 1. Failed to keep records in the pollution prevention plan for a minimum of five years from the date the record was created. Specifically, the application records for 2022 did not include the waste applied to Land Management Unit ("LMU") No. 7 [30 Tex. Admin. Code § 321.46(d)(10) and Texas Pollutant Discharge Elimination System ("TPDES") CAFO General Permit No. TXG921489, Part IV.A.2.(b)].
- 2. Failed to adhere to required buffers. Specifically, wastewater was applied within the buffers of LMU Nos. 4 and 6 [30 Tex. Admin. Code §§ 321.40(h) and 321.42(w) and TPDES CAFO General Permit No. TXG921489, Part III.A.12.(f)(1)].
- 3. Failed to prevent the unauthorized discharge of agricultural waste into or adjacent to any water in the state. Specifically, a mechanical failure of irrigation risers located in LMU Nos. 4, 5, and 6, and over application of wastewater in LMU No. 6 resulted in a discharge of approximately 20,500 gallons of wastewater into a freshwater pond and an unnamed tributary to Cow Creek. Additionally, evidence of a past discharge of wastewater from LMU M into Cow Creek and from a transfer pipe break onto privately owned land was documented [30 Tex. ADMIN. Code §§ 305.125(1) and 321.40(d), Tex. Water Code § 26.121, and TPDES CAFO General Permit No. TXG921489, Part III.A.12.(c)(1)].
- 4. Failed to properly notify the TCEQ of a discharge to water in the state. Specifically, the oral notification made on February 22, 2022 and written notification provided on March 2, 2022, did not include the past discharges documented between LMUs TS and GGS as well as Cow Creek adjacent to LMU M [30 Tex. ADMIN. CODE § 321.44 and TPDES CAFO General Permit No. TXG921489, Part IV.B.5].
- 5. Failed to submit a Notice of Change for a Substantial Change. Specifically, wastewater application was noted on land not designated as LMUs. Waste application was noted in an area north of LMU 7 adjacent to a freshwater pond, in the tree line adjacent to the west side LMU 6, and outside of the center pivot irrigation system in LMU M on the south side [30 Tex. ADMIN. CODE § 305.125(8) and TPDES CAFO General Permit No. TXG921489, Part II.C.3.(a)].
- 6. Failed to apply waste at agronomic rates and hydrologic needs. Specifically, wastewater was documented migrating from LMU Nos. 4 and 6 [30 Tex. Admin. Code § 321.40(b) and TPDES CAFO General Permit No. TXG921489, Part III.A.12.(c)(4)].
- 7. Failed to collect and analyze soil samples prior to waste application. Specifically, soil samples for LMU No. 7 were not collected and analyzed prior to the wastewater application [30 Tex. Admin. Code § 321.40(m)(1)(B) and TPDES CAFO General Permit No. TXG921489, Part III.A.13.(a)(2)].

Executive Summary – Enforcement Matter – Case No. 62556 Vander Horst Enterprises, LLC and 360 AG MANAGEMENT LLC RN102739307 Docket No. 2022-0795-AGR-E

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

By March 4, 2022, the Respondents ceased the discharge, removed and properly disposed of the agricultural wastewater, and cleaned and remediated the affected areas.

Technical Requirements:

The Order will require the Respondents to:

- a. Within 30 days:
- i. Update the Facility's operational guidance and conduct employee training to ensure:
- 1. All records are properly kept in the pollution prevention plan;
- 2. The required buffer is maintained between all manure, sludge, and wastewater application areas and all surface water in the state;
- 3. Wastewater is applied to land designated as LMUs;
- 4. Wastewater is applied at agronomic rates and hydrologic needs; and
- 5. At least one representative soil sample is collected and analyzed before commencing land application of manure, sludge, or wastewater on LMUs and before resuming land application on LMUs where manure, sludge, or wastewater was not applied during the preceding year.
- ii. Submit a written notification for the discharges observed between LMUs TS and GGS, and to Cow Creek adjacent to LMU M.
- iii. Submit a Notice of Change to add LMUs or increase application acreage.
- b. Within 45 days, submit written certification to demonstrate compliance with a.

Contact Information

TCEQ Attorney: N/A

TCEQ Enforcement Coordinator: Harley Hobson, Enforcement Division, Enforcement Team 1, MC 219, (512) 239-1337; Michael Parrish, Enforcement Division, MC 219, (512) 239-2548

Respondent: Alan Vander Horst, Owner / Operator, Vander Horst Enterprises, LLC and

360 AG MANAGEMENT LLC, P.O. Box 153, Dublin, Texas 76446

Respondent's Attorney: N/A



SUM OF SUBTOTALS 1-7

S COMMISSION OF THE PROPERTY O	Policy Pay	Pe ision 5 (January 28, 2	nalty Calcu	lation	Worksł	neet (PC	•	on February 11, 2021
PONMENTAL OU	<u> </u>		.021)				FCW REVISIO	on rebruary 11, 2021
DATES		15-Jun-2022	6	2022				
	PCW	1-Aug-2022	Screening 27-Ju	<u>ın-2022 </u>	EPA Due			
RESPO	NDENT/FACILI	TY INFORMATI	ON					
			terprises, LLC and 3	360 AG MAN	NAGEMENT LL	-C		
	g. Ent. Ref. No.	RN102739307						
Facili	ty/Site Region	4-Dallas/Fort Wo	orth		Major/M	linor Source	Minor	
CACET	NEODMATION							
	NFORMATION f./Case ID No.	62556			No.	of Violations	7	
LII		2022-0795-AGR	-F		140. 4	Order Type		
Med	lia Program(s)		_	-	Government	t/Non-Profit		
	Multi-Mediá						Harley Hobson	
	'	-				EC's Team	Enforcement Tea	m 1
Adr	min. Penalty \$ 1	Limit Minimum	\$0 Maxii	num	\$25,000			
			Donalty C	olaulati	on Costi			
			Penalty Ca	aicuiati	on Section	on		
TOTAL	L BASE PENA	LTY (Sum of	violation base	penaltie	es)		Subtotal 1	\$18,750
4 5 7114	OTMENITO / .	/	N=41 4					
ADJUS		/-) TO SUBTO) AL 1 the Total Base Penalty	(Cubtotal 1) b				
	Compliance Hi		the rotal base Penalty		Adjustment		tals 2, 3, & 7	\$0
	compilance in	5.0. y		0.0 70	Adjustificht	Justo	.u.s 2/ 5/ u /	70
	Notes		No adjustment for	Compliance	e History.			
	Culpability	No		0.0 % E	Enhancement		Subtotal 4	\$0
	Culpability	INO		0.0 70	Illiancement	1	Subtotal 4	\$0
	Notes	The Ro	espondents do not r	neet the cu	lpability crite	ria.		
			•					
	0 15 11 50							14 = 45
	Good Faith Eff	ort to Comply T	otal Adjustments				Subtotal 5	-\$1,562

Economic Benefit		0.0% Enhancement*	Subtotal 6	\$0
Total EB Amounts Estimated Cost of Compliance	\$214 \$6,775	*Capped at the Total EB \$ Amount		

OTHER FACTORS AS JUSTICE MAY REQUIRE 0.1% Adjustment \$25 Reduces or enhances the Final Subtotal by the indicated percentage.

