

Executive Summary – Enforcement Matter – Case No. 63362

LINDEL FARMS, LLC

RN101517662

Docket No. 2022-1590-WQ-E

Order Type:

1660 Agreed Order

Findings Order Justification:

N/A

Media:

WQ

Small Business:

Yes

Location(s) Where Violation(s) Occurred:

Lindel Dairy, 8580 Lindel Dairy Road, Pampa, Gray County

Type of Operation:

Dairy farm

Other Significant Matters:

Additional Pending Enforcement Actions: No

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: The complainant has expressed an interest in this matter but does not wish to speak at Agenda.

Texas Register Publication Date: October 6, 2023

Comments Received: No

Penalty Information

Total Penalty Assessed: \$56,250

Amount Deferred for Expedited Settlement: \$11,250

Total Paid to General Revenue: \$45,000

Total Due to General Revenue: \$0

Payment Plan: N/A

Compliance History Classifications:

Person/CN - High

Site/RN - High

Major Source: No

Statutory Limit Adjustment: N/A

Applicable Penalty Policy: January 2021

Investigation Information

Complaint Date(s): January 28, 2022

Complaint Information: Alleged the septic disposal system is above ground.

Date(s) of Investigation: October 18, 2022

Date(s) of NOE(s): October 24, 2022

Executive Summary – Enforcement Matter – Case No. 63362
LINDEL FARMS, LLC
RN101517662
Docket No. 2022-1590-WQ-E

Violation Information

Failed to prevent an unauthorized discharge of sewage into or adjacent to any water in the state. Specifically, six residential houses at the Site were discharging raw sewage from pipes under the houses into puddles and drainage ditches [TEX. WATER CODE § 26.121(a)(1)].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

N/A

Technical Requirements:

The Order will require the Respondent to:

- a. Immediately, cease the discharge of sewage;
- b. Within 30 days, clean and properly dispose of the sewage that was discharged from the six residential houses at the Site;
- c. Within 45 days, submit written certification to demonstrate compliance with a. and b.;
- d. Within 60 days, hire a licensed professional to install On-Site Sewage Facilities to capture and treat sewage discharged from the six residential houses at the Site.
- e. Within 75 days, submit written certification to demonstrate compliance with d.

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: Geoffery Linssen, Member, LINDEL FARMS, LLC, 8580 Lindel Dairy Road, Pampa, Texas 79065

Respondent's Attorney: N/A



Penalty Calculation Worksheet (PCW)

Policy Revision 5 (January 28, 2021)

PCW Revision February 11, 2021

DATES	Assigned	14-Nov-2022			
	PCW	18-Nov-2022	Screening	18-Nov-2022	EPA Due

RESPONDENT/FACILITY INFORMATION	
Respondent	LINDEL FARMS, LLC
Reg. Ent. Ref. No.	RN101517662
Facility/Site Region	1-Amarillo
Major/Minor Source	Minor

CASE INFORMATION				
Enf./Case ID No.	63362	No. of Violations	1	
Docket No.	2022-1590-WQ-E	Order Type	1660	
Media Program(s)	Water Quality	Government/Non-Profit	No	
Multi-Media		Enf. Coordinator	Harley Hobson	
		EC's Team	Enforcement Team 1	
Admin. Penalty \$	Limit Minimum	\$0	Maximum	\$25,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)	Subtotal 1	\$62,500
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ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History	-10.0%	Adjustment	Subtotals 2, 3, & 7	-\$6,250
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Notes	Reduction for High Performer classification.
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Culpability	No	0.0%	Enhancement	Subtotal 4	\$0
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Notes	The Respondent does not meet the culpability criteria.
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Good Faith Effort to Comply Total Adjustments	Subtotal 5	\$0
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Economic Benefit	0.0%	Enhancement*	Subtotal 6	\$0
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Total EB Amounts	\$4,224	*Capped at the Total EB \$ Amount
Estimated Cost of Compliance	\$40,000	

SUM OF SUBTOTALS 1-7	Final Subtotal	\$56,250
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OTHER FACTORS AS JUSTICE MAY REQUIRE	0.0%	Adjustment	\$0
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes	
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Final Penalty Amount	\$56,250
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$56,250
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DEFERRAL	20.0%	Reduction	Adjustment	-\$11,250
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Reduces the Final Assessed Penalty by the indicated percentage.

