

SUBCOMP / PRESIDIO JUN 15 2011 / CO

See note: Who Fills out the EAR? ►

Enforcement Action Referral Rev. 3/18/2002	Inv. #	933240	Initiated by: Region, LP, Central:	Region
	Enf Case		Name of Initiating Office:	REGION 06 - EL PASO
	Media Code:	WWA		

Section 1: Respondent

ID	CN603784000		Role	RESP PARTY
Name	C4 CATTLE INC			
Mailing Address	Street/PO Box	4149 COUNTY ROAD 133		
	City/State/Zip	BURLINGTON, TX 76519		
	Phone	(254) 721-6030	Fax	

Primary Contact (NOE Contact)			
Name	WILLIAM CREANAN	Organization	C4 CATTLE, INC
Title	Director	Phone	(254) 721-6030
		Fax	

Section 2: Respondent's Facility/Operation (F/O)

F/O ID	RN102182805		
F/O Name	ALVARADO CATTLE PENS		
F/O Physical Address	ON 100 ALVARADO ROUTE 2 MI E OF PRESIDIO		
Location City	PRESIDIO	Location Zip	79845
Location County	PRESIDIO	Operational Status	Active
Primary Business Activity	Cattle Company	Type of Small Entity	Domestic For Profit
SNC or HPV?	N/A	SIC Code	0211
Potentially Affected Area	Property ID: IL Klienman Section 750 Abst 7472 442 AC	Complaints Closed	1
List any NOVs? Orders for same or similar violations at this F/O in the past 5 years.	Notice of Violation dated December 13, 2010		
Additional IDs	TXG920505 WQ0001334000		

Section 3: Summary of Violations

See note: Inclusion of Resolved or Verbal Violations ►

Viol Num	Requirements Cited Violation Description	Violation Dates		Investigation/ File Review	Date of...		CAT
		Start	End		NOV	NOE	
419388	30 TAC Chapter 321.36(i)(2)	01/13/2011	Unknown	06/15/2011		09/02/2011	B
Failure to maintain the required mortality management records for the Alvarado Pens as required by the General CAFO Permit No. TXG920505 and 30 TAC §321.36 (i)(2).							
445860	30 TAC Chapter 321.36(l)	Unknown	Unknown	06/15/2011		09/02/2011	B
Failure to properly dispose of animal carcasses as required by 30 TAC §321.36 (l) concerning CAFO rules.							
445865	30 TAC Chapter 321.33	11/18/2009	Unknown	06/15/2011		09/02/2011	B
Failure to obtain the required permit as required by 30 TAC §321.33. All concentrated animal feeding operations (CAFOs) are point sources that require owners and operators to seek and obtain authorization under a water quality general permit or individual permit.							
445934	30 TAC Chapter 330.15(a)(1)	Unknown	Unknown	06/15/2011		09/02/2011	B
	30 TAC Chapter 330.15(a)(2)	Unknown	Unknown	06/15/2011		09/02/2011	B
Failure to dispose of animal carcasses at an authorized municipal solid waste facility and failure to comply with 30 TAC §330.15 (a)(1) and (a)(2) concerning Municipal Solid Waste General Prohibitions.							

Section 4: Additional Discussion

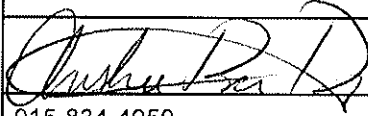
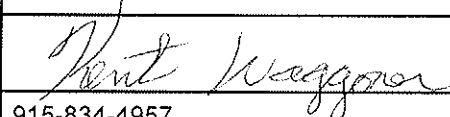
Based on the video footage from the flyover of the carcass dump site, the alleged condition described in the complaint of horse carcasses being unlawfully disposed of was confirmed.

As a result of the on-site investigations and post-investigation, there were a total of four category B AVs as described in the current enforcement section above. Per guidance from the EIC, revision no. 13, all AVs will be referred to the TCEQ Enforcement Division for processing of a formal enforcement action. A NOE letter dated September 2, 2011, will be issued to Mr. Crenan. A carbon copy of the NOE letter dated September 2, 2011, will also be issued to Mr. Molinar.

Section 5: Additional Issues

N/A

Section 6: Information About Initiating Office

	Name	CHRISTINE PONCE-DIAZ	Date	9/2/11
	Signature		E-Mail	christine.poncediaz@tceq.texas.gov
	Phone	915-834-4959		
	Name	KENT WAGGONER	Date	9/6/11
	Signature		E-Mail	kent.waggoner@tceq.texas.gov
	Phone	915-834-4957		

Texas Commission on Environmental Quality Investigation Report

**C4 Cattle, Inc.
CN603784000**

ALVARADO CATTLE PENS

RN102182805

Investigation # 933240	Incident # 155627
Investigator: CHRISTINE PONCE-DIAZ	<u>Site Classification</u> CAFO GENERAL PERMITS
Conducted: 06/15/2011 -- 06/15/2011	NAIC Code: 112112
Program(s): WASTEWATER AGRICULTURE	SIC Code: 0211

Investigation Type : Compliance Investigation

Location : ON 100 ALVARADO ROUTE 2 MI E
OF PRESIDIO

Additional ID(s) : TXG920505
WQ0001334000

Address: ; ,

Activity Type : REGION 06 - EL PASO
AFOCMPL - AFO Complaint

Principal(s) :

Role	Name
RESPONDENT	C4 CATTLE INC

Contact(s) :