Final Subtotal

Final Penalty Amount

\$17,188

\$17,213

Enhancement to capture the avoided cost of compliance associated with Notes Violation No. 7.

STATUTORY LIMIT ADJUSTMENT Final Assessed Penalty \$17,213 **DEFERRAL** 20.0% Adjustment -\$3,442 Reduction Reduces the Final Assessed Penalty by the indicated percentage.

Notes Deferral offered for expedited settlement.

PAYABLE PENALTY \$13,771

PCW

0%

Respondent Vander Horst Enterprises, LLC and 360 AG MANAGEMENT LLC

Case ID No. 62556

Reg. Ent. Reference No. RN102739307

Media Water Quality

Enf. Coordinator Harley Hobson

Policy Revision 5 (January 28, 2021)

PCW Revision February 11, 2021

Component	ory <i>Site</i> Enhancement (Subtotal 2) Number of	Number	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%
	Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)	0	0%
Orders	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	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (number of judgments or consent decrees meeting criteria)	0	0%
and Consent Decrees	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 (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%
Addits	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%
	Environmental management systems in place for one year or more	No	0%
Other	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
Other	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 Per	centage (Sul	ototal 2)
Repeat Violator	(Subtotal 3)		
No		centage (Sul	ototal 3)
	ory Person Classification (Subtotal 7)		
Satisfactory	Performer Adjustment Perc	centage (Sub	ototal /)
Compliance History	ory Summary		_
Compliance History Notes	No adjustment for Compliance History.		
	Total Compliance History Adjustment Percentage (S	Subtotals 2.	- <i>3, & 7)</i> [
inal Compliance	History Adjustment		,,
			at 100%

Final Adjustment Percentage *capped at 100%

	Screening Da			ket No. 2022-0795-AGR-E		PCW
	Responde Case ID N	Nander Horst Enterp	rises, LLC and 360 AG	MANAGEMENT LLC		evision 5 (January 28, 2021)
Rea.	Ent. Reference N				PCW	/ Revision February 11, 2021
11091		ia Water Quality				
	Enf. Coordinat					
	Violation Numb	20 Toy Admin Co	de 5 321 46(d)(10) ar	d Texas Pollutant Discharge Elir	mination	
	Rule Cite			eding Operation ("CAFO") Gene		
			No. TXG921489,	Part IV.A.2.(b)		
		Failed to keep reco	ords in the pollution pr	evention plan ("PPP") for a mini	imum of	
	Violation Descript	five years from t	the date the record was	s created. Specifically, the appli	cation	
	•	records for 2022	did not include the wa ("LMU")	aste applied to Land Managemer No. 7.	nt Unit	
			(= ,			
				Base	e Penalty	\$25,000
>> Env	ironmental Pror	erty and Human H	lealth Matrix			
// LIIV	inoninientai, Prop		larm			
OR	Relea Act		oderate Minor			
OK	Poten			Percent 0.0%		
>>Prog	grammatic Matrix Falsificatio		oderate Minor			
	Taisireack	Thajer The	X	Percent 1.0%		
	Matrix	Less than 30	% of the rule requirem	ents were not met.		
	Notes	2000 (11411 00	70 or and rare requirement			
				Adjustment	\$24,750	
				Aujustillelit	\$24,730	
					L	\$250
Violatio	on Events					
	Number	of Violation Events	1	125 Number of violation of	days	
					·	
		daily weekly				
		monthly			_	
		quarterly semiannual		Violation Base	e Penalty	\$250
		annual				
		single event	X			
		One	e single event is recom	nmended.		
Good F	aith Efforts to Co		0.0% NOE/NOV to EDI		Reduction	\$0
		Extraordinary	NOL/NOV to EDI	Joetachiene oner		
		Ordinary				
		N/A	Х			
		Notes The		neet the good faith criteria for riolation.		
			CHIS V	Tolucion.		
				Violation	Subtotal	\$250
Econon	nic Benefit (EB) f	or this violation		Statutory Limit	Test	
	Estin	ated EB Amount	\$5	Violation Final Pena	alty Total	\$250
		-	This violation Final A	ssessed Penalty (adjusted fo	or limite)	\$250
			ınıs viviativii Fillal A	ssessed remaily (adjusted fo	or minus)	\$ 2 5U

	E	conomic	Benefit	Woi	rksheet		
Respondent	Vander Horst	Enterprises, LLC a	nd 360 AG MAN	IAGEME	NT LLC		
Case ID No.	62556						
Reg. Ent. Reference No.	RN102739307						
	Water Quality						Years of
Violation No.						Percent Interest	Depreciation
						5.0	15
	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Costs Saved	EB Amount
Item Description		•					
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	\$50	22-Feb-2022	21-Mar-2024	2.08	\$5	n/a	\$5
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	employee tr	aining to ensure a	III records are p	roperly	kept in the PPP, in tart date, and the	erational guidance a accordance with 30 Final Date is the est	Tex. Admin.
Avoided Costs	ANNU	ALIZE avoided c	osts before en	tering	item (except for	one-time avoided	d 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				0.00	\$0	\$0	\$0
ONE-TIME avoided costs				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Notes for AVOIDED costs							
Approx. Cost of Compliance		\$50			TOTAL		\$5

	Screening Date	27-Jun-2022		Dock	cet No.	2022-0795-AGR-E		PCW
	Respondent	Vander Horst Er	nterprises, LL	C and 360 AG N	MANAGEME	ENT LLC	Policy Re	evision 5 (January 28, 2021)
	Case ID No.	62556					PCW	Revision February 11, 2021
Reg.	Ent. Reference No.	RN102739307						, , ,
eg.		Water Quality						
		- /						
	Enf. Coordinator							
	Violation Number							
	Rule Cite(s)	30 Tex. Admin.	Code §§ 321	.40(h) and 321	.42(w) and	d TPDES CAFO Gene	eral Permit	
			No. 7	TXG921489, Par	rt III.A.12.	.(f)(1)		
	Violation Description	Failed to adhere		buffers. Specific				405.000
						Bas	e Penalty	\$25,000
>> Env	vironmental, Prope	rty and Hum	an Health	Matrix				
			Harm				ı	
0.0	Release		Moderate	Minor				
OR	Actual			X			ı	
	Potential					Percent 15.0%		
> > D#0	arammatic Matrix							
>>P10	grammatic Matrix Falsification	Major	Moderate	Minor				
	1 disirication	Major	Moderate	MINO	1	Percent 0.0%		
					'	0.0 70		
	Human health	or the environm	ent has been	a exposed to inc	significant	amounts of pollutar	ate that do	
						ental receptors as a		
	Notes	evels that are pro		the violation.	CITVILOTITIE	entai receptors as a	result of	
				THE VIOIACION.				
					Adi	ustment	\$21,250	
							4 /	
								\$3,750
Violati	on Events							
Violati	on Events							
	Number of N	/iolation Events	2		125	Number of violation	days	
	Namber of	Violation Events	۷		123	Tramber of Violation	aays	
		daily						
		weekly						
		monthly					_	
		quarterly	X			Violation Bas	e Penalty	\$7,500
		semiannual						
		annual						
		single event						
	Two quarter	ly events are rec	ommended,	calculated from	the invest	tigation start date (February	
		22, 20)22) to the so	creening date (J	lune 27, 2	022).		
Good F	aith Efforts to Com	ply	0.0%				Reduction	\$0
			efore NOE/NOV	NOE/NOV to EDPR	RP/Settlemer	nt Offer		
		Extraordinary						
		Ordinary						
		N/A	X					
			The Respons	lents do not mo	et the goo	od faith criteria for		
		Notes	THE RESPOND	this vio	_	ou raitir triteria luf		
				C113 VIC				
		_				\$4°		17.500
						violation	Subtotal	\$7,500
Econor	nic Benefit (EB) for	r this violatio	on		;	Statutory Limi	t Test	
	Ectimat	ed EB Amount		\$26	V	iolation Final Pen	alty Total	\$7,511
	EStillidu	CG LD AIIIOUIIL		⊅∠ 0	٧	iviation filial Fell	aity i Utai	\$1,511
			This viol	ation Final As	sessed Po	enalty (adjusted f	or limits)	\$7,511