Notes	Deferral offered for expedited settlement.
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PAYABLE PENALTY	\$45,000
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Screening Date 18-Nov-2022

Docket No. 2022-1590-WQ-E

PCW

Respondent LINDEL FARMS, LLC

Policy Revision 5 (January 28, 2021)

Case ID No. 63362

PCW Revision February 11, 2021

Reg. Ent. Reference No. RN101517662

Media Water Quality

Enf. Coordinator Harley Hobson

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	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%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (<i>number of judgments 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%
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 0%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

High Performer

Adjustment Percentage (Subtotal 7) -10%

>> Compliance History Summary

Compliance History Notes

Reduction for High Performer classification.

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

>> Final Compliance History Adjustment

Final Adjustment Percentage *capped at 100% -10%

Screening Date 18-Nov-2022

Docket No. 2022-1590-WQ-E

PCW

Respondent LINDEL FARMS, LLC

Policy Revision 5 (January 28, 2021)

Case ID No. 63362

PCW Revision February 11, 2021

Reg. Ent. Reference No. RN101517662

Media Water Quality

Enf. Coordinator Harley Hobson

Violation Number 1

Rule Cite(s) Tex. Water Code § 26.121(a)(1)

Violation Description Failed to prevent an unauthorized discharge of sewage into or adjacent to any water in the state. Specifically, six residential houses at the Site were discharging raw sewage from pipes under the houses into puddles and drainage ditches.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

Table with columns: Release (Actual, Potential), Harm (Major, Moderate, Minor), and Percent (25.0%). Includes 'OR' label.

>> Programmatic Matrix

Table with columns: Falsification, Major, Moderate, Minor, and Percent (0.0%).

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

Adjustment \$18,750

\$6,250

Violation Events

Number of Violation Events 10 275 Number of violation days

Table with frequency categories: daily, weekly, monthly, quarterly, semiannual, annual, single event.

Violation Base Penalty \$62,500

10 monthly events are recommended from the date the discharge was first documented (February 16, 2022) to the screening date (November 18, 2022).

Good Faith Efforts to Comply

0.0% Reduction \$0

Table with columns: Before NOE/NOV, NOE/NOV to EDPRP/Settlement Offer, and rows: Extraordinary, Ordinary, N/A.

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

Violation Subtotal \$62,500

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$4,224

Violation Final Penalty Total \$56,250

This violation Final Assessed Penalty (adjusted for limits) \$56,250

Economic Benefit Worksheet

Respondent LINDEL FARMS, LLC
Case ID No. 63362
Reg. Ent. Reference No. RN101517662
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	Costs Saved	EB Amount
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Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/Construction	\$35,000	16-Feb-2022	10-Sep-2023	1.56	\$183	\$3,650	\$3,833
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	16-Feb-2022	10-Sep-2023	1.56	\$391	n/a	\$391
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated Engineering/Construction cost to hire a licensed professional to install On-Site Sewage Facilities at the Site. The Date Required is the day the discharge was first documented. The Final Date is the estimated date of compliance.

Estimated Remediation/Disposal cost to cease the discharge and clean and properly dispose of the sewage from the surrounding areas. The Date Required is the day the discharge was first documented. The Final Date is the estimated date of compliance.

Avoided Costs

ANNUALIZE 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				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 \$40,000

TOTAL \$4,224



Compliance History Report

Compliance History Report for CN603828260, RN101517662, Rating Year 2022 which includes Compliance History (CH) components from September 1, 2017, through August 31, 2022.