Role	Title	Name	Phone
Participated in Investigation	AIRCRAFT	SGT SHON PARKER	Work (432) 837-3073
Participated in Investigation	CHIEF DEPUTY SHERIFF	MR JOEL NUNEZ JR	Work (432) 229-3764 Cell (432) 295-0092
Participated in Investigation		MR JESUS ESCARSEGA	Work (432) 229-3764
Participated in Investigation		MR RUBEN BRITO	Cell (432) 294-2211
Participated in Investigation		MR LORENZO CENICEROS	Work (432) 229-3764
Regulated Entity Contact	OWNER	MR FRANK ALVARADO	Cell (432) 229-4661
Regulated Entity Contact	OPERATOR	MR MANUEL MOLINAR	Cell (432) 294-2352
Regulated Entity Mail Contact	DIRECTOR	MR WILLIAM J CREANAN	Work (254) 721-6030
Regulated Entity Contact		MR CHARLES BASS	(520) 749-4681
Participated in Investigation	AIRCRAFT	SGT JIMMY MORRIS	Work (432) 837-3073
Participated in Investigation		MR JOSE MOLINAR	(432) 294-2352

Other Staff Member(s) :

Role	Name
Investigator	ARTURO LEYVA
Supervisor	KENT WAGGONER
Investigator	ERICA AMAYA
QA Reviewer	ARTURO LEYVA

Associated Check List

<u>Checklist Name</u>	<u>Unit Name</u>
WQ COMPLAINT INVESTIGATION	Investigation No. 933240
MSW COMPLAINT INVESTIGATION	Investigation No. 933240

Investigation Comments :

INTRODUCTION

On June 8, 2011, the Texas Commission on Environmental Quality (TCEQ) El Paso Region Office received a complaint alleging a facility was disposing of horse carcasses on private property approximately half a mile north east of the Alvarado Cattle Pens in Presidio (Presidio County), Texas and in a dry river bed. Additionally, the complainant stated there was a direct path leading from the back (north) fence of Alvarado Cattle to the dump site. The responsible party was identified as C4 Cattle, Inc., located at the Alvarado Cattle Pens in Presidio (Presidio County), Texas. C4 Cattle, Inc. is leasing the pens at the Alvarado Cattle Pens located at 100 Alvarado St., Presidio, Texas. This information was entered into the TCEQ Consolidated Compliance and Enforcement Data System (CCEDS) database as Incident No. 155627.

On June 15, 2011, Ms. Christine Ponce-Diaz (investigator), Environmental Investigator, TCEQ El Paso Region Office, conducted an on-site complaint investigation of Incident No. 155627. The investigator was accompanied by the following TCEQ employees and volunteer during the on-site investigation:

1. Ms. Erica Amaya, Environmental Investigator, TCEQ El Paso Region Office
2. Mr. Rick Macias, Micky Leland Intern, TCEQ El Paso Region Office
3. Ms. Tejaswini Anand, Volunteer, TCEQ El Paso Region Office

The purpose of the investigation was to verify compliance with Title 30 Texas Administrative Code (30 TAC) §321.36, for Concentrated Animal Feed Operations (CAFOs), and 30 TAC §330.15, concerning Municipal Solid Waste General Prohibitions; and all other applicable regulations concerning the allegations of the complaint Incident No. 155627. Any Alleged Violations (AVs) associated to this investigation are described below in the Current Enforcement Actions Section of this report.

Additional participants in the investigation are as follows:

1. Mr. Manuel Molinar, Presidio Operator, C4 Cattle, Inc.
2. Mr. Jose Molinar, Presidio Operator, C4 Cattle, Inc.
3. Mr. Jim Crenan, Registered Agent, C4 Cattle, Inc.
4. Mr. Ruben Brito, private citizen, Presidio (Presidio County), Texas
5. Mr. Jesse Escarcega, former Deputy Sheriff, Presidio County Sheriff's Office
6. Mr. Joel Nunez, Deputy Sheriff, Presidio County Sheriff's Office
7. Sgt. Shon Parker, Aircraft, Texas Department of Public Safety (DPS), Alpine
8. Sgt. Jimmy Morris, Aircraft, Texas Department of Public Safety (DPS), Alpine

DAILY NARRATIVE

Pre-Investigation:

On June 8, 2011, the investigator contacted Deputy Nunez and requested a site escort to the location of the carcass dump site. Deputy Nunez stated he and Deputy Escarcega were also conducting an investigation on the site and would be available on June 15, 2011, for the on-site escort. Deputy Nunez went on to state that the DPS was available on June 15, 2011, for a flyover of the alleged carcass dump site. The investigator agreed to meet at the Sheriff's Office on June 15, 2011, for a briefing, viewing of video gathered by a public citizen concerning the alleged carcass dump site, and flyover with DPS.

On June 13 and 14, 2011, the investigator reviewed the applicable rules pertaining to the allegations of the complaint. A review of the Agency Central Registry Database showed C4 Cattle, Inc. had an active customer number (CN 603784000) with a compliance history rating of N/A. There were no active permits associated to C4 Cattle, Inc. The CCEDS database was also reviewed and reflected one previous investigation resulting in AV Tracking Nos. 419381 and 419388. Lastly, the investigator gathered all relevant materials/equipment necessary for the on-site investigation.