	E	conomic	Benefit	Woi	ksheet		
Respondent Case ID No. Reg. Ent. Reference No.	62556	Enterprises, LLC a	ind 360 AG MAN	AGEME	NT LLC		
	Water Quality					Percent Interest	Years of Depreciation
						5.0	15
	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Costs Saved	EB Amount
Item Description							
Dolawad Coata							
Delayed Costs Equipment		<u> </u>		0.00	\$0	\$0	\$0
Buildings				0.00	\$0 \$0	\$0 \$0	\$0 \$0
Other (as needed)				0.00	\$0	\$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	\$250	22-Feb-2022	21-Mar-2024	2.08	\$26	n/a	\$26
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	employee train application ar Date Requi	ning to ensure the reas and all surface red is the initial in	e required buffer te water in the s ovestigation date	is main tate, in , and th	ntained between a accordance with 3 he Final Date is the	erational guidance a Il manure, sludge, a 80 Tex. Admin. Code e estimated date of	and wastewater e § 321.40(h). compliance.
Avoided Costs	ANNUA	LIZE avoided c	osts before en			one-time avoided	-
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 ONE-TIME avoided costs				0.00	\$0	\$0 #0	\$0
				0.00	\$0 \$0	\$0 \$0	\$0 \$0
Other (as needed)		<u> </u>		0.00	Φ 0	\$ U I	\$U
Notes for AVOIDED costs							
Approx. Cost of Compliance		\$250			TOTAL		\$26

		Date 27-Jun-2022	Docket No. 2022-07		PCW
	Respond	lent Vander Horst Enterprises	, LLC and 360 AG MANAGEMENT LLC	Policy R	evision 5 (January 28, 2021)
	Case ID	No. 62556		PCW	Revision February 11, 2021
Reg.	Ent. Reference	No. RN102739307			
	Me	edia Water Quality			
	Enf. Coordina	ator Harley Hobson			
	Violation Nui	mber 3			
	Rule Cit	te(s) 30 Tex. Admin. Code §	§ 305.125(1) and 321.40(d), Tex. W	ater Code § 26.121,	
		and TPDES CAFO	General Permit No. TXG921489, Part	: III.A.12.(c)(1)	
	Violation Descrip	to any water in the st located in LMU Nos. 4, 1 ption resulted in a discharg freshwater pond and an a past discharge of was	authorized discharge of agricultural wate. Specifically, a mechanical failure 5, and 6, and over application of wast e of approximately 20,500 gallons of unnamed tributary to Cow Creek. Ad stewater from LMU M into Cow Creek onto privately owned land was docur	e of irrigation risers tewater in LMU No. 6 wastewater into a ditionally, evidence of and from a transfer	
				Base Penalty	\$25,000
>> En	vironmental, Pr	roperty and Human Hea	Ith Matrix		
		Harm			
OR		ease Major Moderat	te Minor		
OK		Actual X ential	Percent	t 25.0%	
	POU	erruar		23.070	
>>Pro	grammatic Mat	rix			
	Falsifica		te Minor		
			Percent	t 0.0%	
	Matrix Notes		s been exposed to significant amount esult of the violation.	ts of pollutants as a	
			Adjustmen	\$18,750	
			•		
					\$6,250
Violati	on Events				
Violati	Oli Evelits				
	Numbe	er of Violation Events 1	10 Number	of violation days	
				,	
		daily			
		weekly			
		monthly X			+6.250
		quarterly	Vic	olation Base Penalty	\$6,250
		semiannual annual			
		single event			
			_		
	One m	onthly event is recommended	calculated from the investigation star	t date (February 22	
	One in	•	compliance date (March 4, 2022).	t date (February 22,	
		-, 11 and	. , , , , , , , , , , , , , , , , , , ,		
Good 5	aith Efforts to	Comply 25.0	10%	Reduction	\$1,562
doou i	aith Liferts to		IOV NOE/NOV to EDPRP/Settlement Offer	Reduction	\$1,502
		Extraordinary	,,		
		Ordinary X			
		N/A			
			no Dognandanta aghiawad a awalia	by	
		Notes	he Respondents achieved compliance March 4, 2022.	. DA	
			Mai Cii 4, 2022.		
				Victoria Contract	
				Violation Subtotal	\$4,688
Econor	mic Panafit (ED	\ fau this wislation	Statut	tory Limit Test	
	IIIC belletti tes) TOT THIS VINIATION	31.4111		
	ille Bellelit (EB) for this violation	Statut	iory Emilie rese	
		imated EB Amount		n Final Penalty Total	\$4,695
		imated EB Amount		n Final Penalty Total	

	E	conomic	Benefit	Wor	ksheet		
Respondent Case ID No. Reg. Ent. Reference No.	62556	Enterprises, LLC a	nd 360 AG MAN	NAGEME	NT LLC		
	Water Quality					Percent Interest	Years of Depreciation
						5.0	15
	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Costs Saved	EB Amount
Item Description							
D.I I Ct.							
Delayed Costs		<u>1</u>		1 0 00	±0	# 0	+0
Equipment Buildings				0.00	\$0 \$0	\$0 \$0	<u>\$0</u> \$0
Other (as needed)				0.00	\$0 \$0	\$0 \$0	\$0 \$0
Engineering/Construction				0.00	\$0 \$0	\$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	\$5,000	22-Feb-2022	4-Mar-2022	0.03	\$7	n/a	\$7
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0
Notes for DELAYED costs	clean and ren	nediate the affect	ed areas. Date dat	Require e of con	d is the investigatinpliance.	the agricultural was on date, and the Fi	nal Date is the
Avoided Costs	ANNUA	ALIZE avoided co	osts before en	tering		one-time avoided	d 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 ONE-TIME avoided costs				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0 \$0	\$0 \$0	\$0 \$0
Notes for AVOIDED costs		<u> </u>		<u> 0.00</u>	μ ψυ	\$ 0	\$U
Approx. Cost of Compliance		\$5,000			TOTAL		\$7