Customer, Respondent, or Owner/Operator:	CN603828260, LINDEL FARMS, LLC	Classification:	HIGH	Rating:	0.00
Regulated Entity:	RN101517662, LINDEL DAIRY	Classification:	HIGH	Rating:	0.00
Complexity Points:	6	Repeat Violator:	NO		
CH Group:	12 - Agriculture, Forestry, Fishing, and Hunting				
Location:	8580 Lindel Dairy Road in Pampa, Gray County, Texas				
TCEQ Region:	REGION 01 - AMARILLO				
ID Number(s):	WASTEWATER AGRICULTURE PERMIT TXG921508				
Compliance History Period:	September 01, 2017 to August 31, 2022	Rating Year:	2022	Rating Date:	09/01/2022
Date Compliance History Report Prepared:	May 21, 2023				
Agency Decision Requiring Compliance History:	Enforcement				
Component Period Selected:	May 19, 2018 to May 19, 2023				
TCEQ Staff Member to Contact for Additional Information Regarding This Compliance History.					
Name:	Harley Hobson			Phone:	(512) 239-1337

Site and Owner/Operator History:

- | | |
|--|-----|
| 1) Has the site been in existence and/or operation for the full five year compliance period? | YES |
| 2) Has there been a (known) change in ownership/operator of the site during the compliance period? | NO |

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 22, 2021	(1771450)
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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
ENFORCEMENT ACTION
CONCERNING
LINDEL FARMS, LLC
RN101517662

§ BEFORE THE
§ TEXAS COMMISSION ON
§ ENVIRONMENTAL QUALITY
§

AGREED ORDER DOCKET NO. 2022-1590-WQ-E

I. JURISDICTION AND STIPULATIONS

On _____, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding LINDEL FARMS, LLC (the "Respondent") under the authority of TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent together stipulate that:

1. The Respondent owns and operates a dairy farm with on-site residential buildings located at 8580 Lindel Dairy Road in Pampa, Gray County, Texas (the "Site"). The Site is near or adjacent to water in the state as defined in TEX. WATER CODE § 26.001(5).
2. The Executive Director and the Respondent 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 Respondent is 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 Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
4. An administrative penalty in the amount of \$56,250 is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent paid \$45,000 of the penalty and \$11,250 is deferred contingent upon the Respondent's 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 Respondent fails 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 Respondent 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 Respondent has 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.

II. ALLEGATIONS

During a record review for the Site conducted on October 18, 2022, an investigator documented that the Respondent failed to prevent an unauthorized discharge of sewage into or adjacent to any water in the state, in violation of TEX. WATER CODE § 26.121(a)(1). Specifically, six residential houses at the Site were discharging raw sewage from pipes under the houses into puddles and drainage ditches.

III. DENIALS

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

IV. ORDERING PROVISIONS

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

1. The Respondent is assessed a penalty as set forth in Section I, Paragraph No. 4. The payment of this penalty and the Respondent's 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: LINDEL FARMS, LLC, Docket No. 2022-1590-WQ-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 Respondent shall undertake the following technical requirements:
 - a. Immediately after the effective date of this Order, cease the discharge of sewage.
 - b. Within 30 days after the effective date of this Order, clean and properly dispose of the sewage that was discharged from the six residential houses at the Site.
 - c. 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. 2.a. and 2.b., in accordance with Ordering Provision No. 2.e.

- d. Within 60 days after the effective date of this Order, hire a licensed professional to install On-Site Sewage Facilities to capture and treat sewage discharged from the six residential houses at the Site.
- e. Within 75 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 No. 2.d. The certification shall be signed by the Respondent 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
Amarillo Regional Office
Texas Commission on Environmental Quality
3918 Canyon Drive
Amarillo, Texas 79109-4933

3. All relief not expressly granted in this Order is denied.
4. The duties and provisions imposed by this Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of this Order to personnel who maintain day-to-day control over the Site operations referenced in this Order.
5. If the Respondent fails 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 Respondent's failure to comply is not a violation of this Order. The Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The Respondent shall notify the Executive Director within seven days after the Respondent becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.

6. 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 Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director. Extension requests shall be sent to the Enforcement Division at the address listed above.
7. This Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this 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.
8. 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.
9. 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.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission


For the Executive Director

Date
11/21/2023

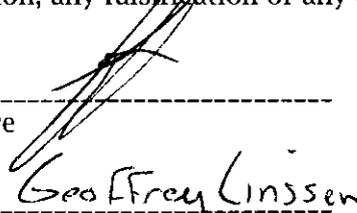
Date

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 OAG 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 OAG 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


Name (Printed or typed)
Geoffrey Linssen
Authorized Representative of
LINDEL FARMS, LLC

Date
11-2-23

Title
member

Title

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.