Investigation:

On June 15, 2011, the investigator and the above mentioned TCEQ group arrived at the Presidio County Sheriff's Office and were met by Deputy Nunez at approximately 12:30 hours Central Daylight Time (CDT). Deputy Nunez asked the TCEQ group to follow him to the Presidio Independent School District where the secondary office for the Deputy Sheriff is located. Upon arrival at the office Deputy Nunez began to describe the contents of the video gathered by a private citizen. The video showed several horse carcasses, in varying states of decomposition, along the dry Cibolo Creek, north east of the Alvarado Cattle Pens, as stated in the complaint. The briefing continued until approximately 13:30 hours CDT when the DPS was scheduled to arrive at the Presidio Aircraft Landing Strip.

The TCEQ group and Deputy Escarcega proceeded to meet Sgts. Parker and Morris at the Presidio Aircraft Landing Strip. The investigator and Deputy Escarcega were present for the flyover of the carcass dumpsite. During the flyover, Sgt. Parker took aerial photos and stated he would also take video footage and agreed to mail copies of each to the TCEQ El Paso Region Office (See Attachment 1- Aerial Photos and Video).

Approximately 92.1 Acres were covered during the flyover. The coordinates recorded by the DPS Aircraft were N 29 Degrees, 33 Minutes, 39 Seconds (latitude) and W 104 Degrees, 20 Minutes, 20 Seconds (longitude). As recorded by Weather Underground, the investigator noted the weather conditions during the flyover to be as follows (weather taken from nearest observation point in Marfa, Texas) (See Attachment 2- June 15, 2011 Meteorological Data):

*Note: Meteorological Data noted for 1335 hours CDT.

Temperature: 98 Degrees Fahrenheit
Visibility: 10.0 Miles
Wind Direction: West Northwest
Wind Speed: 12.7 Miles per Hour

During the flyover of the carcass dump site, the investigator observed several large animal carcasses located on the dry river bed located north east of C4 Cattle, Inc. operations. Sgt. Morris focused in on the animal carcasses along the surveillance point and determined the animal remains were those of horses. Also noted in the video footage were several bones observed to be spread out over the 92.1 Acres. In addition to video footage, photo documentation of the horse carcasses was gathered from the DPS Aircraft (See Attachment 1).

Based on the video footage from the flyover of the carcass dump site, the alleged condition described in the complaint of horse carcasses being unlawfully disposed was confirmed.

Post Investigation:

On June 22, 2011, the TCEQ El Paso Region Office received the video footage taken on June 15, 2011 (See Attachment 1).

On July 7, 2011, the investigator contacted Mr. Brito by phone, concerning the identification of the horse carcasses. Mr. Brito explained that each horse has a green tag from the United States Department of Agriculture (USDA). He further stated that a more accurate identification method for the horses is the chip that is implanted into each of the horses. The investigator inquired about obtaining the chip numbers for the horse carcasses and Mr. Brito mentioned he had a chip reader available for use. The investigator requested to meet with Mr. Brito for assistance in determining the chip numbers of the horse carcasses located at the dump site.

On July 21, 2011, a follow-up investigation was conducted on-site in which the investigator, accompanied by Mr. Arturo Leyva Jr. (Environmental Investigator, TCEQ El Paso Region Office) met with Mr. Brito at the Alvarado Cattle Company entrance and led the investigator to the unpaved dirt pathway that leads to the carcass dumpsite. There were approximately eleven carcasses noted on-site (See Attachment 3- July 21, 2011 photos). There was a highly offensive odor in the area of the carcasses and flies surrounding the carcasses. Out of the eleven carcasses, six had readable chip numbers. The chip reader used during the investigation is a Destron Fearing DTR 4 model (See Attachment 3).

One white horse had a blue letter "D" branded on the upper midsection of the horse (See Attachment 3). Mr. Brito stated he had seen horses in Presidio, Texas, labeled with a blue letter "D" and explained the letter "D" indicates the horse is owned by a gentleman by the name of Dorian.

While collecting the chip information, the investigator observed a secondary pathway connected to the main pathway that the investigators took to get to the carcass dump site. The investigator inquired with Mr. Brito as to where the secondary path leads and he stated that he had once observed a tractor from C4 Cattle, Inc., carrying a dead horse, driving along the dirt pathway to the property where the remainder of the carcasses were located. The investigator asked Mr. Brito if he was willing to fill out an affidavit of what he had witnessed and he agreed.

After all the chip readings were recorded, the investigator decided to follow and record video footage of the secondary pathway to determine the starting point of the path (See Attachment 4- Trail Video July 21, 2011). The start point was at the carcass dump site. From this point, the pathway leads to a split in the path with one path leading east and one path leading west. The path leading east was the route Mr. Brito had lead the investigators into the carcass dumpsite. The investigator filmed the pathway leading west and found the starting point of the path to be the rear gate of C4 Cattle, Inc. operations located at the Alvarado Cattle Pens.

The investigator proceeded to C4 Cattle, Inc., and observed a red tractor at the front entrance to C4 Cattle, Inc., and Mr. Manuel and Mr. Jose Molinar working in the Alvarado Cattle Pens. The investigator requested to speak with Mr. Molinar and was asked to wait. While waiting, there were two C4 Cattle, Inc., workers discussing rejected horses. Upon inquiry, the investigator was informed by the workers that a veterinary physician from Mexico had been out at C4 Cattle, Inc., and had rejected ten horses the day of the on-site investigation, July 21, 2011.

*Note: the horses kept on-site in the care of C4 Cattle, Inc., are destined for a slaughter house in Mexico once the horses are deemed "approved" by a veterinary physician from Mexico.