	Screening Date	27-Jun-2022		Dock	et No. 2022-0795-AG	R-E	PCW
	Respondent	Vander Horst E	nterprises, LL	C and 360 AG N	1ANAGEMENT LLC	Policy R	evision 5 (January 28, 2021)
	Case ID No	62556				PCW	Revision February 11, 2021
Reg.	Ent. Reference No	RN102739307					
	Media	Water Quality					
	Enf. Coordinator	Harley Hobson					
	Violation Numbe	4					
	Rule Cite(s)	30 Tex. Admin	ı. Code § 321	.44 and TPDES	CAFO General Permit No	. TXG921489.	
				Part IV.		,	
		Failed to prope	rly notify the	TCEO of a disch	narge to water in the stat	e. Specifically.	
	Walatian Bassintia	the oral notific	•	_	2022 and written notification		
	Violation Description	on March 2, 20	022, did not ii	nclude the past	discharges documented	between LMUs	
		-	TS and GGS a	as well as Cow C	Creek adjacent to LMU M.		
						Base Penalty	\$25,000
							7=2/000
>> Env	vironmental, Prope	erty and Hum		Matrix			
	Release	e Major	Harm Moderate	Minor			
OR	Actua		rioderate	. 111101			
	Potentia				Percent 0	.0%	
>>Prog	grammatic Matrix						
	Falsification	Major	Moderate	Minor	D	00/	
				X	Percent 1	.0%	
	Matrix	Less tha	n 30% of the	rule requireme	nts were not met.		
	Notes	Less tha	11 30 70 01 1110	raic requireme	nes were not met.		
					Adjustment	\$24,750	
						1	\$250
							Ψ230
Violatio	on Events						
	Number of	Violation Events	1	ı 📻	125 Number of viola	ation days	
	Number of	Violation Events	1		Number of viole	ation days	
		daily]			
		weekly					
		monthly					
		quarterly			Violation	Base Penalty	\$250
		semiannual annual					
		single event	Υ				
		onigio ovone	χ				
			One single	event is recomn	nended.		
Good F	aith Efforts to Cor	nply	0.0%			Reduction	\$0
			efore NOE/NOV	NOE/NOV to EDPR	P/Settlement Offer		
		Extraordinary					
		Ordinary					
		N/A	Х				
			The Respond	dents do not me	et the good faith criteria	for	
		Notes	ľ	this vio			
		<u>[</u>					
					Viola	ation Subtotal	\$250
Econon	nic Benefit (EB) fo	r this violation	on		Statutory L	imit Test	
		_		4F1	Violeties Fire!	Donalte Tatal	±250
	Estima	ed EB Amount		\$5	Violation Final	renaity i otal	\$250
			This viol	ation Final As	sessed Penalty (adjust	ted for limits)	\$250

	E	conomic	Benefit	Woi	rksheet		
Respondent	Vander Horst I	Enterprises, LLC a	and 360 AG MAN	IAGEME	NT LLC		
Case ID No.	62556						
Reg. Ent. Reference No.	RN102739307						
Media Violation No.	Water Quality 4					Percent Interest	Years of Depreciation
1.0.4.0						5.0	15
	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Costs Saved	EB Amount
Item Description							
·							
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	\$50	22-Feb-2022	21-Mar-2024	2.08	\$5	n/a	\$5
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	and GGS, an	d to Cow Creek a	djacent to LMU I	M, in ac	cordance with 30	harges observed be Tex. Admin. Code § stimated date of cor	321.44. Date
Avoided Costs	ANNUA	LIZE avoided c	osts before en	tering	item (except for	one-time avoided	d 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				0.00	\$0	\$0	\$0
ONE-TIME avoided costs				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Notes for AVOIDED costs							
Approx. Cost of Compliance		\$50			TOTAL		\$5

		27-Jun-2022	Docket No. 2022-0795-AGF	₹-E	PCW
	Respondent	Vander Horst E	nterprises, LLC and 360 AG MANAGEMENT LLC	Policy Rev	rision 5 (January 28, 2021)
	Case ID No.	62556		PCW R	Revision February 11, 2021
Rea.	Ent. Reference No.	RN102739307			
		Water Quality			
	Enf. Coordinator				
	Violation Number]		
	Rule Cite(s)		dmin. Code § 305.125(8) and TPDES CAFO General Pe	ermit No.	
			TXG921489, Part II.C.3.(a)		
		Eailed to s		ocifically.	
			submit a Notice of Change for a Substantial Change. Sper application was noted on land not designated as LMU	* *	
	Violation Description		s noted in an area north of LMU No. 7 adjacent to a fre		
			adjacent to the west side LMU No. 6, and outside of the		
			irrigation system in LMU M on the south side.	·	
				Base Penalty	\$25,000
>> Env	vironmental, Prope	erty and Hun			
			Harm		
OR	Release Actua		Moderate Minor		
OK	Potentia		Percent 0.	0%	
	rotentia		Percent 0.	.070	
>>Pro	grammatic Matrix				
, ,	Falsification	Major	Moderate Minor		
		X		0%	
	Moteix				
	Matrix Notes	100	0% of the rule requirements were not met.		
	Notes				
			Adjustment	\$22,500	
					±2.500
					\$ / 5UU
				_	\$2,500
Violati	on Events				\$2,500
Violati					\$2,500
Violati		Violation Events	1 125 Number of viola	ition days	\$2,500
Violati			1 125 Number of viola	ition days	\$2,500
Violati		daily	1 125 Number of viola	ition days	\$2,500
Violati		daily weekly	1 125 Number of viola	ition days	\$2,500
Violati		daily weekly monthly		_	
Violati		daily weekly monthly quarterly		ation days Base Penalty	\$2,500
Violati		daily weekly monthly		_	
Violati		daily weekly monthly quarterly semiannual		_	
Violati		daily weekly monthly quarterly semiannual annual		_	
Violati		daily weekly monthly quarterly semiannual annual	Violation	_	
Violati		daily weekly monthly quarterly semiannual annual		_	
Violati		daily weekly monthly quarterly semiannual annual	Violation	_	
	Number of	daily weekly monthly quarterly semiannual annual single event	Violation X One single event is recommended.	Base Penalty	\$2,500
		daily weekly monthly quarterly semiannual annual single event	Violation X One single event is recommended.	_	
	Number of	daily weekly monthly quarterly semiannual annual single event	Violation X One single event is recommended.	Base Penalty	\$2,500
	Number of	daily weekly monthly quarterly semiannual annual single event	Violation X One single event is recommended.	Base Penalty	\$2,500
	Number of	daily weekly monthly quarterly semiannual annual single event	One single event is recommended. One Single event is recommended. One Single event is recommended.	Base Penalty	\$2,500
	Number of	daily weekly monthly quarterly semiannual annual single event	One single event is recommended. One Single event is recommended. One Single event is recommended. X One Single event is recommended.	Reduction	\$2,500
	Number of	daily weekly monthly quarterly semiannual annual single event	One single event is recommended. One Single event is recommended. One Single event is recommended. The Respondents do not meet the good faith criteria	Reduction	\$2,500
	Number of	daily weekly monthly quarterly semiannual annual single event	One single event is recommended. One Single event is recommended. One Single event is recommended. X One Single event is recommended.	Reduction	\$2,500
	Number of	daily weekly monthly quarterly semiannual annual single event	One single event is recommended. One Single event is recommended. One Single event is recommended. The Respondents do not meet the good faith criteria	Reduction	\$2,500
	Number of	daily weekly monthly quarterly semiannual annual single event	One single event is recommended. The Respondents do not meet the good faith criteria this violation.	Reduction	\$2,500
Good F	Number of	daily weekly monthly quarterly semiannual annual single event Extraordinary Ordinary N/A Notes	One single event is recommended. O.0% efore NOE/NOV NOE/NOV to EDPRP/Settlement Offer X The Respondents do not meet the good faith criteria this violation. Viola	Reduction for Subtotal	\$2,500
Good F	Number of	daily weekly monthly quarterly semiannual annual single event Extraordinary Ordinary N/A Notes	One single event is recommended. O.0% efore NOE/NOV NOE/NOV to EDPRP/Settlement Offer X The Respondents do not meet the good faith criteria this violation. Viola	Reduction for Subtotal	\$2,500
Good F	Number of	daily weekly monthly quarterly semiannual annual single event Extraordinary Ordinary N/A Notes	One single event is recommended. O.0% efore NOE/NOV NOE/NOV to EDPRP/Settlement Offer X The Respondents do not meet the good faith criteria this violation. Viola	Reduction for tion Subtotal imit Test	\$2,500
Good F	Number of	daily weekly monthly quarterly semiannual annual single event	One single event is recommended. One single event is recommended.	Reduction for imit Test Penalty Total	\$2,500 \$0 \$2,500

	E	conomic	Benefit	Wor	ksheet		
• • • • • • • • • • • • • • • • • • •		ander Horst Enterprises, LLC and 360 AG MANAGEMENT LLC					
Case ID No. Reg. Ent. Reference No.							
	Water Quality					Percent Interest	Years of Depreciation
						5.0	15
	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Costs Saved	EB Amount
Item Description							
Delayed Costs		,,,		1	T		10
Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0 \$0	\$0 \$0	\$0 \$0
Other (as needed) Engineering/Construction				0.00	\$0 \$0	\$0 \$0	\$0 \$0
Lingineering/ Construction Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling	\$150	22-Feb-2022	21-Mar-2024	2.08	\$16	n/a	\$16
Remediation/Disposal	<u> </u>			0.00	\$0	n/a	\$0
Permit Costs	\$1,000	22-Feb-2022	21-Mar-2024	2.08	\$104	n/a	\$104
Other (as needed)				0.00	\$0	n/a	\$0
Notes for DELAYED costs	Estimated Training/Sampling delayed cost to update the Facility's operational guidance and conduct employee training to ensure that wastewater is applied to land designated as LMUs, in accordance with 30 Tex. Admin. Code § 321.44. Date Required is the investigation start date, and the Final Date is the estimated date of compliance. Estimated Permit Costs to submit a Notice of Change to add LMUs or increase application acreage, in accordance with TPDES CAFO General Permit TXG920000 Part II.C.3. Date Required is the investigation start date, and the Final Date is the estimated date of compliance.						
Avoided Costs	ANNUA	ALIZE avoided c	osts before en	tering		one-time avoide	d 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				0.00	\$0	\$0	\$0
ONE-TIME avoided costs				0.00	\$0	\$0	\$0
Other (as needed) Notes for AVOIDED costs		JL JL		0.00	\$0	\$0	\$0
Approx. Cost of Compliance		\$1,150			TOTAL		\$120

	Screening	Date	27-Jun-2022		Dock	et No. 2022-0795	5-AGR-E			PCW
	Respoi	ndent	Vander Horst E	nterprises, LL	C and 360 AG M	IANAGEMENT LLC		Policy R	evision 5 (Ja	anuary 28, 2021)
	Case I							PCW	/ Revision Fe	ebruary 11, 2021
Rea.	Ent. Reference									, , ,
			Water Quality							
	Enf. Coordi									
	Violation N		<u> </u>							
		Cite(s)	U							
	Kule	cite(s)	30 Tex. <i>A</i>		• • •	TPDES CAFO Gener	ral Permit	No.		
				TX	G921489, Part 1	II.A.12.(c)(4)				
	Wieleties Been		Failed to ap	ply waste at	agronomic rates	and hydrologic nee	ds. Specif	ically,		
	Violation Desc	ription	waste	ewater was do	ocumented migr	ating from LMU Nos	. 4 and 6.	-		
							Base	e Penalty		\$25,000
		_						-		, ,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,
>> En	vironmental, I	Prope	rty and Hum	n an Health Harm	Matrix					
	R	elease	Major	Moderate	Minor					
OR		Actual								
	Po	otential			X	Percent	3.0%			
>>Pro	grammatic Ma									
	Falsifi	ication	Major	Moderate	Minor		2.22/			
						Percent	0.0%			
	11	4				l k. :::::::::::::::::::::::::::::::	tC	- 11		
	Matrix				•	d to insignificant am	•			
	Notes that w	rould 110	t exceed levels		t of the violation	health or environme	entai rece _l	JUIS as a		
				resur	t of the violation	1.				
						Adjustment		\$24,250		
								, ,		
										\$750
Violati	on Events									
Violati	on Events									
	Num	ber of V	iolation Events	1		125 Number of	violation	days		
			-		<u> </u>					
			daily							
			weekly							
			monthly			\/:-I-	dian Daa	- DII		#7F0
			quarterly semiannual			Viola	ilion base	e Penalty		\$750
			annual							
			single event	Х						
		•	_							
				One single	event is recomn	nended.				
Good I	Faith Efforts to	o Com	ply	0.0%				Reduction		\$0
			B	efore NOE/NOV	NOE/NOV to EDPR	P/Settlement Offer				
			Extraordinary							
			Ordinary							
			N/A	Х						
				The Respond	dents do not me	et the good faith cri	teria for			
			Notes	·	this vio					
						,	Violation	Subtotal		\$750
Econo	mic Benefit (E	B) for	this violation	on		Statuto	ry Limit	Test		
		_	_		+40		-			<u> </u>
	E	stimate	ed EB Amount		\$10	Violation F		_		\$751
				This viol	ation Final Ass	sessed Penalty (a	djusted f	or limits)		\$751

	E	conomic	Benefit	Wor	ksheet		
Respondent Case ID No. Reg. Ent. Reference No.	62556	Enterprises, LLC a	and 360 AG MAN	NAGEME	NT LLC		
Media Violation No.	Water Quality 6					Percent Interest	Years of Depreciation
						5.0	15
	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Costs Saved	EB Amount
Item Description							
Delayed Costs							
Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0 \$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/Construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System	+100	22.5.1.2022	24 14 2024	0.00	\$0	n/a	\$0
Training/Sampling	\$100	22-Feb-2022	21-Mar-2024	2.08	\$10	n/a	\$10
Remediation/Disposal Permit Costs				0.00	\$0 \$0	n/a n/a	\$0 \$0
Other (as needed)				0.00	\$0 \$0	n/a	\$0
Notes for DELAYED costs	Estimated Training/Sampling delayed cost to update the Facility's operational guidance and conduct employee training to ensure that wastewater is applied at agronomic rates and hydrologic needs, in						
Avoided Costs	ANNUA	ALIZE avoided c	<u>osts before er</u>			one-time avoided	
Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0 \$0	\$0 \$0	\$0 \$0
Supplies/Equipment Financial Assurance				0.00	\$0 \$0	\$0 \$0	\$0 \$0
ONE-TIME avoided costs				0.00	\$0	\$0 \$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Notes for AVOIDED costs		,			¥ 3	Ţ	<u> </u>
Approx. Cost of Compliance		\$100			TOTAL		\$10