Mr. Manuel Molinar entered the area where he had asked the investigator to wait and the investigator began the entrance interview. The investigator requested information on the total number of livestock on-site during the time of the investigation. Mr. Molinar stated that a total of 184 horses and seventeen cows were on-site on July 21, 2011. He also stated that approximately every two days C4 Cattle receives an estimated 30 head of horses. Based on this information, an approximate number of how many horses received by C4 Cattle in one year is 5,475.

According to 30 TAC §321.32 (13)(A), the facility is defined as a Large CAFO based on the number of horses in one year on-site at C4 Cattle, Inc., as stated by Mr. Molinar. The facility is therefore required to obtain a CAFO general permit.

The investigator also requested information on the ten rejected horses for the day and Mr. Molinar explained that the load of ten horses belonged to Mr. Joe Rios, from the El Paso/Sierra Blanca (El Paso/Hudspeth County) area. He stated that the horses were being prepared for transport during the time of the investigation. The investigator spoke with Mr. Wayne Ramirez, transporter, Wayne Ramirez West Trucking, and was told that all ten horses would be delivered to Mr. Joe Rios in El Paso. The investigator requested a shipping/transporting receipt and although the horses were already loaded and ready for transport, there was no ticket available at the time of the request.

Immediately following the horse loading, the investigator requested Mr. Manuel Molinar provide the documentation showing the loads received by C4 Cattle, Inc., per day from the time frame of June 2010 to June 2011, mortality management records for all horses, a total list of horse loads received from each horse distributor, and all disposal tickets for each deceased horse. Mr. Molinar stated that he only keeps partial records of the shipping and receiving as well as the list of the horse distributors and landfill disposal tickets for the deceased horses. He stated that Mr. Crenan kept the remainder of the records and that the investigator should contact him for the rest. The investigator requested copies of all the available documentation and was provided with one information sheet of the arrival and departure from Presidio and three logs of various horse distributors (See Attachment 5- Arrival/Departure Presidio Data).

Mr. Molinar explained that the person listed as the "buyer" provides loads to C4 Cattle, Inc., which can be identified by an individual load ID listed on the sheet. The investigator inquired about one discrepancy in the paperwork concerning load ID No. 1120. A load of thirty-two horses was documented to have arrived on July 16, 2011. Out of the thirty-two horses, thirty horses were documented as having been "crossed" into Mexico on July 7, 2011.

*Note: the first discrepancy with the documentation is the date of "crossing". The other loads on the information sheet show a "crossing" date of one day after having arrived at C4 Cattle, Inc. The second discrepancy with the documentation is described below.

One horse from that load was represented as "rejected". There was no documentation on the sheet for the remaining horse belonging to the load of thirty-two, thus leaving one horse unaccounted for. The investigator requested information on the remaining horse and Mr. Molinar stated the unaccounted horse died. He did not mention the date the horse died. The investigator requested to see the corresponding Presidio Landfill ticket for Load ID No. 1120 and Mr. Molinar was unable to provide the documentation during the investigation.

It should be noted that on the information sheet of arrival and departure of horses, one of the listed distributors for C4 Cattle, Inc., is Dorian, which corresponds to the statement while on-site by Mr. Brito that the branding of a letter "D" on a horse indicates ownership of the horse by a gentleman by the name of Dorian.

The investigator requested to view all the available disposal tickets for the deceased horses and noted that the time frame provided for the records dated back to June 15, 2011. There were no disposal tickets available during the investigation prior to that date.

After the review of the documentation on-site, the investigator conducted a formal Exit Interview with Mr. Manuel and Mr. Jose Molinar in which the following were noted on the Exit Interview Form:

1. Records Request for shipping and receiving papers for all horses from June 2010 to June 2011 demonstrating volume capacity (Info sheet arrival and departure Presidio)
2. Records Request for mortality management records for all horses
3. Records Request for proper carcass disposal records
4. Records Request for the amount of horses on-site during June 2011
5. Alleged Violation of 30 TAC §321.36 (l) for Failure to properly dispose of animal carcasses as required by §321.36
6. Alleged Violation of §321. 36 (i)(2) for Failure to maintain mortality management records for the pens as required by §321.36

Before leaving the site, the investigator informed Mr. Molinar that the due date for all records was July 28, 2011. Additionally, Mr. Molinar was informed of the TCEQ Enforcement Protocol. It was explained to Mr. Molinar that since the both category B alleged violations listed on the Exit Interview Form had been repeated by C4 Cattle, Inc., during the timeframe of less than five years, a Notice of Enforcement (NOE) will be issued to C4 Cattle, Inc (See Attachment 6 - Exit Interview Form to Mr. Molinar).

Back at the TCEQ El Paso Region Office, on July 26, 2011, the investigator faxed Mr. Brito a TCEQ Citizen's Affidavit as discussed during the on-site investigation on July 21, 2011.

On July 27, 2011, the investigator sent a copy of the July 21, 2011, Exit Interview Form via facsimile to Mr. Crenan (See Attachment 7- Exit Interview Form to Mr. Crenan). The investigator contacted Mr. Crenan via phone to verify the transmittal of the fax. Mr. Crenan stated he needed additional time to gather all the documents requested and the investigator agreed. The documents requested on the Exit Interview Form were not submitted to the TCEQ El Paso Region Office.

On August 11, 2011, the TCEQ El Paso Region Office received a complaint and was entered in CCEDS as Incident No. 157931. The complainant alleged that C4 Cattle, Inc., was illegally dumping horse carcasses in a stream bed. Incident No. 157931 was assigned to Mr. Jon Williams, Environmental Investigator, TCEQ El Paso Region Office, per regional complaint rotation protocol.

Mr. Williams investigated the incident on August 17, 2011 (Investigation No. 949476). Upon return from his investigation on August 18, 2011, he described the conditions observed during the on-site investigation to the investigator, Ms. Christine Ponce-Diaz. He stated that approximately thirty-five animal carcasses in various stages of decomposition were observed along Cibolo Creek, ten of which were located on the stream bank.

Since the current investigation (Investigation No. 933240) alleges the same allegation and results in the same alleged violation (as discussed in the current enforcement section below), the additional carcasses and the alleged violation resulting from investigation no. 949476, will be added to this investigation (Investigation No. 933240).

On August 18, 2011, Mr. Brito submitted a fax to the investigator containing a copy of the affidavit he submitted to the Presidio County Sheriff's Office with an extra attachment to the affidavit referencing the TCEQ. The Affidavit stated on June 3, 2011, he "witnessed a tractor leaving the C4 Cattle, Co., Pens at about 4:00 P.M. The person was carrying a dead horse with the tractor. He drove the tractor to the rear of the neighboring property which is private property." He went on to say that he "waited until this person finished". He "went onto the property and found 9 horses had been dumped out in the creek which leads into residential areas". He states he "made a video of the 9 horses and returned on Sunday to find that 2 more horses had been dumped. On Monday, he notified the Sheriff's Office. Deputy Escarcega and he went to the site where the horses had been dumped and Deputy Escarcega took photographs of the animals and the tracks leading to C4 Cattle Co. Pens." (See Attachment 8-Affidavit from Mr. Brito)

*Note: It should be noted that in the Affidavit, Mr. Brito uses the facility name C4 Cattle Co. instead of C4 Cattle, Inc. The legal name of the responsible party is C4 Cattle, Inc., however in this report C4 Cattle Co. may be used interchangeably to reference the responsible party.

On August 23, 2011, the investigator contacted the Presidio County Clerk for information pertaining to the owner of the private property located north of C4 Cattle, Inc., operations. The grantor of the property (Legal Description- IL Klienman Section 750 Abst 7472 442 AC) is Mr. Charles M. Bass. The grantee is The Bass Family Trust both located at 11882 East Ponce De Leon, Tucson, Arizona, 85749 (See Attachment 9 -Property Deed and Property ownership map).

On September 1, 2011, the investigator contacted Mr. Charles M. Bass, via phone, in reference to the unauthorized disposal of horse carcasses on property ID No. IL Klienman Section 750 Abst 7472 442 AC, and informed him about the findings of Investigation No. 933240 as well as the agency regulations on Municipal Solid Waste. Per Mr. Bass, he did not authorize the property in question for the use of municipal solid waste disposal.

GENERAL PROCESS INFORMATION

Background on the Facility Process:

According to the June 2011, United States Government Accountability Office (GAO) report to Congressional Committees (GAO-11-228), domestic slaughter of horses ceased in 2007 creating a market for slaughter in other countries such as Mexico and Canada. The attached figure was taken from the GAO June 2011, report to demonstrate the transport of horses to slaughtering facilities before and after domestic slaughter ceased in 2007 (See Attachment 10- Figure 12).

Facility Process Information:

C4 is registered with the Texas Secretary of State (TSOS) as an active Domestic for Profit Corporation. The registered agent is Mr. Jim Crenan (See Attachment 11 - TSOS Data). The operator for the C4 Presidio site is Mr. Molinar. As stated by Mr. Molinar and Mr. Crenan, the horses come from the northern parts of the United States. The horses are destined for slaughter in Mexico, and are in the care of C4 Cattle until a veterinary physician from Mexico inspects the horses, approves or rejects them, and they are transported to Mexico.

BACKGROUND

Current Enforcement Actions:

(All AV descriptions pertain to C4 Cattle, Inc., as the responsible party)

1. Category B violation according to the Enforcement Initiation Criteria (EIC), Revision No. 13, for failure to respond to and correct AV Track No. 419388 by the response date on the Notice of Violation (NOV) Letter issued December 13, 2010.
2. Category B violation according to the EIC, Revision No. 13, for failure to properly dispose of animal carcasses as required by 30 TAC §321.36 (I) concerning CAFO rules. This AV was cited as a category B violation according to the EIC in investigation no. 872212 and a NOV Letter was issued on December 13, 2010. During this investigation (Investigation No. 933240) the same category B violation was observed. Due to the repeat of a category B violation in a time period of less than five years, formal enforcement action is warranted.
3. Category B violation according to the EIC, Revision No. 13, for failure to dispose of animal carcasses at an authorized municipal solid waste facility and failure to comply with 30 TAC §330.15 (a)(1) and (a)(2) concerning Municipal Solid Waste General Prohibitions. C4 Cattle, Inc., horses were found to be disposed of at an unauthorized site on private property.
4. Category B violation according to the EIC, Revision No. 13, for failure to obtain the required permit as required by 30 TAC §321.33. All concentrated animal feeding operations (CAFOs) are point sources that require owners and operators to seek and obtain authorization under a water quality general permit or individual permit.