	Screening Date	27-Jun-2022		Docket No	2022-0795-AGR-E		PCW
			nterprises, LL	C and 360 AG MANAGE	MENT LLC	Policy Revis	sion 5 (January 28, 2021)
	Case ID No.					PCW Re	evision February 11, 2021
Rea.	Ent. Reference No.						
eg.		Water Quality					
	Enf. Coordinator	- <i>'</i>					
	Violation Number						
	Rule Cite(s)						
	Rule Cite(s)	30 Tex. Adm	in. Code § 32	21.40(m)(1)(B) and TPD	DES CAFO General Perr	nit No.	
			TX	G921489, Part III.A.13.	.(a)(2)		
				soil samples prior to wa			
	Violation Description	samples for L	MU No. 7 we	re not collected and ana	alyzed prior to the wast	tewater	
				application.			
					Base	Penalty	\$25,000
>> En	vironmental, Prope	rty and Hum	ian Health	n Matrix			
			Harm				
OR	Release		Moderate	Minor			
UK	Actual		V		D		
	Potential		X		Percent 5.0%		
> > Dro	grammatic Matrix						
//PIC	Falsification	Major	Moderate	Minor			
	1 districation	Major	Moderate	Million	Percent 0.0%		
					0.070		
	Human haa	Ith or the enviro	nment will or	could be exposed to sig	inificant amounts of no	llutante	
	IVISTRIV			ective of human health	•		
	Notes Notes	r exceed levels	•	It of the violation.	or environmental recep	tors as a	
				A	djustment	\$23,750	
							\$1,250
\/:-I-+:	ion Francis						
violati	ion Events						
	Number of N	/iolation Events	1	125	Number of violation of	dave	
	Number of V	violation Events	T	123	INGITIBET OF VIOLATION (uays	
		daily		1			
		weekly					
		monthly					
		quarterly			Violation Base	Penalty	\$1,250
		semiannual					
		annual]			
		single event	X				
						1	
			0				
			One single	event is recommended.			
Good	Faith Efforts to Com	nlv	0.0%			Reduction	\$0
230a l	. with Ellores to coll			NOE/NOV to EDPRP/Settlen		Caacton	Ψ0
		Extraordinary		, 1111221, October	1		
		Ordinary			_		
		N/A	X				
		IN/ A		II.			
		Notes	The Respond	dents do not meet the g	ood faith criteria for		
		Notes		this violation.			
		L					
					Violation	Subtotal	\$1,250
							, ,
Econo	mic Benefit (EB) for	r this violation	on		Statutory Limit	Test	
	Fetimate	ed EB Amount		\$41	Violation Final Pena	ilty Total	\$1,252
	Estillati	Amount		ΨΤΙ	i iliai Fella	, . Juli	ΨΙ,ΖΟΖ

	E	conomic	Benefit	Woı	rksheet		
Respondent	Vander Horst E	Enterprises, LLC a	and 360 AG MAN	IAGEME	NT LLC		
Case ID No.	62556						
Reg. Ent. Reference No.	RN102739307						
Media	Water Quality					Percent Interest	Years of
Violation No.	7					Percent Interest	Depreciation
						5.0	15
	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Costs Saved	EB Amount
Item Description							
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	±1.F0	22 5-1- 2022	21 M 2024	0.00	\$0	n/a	\$0
Training/Sampling	\$150	22-Feb-2022	21-Mar-2024	2.08	\$16	n/a	\$16
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0 \$0	n/a n/a	\$0 \$0
Other (as needed)	Ectimated	Training/Samplin	a dolayed cost t				
Notes for DELAYED costs	Estimated Training/Sampling delayed cost to update the Facility's operational guidance and conduct employee training to ensure that at least one representative soil sample is collected and analyzed before commencing land application of manure, sludge, or wastewater on LMUs and before resuming land application on LMUs where manure, sludge, or wastewater was not applied during the preceding year, in accordance with 30 Tex. Admin. Code § 321.40. Date Required is the investigation start date, and the Final						
		1775			date of compliance		1 1 -)
Avoided Costs	ANNUA	LIZE avoided c	osts before en			one-time avoided	
Disposal				0.00	\$0	\$0 #0	\$0 ¢0
Personnel Inspection/Reporting/Sampling				0.00	\$0 \$0	\$0 \$0	\$0 \$0
Supplies/Equipment				0.00	\$0 \$0	\$0 \$0	\$0 \$0
Financial Assurance				0.00	\$0	\$0 \$0	\$0 \$0
ONE-TIME avoided costs	\$25	22-Feb-2022	27-Jun-2022	0.34	\$0	\$25	\$25
Other (as needed)	<u> </u>	22 1 00 2022	Z7 Juli ZUZZ	0.00	\$0	\$0	\$0
ourer (ao meeasa)		<u> </u>		<u>'</u>	·	•	
Notes for AVOIDED costs	Estimated ONE-TIME avoided costs to collect and analyze at least one soil sample prior to wastewater application to LMU No. 7. Date Required is the investigation start date, and the Final Date is the screening date.						
Approx. Cost of Compliance		\$175			TOTAL		\$41



Compliance History Report

Compliance History Report for CN601724321, RN102739307, Rating Year 2022 which includes Compliance History (CH) components from September 1, 2017, through August 31, 2022.

Customer, Respondent, CN601724321, Vander Horst Enterprises, Classification: SATISFACTORY Rating: 0.85

or Owner/Operator:

Regulated Entity: RN102739307, SIERRA DAIRY Classification: HIGH Rating: 0.00

Complexity Points: 8 Repeat Violator: NO

CH Group: 12 - Agriculture, Forestry, Fishing, and Hunting

Location: 9715 FM 2156 DUBLIN, TX 76446-5436, ERATH COUNTY

TCEQ Region: REGION 04 - DFW METROPLEX

ID Number(s):

WASTEWATER AGRICULTURE PERMIT TXG921489 PETROLEUM STORAGE TANK REGISTRATION

REGISTRATION 77572

PETROLEUM STORAGE TANK REGISTRATION

REGISTRATION 53716

Compliance History Period: September 01, 2017 to August 31, 2022 Rating Year: 2022 Rating Date: 09/01/2022

Date Compliance History Report Prepared: August 28, 2023

Agency Decision Requiring Compliance History: Enforcement

Component Period Selected: August 28, 2018 to August 28, 2023

TCEQ Staff Member to Contact for Additional Information Regarding This Compliance History.

Name: TCEQ Staff Member Phone: (512) 239-1000

Site and Owner/Operator History:

1) Has the site been in existence and/or operation for the full five year compliance period?