Corrective Actions for the above mentioned AVs:

1. Create a detailed mortality management plan, keep a copy on-site at C4 Cattle, Inc., operations, and provide a copy to the TCEQ El Paso Region Office of such plan. The plan shall include but is not limited to the date of death for each horse or other livestock, the cause of death, identification chip number of each horse that dies along with the corresponding disposal ticket from an authorized disposal facility. The disposal ticket shall include the details on the horse identification number and the date received.
2. Submit to the TCEQ El Paso Region Office photos of the exact location where the carcasses were located demonstrating that they have been properly disposed in a TCEQ Permitted and authorized disposal facility. Additionally, provide the detailed versions of the disposal tickets for the disposal of all carcasses found during the investigation and for the carcasses that have since then been accumulated, and lastly, a signed statement from C4 stating that all accumulated carcasses have been disposed of in the Presidio Landfill. Landfill disposal records must indicate the horse chip identification number for verification that the horses on-site during the investigation were properly disposed.

3. The same corrective actions requested in No. 2 of this section
4. C4 Cattle, Inc., shall obtain the appropriate CAFO authorization as required by 30 TAC §321.33. The authorization shall be kept on-site at C4 Cattle, Inc., operations, and a copy shall be provided to the TCEQ El Paso Region office.

Agreed Orders, Court Orders, and other Compliance Agreements:

None in the previous five years (See Attachment 12-Compliance History Report)

Prior Enforcement Issues:

On December 13, 2010, as a result of Investigation No. 872212, a NOV was issued to Mr. Frank Alvarado, Property Owner of Alvarado Cattle, Inc.; Mr. Jim Crenan, Director, C4 Cattle, Inc.; and Mr. Manuel Molinar, Presidio Operator, C4 Cattle Inc. The two outstanding AVs associated to the NOV (Violation Track Nos 419381 and 419388) are as follows:

1. Violation Track No. 419381- Failure to properly dispose of animal carcasses as required by 30 TAC §321.36 (l).
2. Violation Track No. 419388 - Failure to maintain the required mortality management records for the Alvarado Pens as required by the General CAFO Permit No. TXG920505 and 30 TAC §321.36 (i)(2).

*Note: The facility's permit, under TXG920505, is now inactive due to a request submitted to the Water Quality Assessment Section of TCEQ in Austin, Texas to withdraw the Permit. The request is dated June 7, 2011, from C4 Cattle, Inc. (on behalf of Alvarado Cattle Company).

Complaints:

On October 15, 2010, the TCEQ El Paso Region Office received a complaint (Incident No. 146224, Investigation No. 872212).

ADDITIONAL INFORMATION

Conclusions and Recommendations:

Based on the video footage from the flyover of the carcass dump site, the alleged condition described in the complaint of horse carcasses being unlawfully disposed of was confirmed.

As a result of the on-site investigations and post-investigation, there were a total of four category B AVs as described in the current enforcement section above. Per guidance from the EIC, revision no. 13, all AVs will be referred to the TCEQ Enforcement Division for processing of a formal enforcement action. A NOE letter dated September 2, 2011, will be issued to Mr. Crenan. A carbon copy of the NOE letter dated September 2, 2011, will also be issued to Mr. Molinar.

Additional issues:

The cause of death of the horses remains unknown and should be further investigated by the appropriate agency having jurisdiction in this matter. In addition, the investigator was informed that the Presidio Landfill charges \$22.50 for the disposal of each horse. Mr. Molinar explained to the investigator during the on-site post investigation, that C4 Cattle, Inc., is paid by the respective horse distributors for the disposal costs if a horse should die while in the care of C4 Cattle, Inc. Based on this investigation, it was noted that approximately 46 horse carcasses were not properly disposed of at an authorized facility such as the Presidio Landfill.

*Note: The Presidio City Landfill is located approximately half a mile west of C4 Cattle, Inc., operations in Presidio (Presidio County), Texas.

Attachments:

- 1- Aerial Photos and Video
- 2- June 15, 2011, Meteorological Data
- 3- July 21, 2011 Photos

- 4- Trail Video July 21, 2011
- 5- Arrival/Departure Presidio Data
- 6- Exit Interview form to Mr. Molinar
- 7- Exit Interview form to Mr. Crenan
- 8- Affidavit from Mr. Brito
- 9- Property deed and property ownership map
- 10- Figure 12
- 11- TSOS Data
- 12- Compliance History Report

NOE Date: 9/2/2011

**OUTSTANDING ALLEGED VIOLATION(S)
ASSOCIATED TO A NOTICE OF ENFORCEMENT**

Track No: 419388

Compliance Due Date: To Be Determined

Violation Start Date: 1/13/2011

30 TAC Chapter 321.36(i)(2)

Alleged Violation:

Investigation: 872212

Comment Date: 12/10/2010

Failure to maintain the required mortality management records for the Alvarado Pens as required by the General CAFO Permit No. TXG920505 and 30 TAC §321.36 (i)(2).

Investigation: 933240

Comment Date: 09/02/2011

Failure to maintain the required mortality management records for the Alvarado Pens as required by the General CAFO Permit No. TXG920505 and 30 TAC §321.36 (i)(2).

Recommended Corrective Action: Create a detailed mortality management plan, keep a copy on-site at C4 Cattle, Inc. operations, and provide a copy to the TCEQ El Paso Region Office of such plan. The plan shall include but is not limited to the date of death for each horse or other livestock, the cause of death, identification chip number of each horse that dies along with the corresponding disposal ticket from an authorized disposal facility. The disposal ticket shall include the details on the horse identification number and the date received.

Track No: 445860

Compliance Due Date: To Be Determined

Violation Start Date: Unknown

30 TAC Chapter 321.36(l)

Alleged Violation:

Investigation: 933240

Comment Date: 09/02/2011

Failure to properly dispose of animal carcasses as required by 30 TAC §321.36 (l) concerning CAFO rules.

Recommended Corrective Action: Submit to the TCEQ El Paso Region Office photos of the exact location where the carcasses were located demonstrating that they have been properly disposed in a TCEQ Permitted and authorized disposal facility. Additionally, provide the detailed versions of the disposal tickets for the disposal of all carcasses found during the investigation and for the carcasses that have since then been accumulated, and lastly, a signed statement from C4 stating that all accumulated carcasses have been disposed of in the Presidio Landfill. Landfill disposal records must indicate the horse chip identification number for verification that the horses on-site during the investigation were properly disposed.

Track No: 445865

Compliance Due Date: To Be Determined

Violation Start Date: 11/18/2009

30 TAC Chapter 321.33

Alleged Violation:

Investigation: 933240

Comment Date: 09/01/2011

Failure to obtain the required permit as required by 30 TAC §321.33. All concentrated animal feeding operations (CAFOs) are point sources that require owners and operators to seek and obtain authorization under a water quality general permit or individual permit.

Recommended Corrective Action: C4 Cattle, Inc., shall obtain the appropriate CAFO authorization as required by 30 TAC §321.33. The authorization shall be kept on-site at C4 Cattle, Inc., operations, and a copy shall be provided to the TCEQ El Paso Region office.

Track No: 445934

Compliance Due Date: To Be Determined

Violation Start Date: Unknown

30 TAC Chapter 330.15(a)(1)

30 TAC Chapter 330.15(a)(2)

Alleged Violation:

Investigation: 933240

Comment Date: 09/02/2011

Failure to dispose of animal carcasses at an authorized municipal solid waste facility and failure to comply with 30 TAC §330.15 (a)(1) and (a)(2) concerning Municipal Solid Waste General Prohibitions.

Recommended Corrective Action: Submit to the TCEQ El Paso Region Office photos of the exact location where the carcasses were located demonstrating that they have been properly disposed in a TCEQ Permitted and authorized disposal facility. Additionally, provide the detailed versions of the disposal tickets for the disposal of all carcasses found during the investigation and for the carcasses that have since then been accumulated, and lastly, a signed statement from C4 stating that all accumulated carcasses have been disposed of in the Presidio Landfill. Landfill disposal records must indicate the horse chip identification number for verification that the horses on-site during the investigation were properly disposed.

Signed


Environmental Investigator

Date

9/16/11

Signed


Supervisor

Date

9/16/11

Attachments: (in order of final report submittal)

Enforcement Action Request (EAR)

Letter to Facility (specify type) : NOE

Investigation Report

Sample Analysis Results

Manifests

NOR

Maps, Plans, Sketches

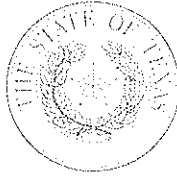
Photographs

Correspondence from the facility

Other (specify) :

Attachments 1-12

Bryan W. Shaw, Ph.D., *Chairman*
Buddy Garcia, *Commissioner*
Carlos Rubinstein, *Commissioner*
Mark R. Vickery, P.G., *Executive Director*



TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

Protecting Texas by Reducing and Preventing Pollution

September 2, 2011

**CERTIFIED MAIL 7007 2680 0001 7170 7551
RETURN RECEIPT REQUESTED**

Mr. William J. Crenan, Director
C4 Cattle, Inc.
4149 County Road 133
Burlington, TX, 76519

Re: Notice of Enforcement for Complaint Investigation at:
C4 Cattle, Inc., 100 Alvarado St., Presidio, Presidio County, TX
Regulated Entity No.: RN106215924

Dear Mr. Crenan:

On June 15, 2011, Ms. Christine Ponce-Diaz of the Texas Commission on Environmental Quality (TCEQ) El Paso Region Office conducted an investigation of the above-referenced regulated entity to evaluate compliance with applicable requirements for municipal solid waste, used oil, and storm water. During this investigation, certain outstanding alleged violations were documented. Enclosed is a summary which lists the investigation findings.

In the listing of the alleged violations, we have cited applicable requirements, including TCEQ rules. Please note that both the rules themselves and the agency brochure entitled *Obtaining TCEQ Rules (GI 032)* are located on our agency website at <http://www.tceq.state.tx.us> for your reference. If you would like a hard copy of this brochure mailed to you, you may call and request one from either the El Paso Region Office at (915) 834-4949 or the Central Office Publications Ordering Team at (512) 239-0028. Copies of applicable federal regulations may be obtained by calling Environmental Protection Agency's Publications at 800-490-9198.

One or more of the violations documented during the subject investigation includes unauthorized activity and you are hereby advised that continued operation is not authorized.

Also, please be advised that the Legislature has granted enforcement powers to the TCEQ to carry out its mission to protect human health and the environment. Due to the apparent seriousness of the alleged violations, formal enforcement action has been initiated, and additional violations may be cited upon further review. We encourage you to immediately begin taking actions to address the outstanding alleged violations.

In responding with prompt corrective action, the administrative penalty to be assessed may be limited.