2) Has there been a (known) change in ownership/operator of the site during the compliance period? NO

Components (Multimedia) for the Site Are Listed in Sections A - J

A. Final Orders, court judgments, and consent decrees:

N/A

B. Criminal convictions:

N/A

C. Chronic excessive emissions events:

N/A

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

Item 1	November 09, 2018	(1526171)
Item 2	January 16, 2019	(1526059)
Item 3	February 25, 2019	(1540800)
Item 4	May 31, 2019	(1569289)
Item 5	July 25, 2019	(1580803)
Item 7	September 04, 2019	(1581521)
Item 8	July 07, 2020	(1659290)
Item 9	March 10, 2021	(1704925)
Item 10	April 29, 2021	(1644662)
Item 11	July 30, 2021	(1747433)

Item 12	May 10, 2022	(1812089)
Item 13	May 11, 2022	(1813079)
Item 14	August 24, 2022	(1839401)
Item 15	November 09, 2022	(1581525)

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

A notice of violation represents a written allegation of a violation of a specific regulatory requirement from the commission to a regulated entity. A notice of violation is not a final enforcement action, nor proof that a violation has actually occurred.

N/A

F. Environmental audits:

N/A

G. Type of environmental management systems (EMSs):

N/A

H. Voluntary on-site compliance assessment dates:

N/A

I. Participation in a voluntary pollution reduction program:

N/A

J. Early compliance:

N/A

Sites Outside of Texas:

N/A



Compliance History Report

Compliance History Report for CN604147199, RN102739307, Rating Year 2022 which includes Compliance History (CH) components from September 1, 2017, through August 31, 2022.

Customer, Respondent, CN604147199, 360 AG MANAGEMENT LLC Classification: HIGH Rating: 0.06

or Owner/Operator:

Regulated Entity: RN102739307, SIERRA DAIRY Classification: HIGH Rating: 0.00

Complexity Points: 8 Repeat Violator: NO

CH Group: 12 - Agriculture, Forestry, Fishing, and Hunting

Location: 9715 FM 2156 DUBLIN, TX 76446-5436, ERATH COUNTY

TCEQ Region: REGION 04 - DFW METROPLEX

ID Number(s):

WASTEWATER AGRICULTURE PERMIT TXG921489 PETROLEUM STORAGE TANK REGISTRATION

REGISTRATION 53716

PETROLEUM STORAGE TANK REGISTRATION

REGISTRATION 77572

Compliance History Period: September 01, 2017 to August 31, 2022 Rating Year: 2022 Rating Date: 09/01/2022

Date Compliance History Report Prepared: August 28, 2023

Agency Decision Requiring Compliance History: Enforcement

Component Period Selected: August 28, 2018 to August 28, 2023

TCEQ Staff Member to Contact for Additional Information Regarding This Compliance History.

Name: TCEQ Staff Member Phone: (512) 239-1000

Site and Owner/Operator History:

1) Has the site been in existence and/or operation for the full five year compliance period?

2) Has there been a (known) change in ownership/operator of the site during the compliance period? NO

Components (Multimedia) for the Site Are Listed in Sections A - J

A. Final Orders, court judgments, and consent decrees:

N/A

B. Criminal convictions:

N/A

C. Chronic excessive emissions events:

N/A

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

Item 1	November 09, 2018	(1526171)
Item 2	January 16, 2019	(1526059)
Item 3	February 25, 2019	(1540800)
Item 4	May 31, 2019	(1569289)
Item 5	July 25, 2019	(1580803)
Item 7	September 04, 2019	(1581521)
Item 8	July 07, 2020	(1659290)
Item 9	March 10, 2021	(1704925)
Item 10	April 29, 2021	(1644662)
Item 11	July 30, 2021	(1747433)

Item 12	May 10, 2022	(1812089)
Item 13	May 11, 2022	(1813079)
Item 14	August 24, 2022	(1839401)
Item 15	November 09, 2022	(1581525)

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

A notice of violation represents a written allegation of a violation of a specific regulatory requirement from the commission to a regulated entity. A notice of violation is not a final enforcement action, nor proof that a violation has actually occurred.

N/A

F. Environmental audits:

N/A

G. Type of environmental management systems (EMSs):

N/A

H. Voluntary on-site compliance assessment dates:

N/A

I. Participation in a voluntary pollution reduction program:

N/A

J. Early compliance:

N/A

Sites Outside of Texas:

N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



IN THE MATTER OF AN	§	BEFORE THE
ENFORCEMENT ACTION	§	
CONCERNING	§	TEXAS COMMISSION ON
VANDER HORST ENTERPRISES, LLC	§	TEAAS COMMISSION ON
AND 360 AG MANAGEMENT LLC	§	
RN102739307	§	ENVIRONMENTAL QUALITY

AGREED ORDER DOCKET NO. 2022-0795-AGR-E

I. JURISDICTION AND STIPULATIONS

On,	, the Texas Commission on Environmental Quality ("the
Commission" or "TCEQ") conside	ered this agreement of the parties, resolving an enforcement
action regarding Vander Horst E	Enterprises, LLC and 360 AG MANAGEMENT LLC (the
"Respondents") under the author	rity of Tex. Water Code chs. 7 and 26. The Executive Director of
the TCEQ, through the Enforcem	nent Division, and the Respondents, together stipulate that:

- 1. The Respondents own and operate a Concentrated Animal Feeding Operation ("CAFO") located at 9715 Farm-to-Market Road 2156 in Dublin, Erath County, Texas (the "Facility"). The Facility is near or adjacent to water in the state as defined in Tex. Water Code § 26.001(5).
- 2. The Executive Director and the Respondents agree that the TCEQ has jurisdiction to enter this Order pursuant to Tex. Water Code §§ 7.002, 7.051, and 7.073, and that the Respondents are subject to TCEQ's jurisdiction. The TCEQ has jurisdiction in this matter pursuant to Tex. Water Code § 5.013 because it alleges violations of Tex. Water Code ch. 26 and the rules of the TCEQ.
- 3. The occurrence of any violation is in dispute and the entry of this Order shall not constitute an admission by the Respondents of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
- 4. An administrative penalty in the amount of \$17,213 is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondents paid \$13,771 of the penalty and \$3,442 is deferred contingent upon the Respondents' timely and satisfactory compliance with all the terms of this Order. The deferred amount shall be waived only upon full compliance with all the terms and conditions contained in this Order. If the Respondents fail to timely and satisfactorily comply with any of the terms or requirements contained in this Order, the Executive Director may demand payment of all or part of the deferred penalty amount.
- 5. The Executive Director and the Respondents agree on a settlement of the matters alleged in this enforcement action, subject to final approval in accordance with 30 Tex. Admin. Code § 70.10(a). 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.

- 6. 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 Order.
- 7. This Order represents the complete and fully-integrated agreement of the parties. The provisions of this Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Order unenforceable, the remaining provisions shall be valid and enforceable.
- 8. This Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Order, whichever is later.
- 9. The Executive Director recognizes that by March 4, 2022, the Respondents ceased the discharge, removed and properly disposed of the agricultural wastewater, and cleaned and remediated the affected areas at the Facility.