TCEQ Region 6 • 401 E. Franklin Ave., Ste. 560 • El Paso, Texas 79901-1212 • 915-834-4949 • Fax 915-834-4940

Austin Headquarters: 512-239-1000 • www.tceq.state.tx.us • How is our customer service? www.tceq.state.tx.us/goto/customersurvey

printed on recycled paper using soy-based ink

Mr. Crenan, Director
September 2, 2011
Page 2

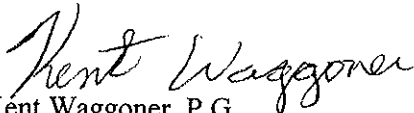
The Commission recognizes that the great majority of the regulated community wants to prevent pollution and to comply with environmental laws. We dedicate considerable resources toward making voluntary compliance achievable. But where compliance has not been met it is our duty to protect the public and the environment by enforcing the state's environmental laws, regulations, and permits.

Also, if you believe the violations documented in this notice have been cited in error, **and** you have additional information that we are unaware of, you may request a meeting to discuss this enforcement matter. To request a meeting, send a letter describing the additional information to the address shown below.

Manager, Water/Waste Section
Enforcement Division, MC 219
Re: Enforcement Meeting Request
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

If you or members of your staff have any questions, please feel free to contact Ms. Ponce-Diaz in the El Paso Region Office at (915) 834-4959.

Sincerely,


Kent Waggoner, P.G.
Section Manager
El Paso Region Office

KW/cpd

cc: Mr. Manuel Molinar, Operator
C4 Cattle, Inc.
PO Box 278
Presidio, TX, 79845

Enclosures: Summary of Investigation Findings

Summary of Investigation Findings

ALVARADO CATTLE PENS

Investigation # 933240

Investigation Date: 06/15/2011

, PRESIDIO COUNTY,

Additional ID(s): TXG920505
WQ0001334000

OUTSTANDING ALLEGED VIOLATION(S) ASSOCIATED TO A NOTICE OF ENFORCEMENT

Track No: 419388 Compliance Due Date: To Be Determined
30 TAC Chapter 321.36(i)(2)

Alleged Violation:

Investigation: 872212

Comment Date: 12/10/2010

Failure to maintain the required mortality management records for the Alvarado Pens as required by the General CAFO Permit No. TXG920505 and 30 TAC §321.36 (i)(2).

Investigation: 933240

Comment Date: 9/2/2011

Failure to maintain the required mortality management records for the Alvarado Pens as required by the General CAFO Permit No. TXG920505 and 30 TAC §321.36 (i)(2).

Recommended Corrective Action: Create a detailed mortality management plan, keep a copy on-site at C4 Cattle, Inc. operations, and provide a copy to the TCEQ El Paso Region Office of such plan. The plan shall include but is not limited to the date of death for each horse or other livestock, the cause of death, identification chip number of each horse that dies along with the corresponding disposal ticket from an authorized disposal facility. The disposal ticket shall include the details on the horse identification number and the date received.

Track No: 445860 Compliance Due Date: To Be Determined
30 TAC Chapter 321.36(i)

Alleged Violation:

Investigation: 933240

Comment Date: 9/2/2011

Failure to properly dispose of animal carcasses as required by 30 TAC §321.36 (i) concerning CAFO rules.

Recommended Corrective Action: Submit to the TCEQ El Paso Region Office photos of the exact location where the carcasses were located demonstrating that they have been properly disposed in a TCEQ Permitted and authorized disposal facility. Additionally, provide the detailed versions of the disposal tickets for the disposal of all carcasses found during the investigation and for the carcasses that have since then been accumulated, and lastly, a signed statement from C4 stating that all accumulated carcasses have been disposed of in the Presidio Landfill. Landfill disposal records must indicate the horse chip identification number for verification that the horses on-site during the investigation were properly disposed.

Track No: 445865 Compliance Due Date: To Be Determined
30 TAC Chapter 321.33

Alleged Violation:

Failure to obtain the required permit as required by 30 TAC §321.33. All concentrated animal feeding operations (CAFOs) are point sources that require owners and operators to seek and obtain authorization under a water quality general permit or individual permit.

Recommended Corrective Action: C4 Cattle, Inc., shall obtain the appropriate CAFO authorization as required by 30 TAC §321.33. The authorization shall be kept on-site at C4 Cattle, Inc., operations, and a copy shall be provided to the TCEQ El Paso Region office.

Track No: 445934**Compliance Due Date:** To Be Determined**30 TAC Chapter 330.15(a)(1)****30 TAC Chapter 330.15(a)(2)****Alleged Violation:**

Investigation: 933240

Comment Date: 9/2/2011

Failure to dispose of animal carcasses at an authorized municipal solid waste facility and failure to comply with 30 TAC §330.15 (a)(1) and (a)(2) concerning Municipal Solid Waste General Prohibitions.

Recommended Corrective Action: Submit to the TCEQ El Paso Region Office photos of the exact location where the carcasses were located demonstrating that they have been properly disposed in a TCEQ Permitted and authorized disposal facility. Additionally, provide the detailed versions of the disposal tickets for the disposal of all carcasses found during the investigation and for the carcasses that have since then been accumulated, and lastly, a signed statement from C4 stating that all accumulated carcasses have been disposed of in the Presidio Landfill. Landfill disposal records must indicate the horse chip identification number for verification that the horses on-site during the investigation were properly disposed.

TCEQ

Region 6 - El Paso



Attachment # 1
Investigation # 933240
C4 Cattle, Inc.
Aerial Photos and Video
RN 102182805

Total Number of Pages: 12

Date of Investigation: June 15, 2011