II. ALLEGATIONS

During an investigation at Facility conducted on February 22, 2022 through March 7, 2022, an investigator documented that the Respondents:

- 1. Failed to keep records in the pollution prevention plan ("PPP") for a minimum of five years from the date the record was created, in violation of 30 Tex. ADMIN. CODE § 321.46(d)(10) and Texas Pollutant Discharge Elimination System ("TPDES") CAFO General Permit No. TXG921489, Part IV.A.2.(b). Specifically, the application records for 2022 did not include the waste applied to Land Management Unit ("LMU") No. 7.
- 2. Failed to adhere to required buffers, in violation of 30 Tex. Admin. Code §§ 321.40(h) and 321.42(w) and TPDES CAFO General Permit No. TXG921489, Part III.A.12.(f)(1). Specifically, wastewater was applied within the buffers of LMU Nos. 4 and 6.
- 3. Failed to prevent the unauthorized discharge of agricultural waste into or adjacent to any water in the state, in violation of 30 Tex. Admin. Code §§ 305.125(1) and 321.40(d), Tex. Water Code § 26.121, and TPDES CAFO General Permit No. TXG921489, Part III.A.12.(c)(1). Specifically, a mechanical failure of irrigation risers located in LMU Nos. 4, 5, and 6, and over application of wastewater in LMU No. 6 resulted in a discharge of approximately 20,500 gallons of wastewater into a freshwater pond and an unnamed tributary to Cow Creek. Additionally, evidence of a past discharge of wastewater from LMU M into Cow Creek and from a transfer pipe break onto privately owned land was documented.
- 4. Failed to properly notify the TCEQ of a discharge to water in the state, in violation of 30 Tex. Admin. Code § 321.44 and TPDES CAFO General Permit No. TXG921489, Part IV.B.5. Specifically, the oral notification made on February 22, 2022 and written notification provided on March 2, 2022, did not include the past discharges documented between LMUs TS and GGS as well as Cow Creek adjacent to LMU M.
- 5. Failed to submit a Notice of Change for a Substantial Change, in violation of 30 Tex. ADMIN. CODE § 305.125(8) and TPDES CAFO General Permit No. TXG921489, Part II.C.3.(a). Specifically, wastewater application was noted on land not designated as LMUs. Waste application was noted in an area north of LMU 7 adjacent to a freshwater pond, in the

- tree line adjacent to the west side LMU 6, and outside of the center pivot irrigation system in LMU M on the south side.
- 6. Failed to apply waste at agronomic rates and hydrologic needs, in violation of 30 Tex. Admin. Code § 321.40(b) and TPDES CAFO General Permit No. TXG921489, Part III.A.12.(c)(4). Specifically, wastewater was documented migrating from LMU Nos. 4 and 6.
- 7. Failed to collect and analyze soil samples prior to waste application, in violation of 30 Tex. Admin. Code § 321.40(m)(1)(B) and TPDES CAFO General Permit No. TXG921489, Part III.A.13.(a)(2). Specifically, soil samples for LMU No. 7 were not collected and analyzed prior to the wastewater application.

III. DENIALS

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

IV. ORDERING PROVISIONS

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

1. The Respondents are assessed a penalty as set forth in Section I, Paragraph No. 4. The payment of this penalty and the Respondents' compliance with all of the requirements set forth in this 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. Penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: Vander Horst Enterprises, LLC and 360 AG MANAGEMENT LLC, Docket No. 2022-0795-AGR-E" to:

Financial Administration Division, Revenue Operations 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 Order, and are jointly and severally liable for timely and satisfactory compliance with all terms and conditions of this Order.
- 3. The Respondents shall undertake the following technical requirements:
 - a. Within 30 days after the effective date of this Order:
 - i. Update the Facility's operational guidance and conduct employee training to ensure that:
 - 1. All records are properly kept in the PPP, in accordance with 30 Tex. ADMIN. CODE § 321.46(d);
 - 2. The required buffer is maintained between all manure, sludge, and wastewater application areas and all surface water in the state, in accordance with 30 Tex. Admin. Code § 321.40(h);

- 3. Wastewater is applied to land designated as LMUs, in accordance with 30 Tex. ADMIN. CODE § 321.44;
- 4. Wastewater is applied at agronomic rates and hydrologic needs, in accordance with 30 Tex. ADMIN. CODE § 321.40; and
- 5. At least one representative soil sample is collected and analyzed before commencing land application of manure, sludge, or wastewater on LMUs and before resuming land application on LMUs where manure, sludge, or wastewater was not applied during the preceding year, in accordance with 30 Tex. ADMIN. CODE § 321.40.
- ii. Submit a written notification for the discharges observed between LMUs TS and GGS, and to Cow Creek adjacent to LMU M, in accordance with 30 Tex. Admin. Code § 321.44.
- iii. Submit a Notice of Change to add LMUs or increase application acreage, in accordance with TPDES CAFO General Permit TXG920000 Part II.C.3.
- b. Within 45 days after the effective date of this Order, submit written certification, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision Nos. 3.a.i through 3.a.iii. The certification shall be signed by the Respondents and shall 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:

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

4. All relief not expressly granted in this Order is denied.

- 5. The duties and provisions imposed by this Order shall apply to and be binding upon the Respondents. The Respondents are ordered to give notice of this Order to personnel who maintain day-to-day control over the Facility operations referenced in this Order.
- 6. If the Respondents fail to comply with any of the Ordering Provisions in this 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 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.
- 7. The Executive Director may grant an extension of any deadline in this Order or in any plan, report, or other document submitted pursuant to this 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. Extension requests shall be sent to the Enforcement Division at the address listed above.
- 8. This 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 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 Order may be executed in separate and multiple counterparts, which together shall constitute a single instrument. Any page of this 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 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.
- 10. The effective date of this Order is the date it is signed by the Commission. A copy of this fully executed Order shall be provided to each of the parties.

Vander Horst Enterprises, LLC and 360 AG MANAGEMENT LLC DOCKET NO. 2022-0795-AGR-E Page $6\,$

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission	Date
	12/13/2023
For the Executive Director	Date
I, the undersigned, have read and understand the attached Order, and I do agree to the terms and coacknowledge that the TCEQ, in accepting payment for on such representation.	onditions specified therein. I further
I also understand that failure to comply with the Orde and/or failure to timely pay the penalty amount, may	ering Provisions, if any, in this Order result in:
 A negative impact on compliance history; Greater scrutiny of any permit applications submared. Referral of this case to the Attorney General's Or additional penalties, and/or attorney fees, or to Increased penalties in any future enforcement as Automatic referral to the Attorney General's Off TCEQ seeking other relief as authorized by law. 	ffice for contempt, injunctive relief, a collection agency; ctions;
In addition, any falsification of any compliance docum	nents may result in criminal prosecution.
Signature Comb to get	$\frac{12-1-23}{2}$
Name (Printed or typed) Authorized Representative of	12-1-23 Title
Vander Horst Enterprises, LLC ☐ If mailing address has changed, please check this?	hoy and provide the new address helow:
if mailing dadress has changed, piedse check this	portunities provides the new troops are a second
A CAMPAN	

Vander Horst Enterprises, LLC and 360 AG MANAGEMENT LLC DOCKET NO. 2022-0795-AGR-E Page 7

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission	Date
Cun D	12/13/2023
For the Executive Director	Date

I, the undersigned, have read and understand the attached Order. I am authorized to agree to the attached Order, 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.

THAN UTIL

Signature

Name (Printed or typed) // Authorized Representative of

360 AG MANAGEMENT LLC

orized Representative of

☐ If mailing address has changed, please check this box and provide the new address below:

Instructions: Send the original, signed Order with penalty payment to the Financial Administration Division, Revenue Operations Section at the address in Ordering Provision 1 of this Order.