

EXECUTIVE SUMMARY - ENFORCEMENT MATTER

DOCKET NO.: 2007-0508-AGR-E **TCEQ ID:** RN102708096 **CASE NO.:** 33103

RESPONDENT NAME: Nancy Lea Huckabee and Linda Dianne Griffith dba Huckabee Dairy

ORDER TYPE:		
<input checked="" type="checkbox"/> 1660 AGREED ORDER	<input type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING
<input type="checkbox"/> FINDINGS DEFAULT ORDER	<input type="checkbox"/> SHUTDOWN ORDER	<input type="checkbox"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
<input type="checkbox"/> AMENDED ORDER	<input type="checkbox"/> EMERGENCY ORDER	
CASE TYPE:		
<input type="checkbox"/> AIR	<input type="checkbox"/> MULTI-MEDIA (check all that apply)	<input type="checkbox"/> INDUSTRIAL AND HAZARDOUS WASTE
<input type="checkbox"/> PUBLIC WATER SUPPLY	<input type="checkbox"/> PETROLEUM STORAGE TANKS	<input type="checkbox"/> OCCUPATIONAL CERTIFICATION
<input checked="" type="checkbox"/> WATER QUALITY	<input type="checkbox"/> SEWAGE SLUDGE	<input type="checkbox"/> UNDERGROUND INJECTION CONTROL
<input type="checkbox"/> MUNICIPAL SOLID WASTE	<input type="checkbox"/> RADIOACTIVE WASTE	<input type="checkbox"/> DRY CLEANER REGISTRATION
<p>SITE WHERE VIOLATION(S) OCCURRED: Huckabee Dairy, located on the east side of Farm-to-Market Road 219 at the intersection of County Road 120 and Farm-to-Market Road 219, Hamilton County</p> <p>TYPE OF OPERATION: Dairy</p> <p>SMALL BUSINESS: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>OTHER SIGNIFICANT MATTERS: There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.</p> <p>INTERESTED PARTIES: No one other than the ED and the Respondent has expressed an interest in this matter.</p> <p>COMMENTS RECEIVED: The <i>Texas Register</i> comment period expired on July 16, 2007. No comments were received.</p> <p>CONTACTS AND MAILING LIST: TCEQ Attorney/SEP Coordinator: None TCEQ Enforcement Coordinator: Ms. Lynley Doyen, Enforcement Division, Enforcement Team 1, MC 169, (512) 239-1364; Mr. David Van Soest, Enforcement Division, MC 219, (512) 239-0468 Respondent: Ms. Nancy Lea Huckabee, Owner, Huckabee Dairy, 1644 County Road 195, Dublin, Texas 76446 Ms. Linda Dianne Griffith, Owner, Huckabee Dairy, 10014 North 118th Terrace, Apartment 10, Overland Park, Kansas 66210 Respondent's Attorney: Not represented by counsel on this enforcement matter</p>		

VIOLATION SUMMARY CHART:

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p>Type of Investigation: <input type="checkbox"/> Complaint <input checked="" type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input type="checkbox"/> Records Review</p> <p>Date(s) of Complaints Relating to this Case: None</p> <p>Date of Investigation Relating to this Case: February 8, 2007</p> <p>Date of NOE Relating to this Case: February 27, 2007 (NOE)</p> <p>Background Facts: This was a routine investigation. Two violations were documented</p> <p>WATER</p> <p>1) Failure to develop and operate under a comprehensive nutrient management plan ("CNMP") certified by the Texas State Soil and Water Conservation Board ("TSSWCB") [30 Tex. Admin. Code § 321.42(s)].</p> <p>2) Failure to design, construct, and operate waste control facilities to manage contaminated rainfall runoff from open lots and associated areas. Specifically, a feeding area in a pen on the southeast side of the Facility had an accumulation of manure. The pen is uncontained and drains to an intermittent creek below Retention Control Structure No. 2 [30 Tex. Admin. Code § 321.40(1) and Texas Pollutant Discharge Elimination System Registration No. WQ0003699000, Section V. Conditions of the Registration].</p>	<p>Total Assessed: \$2,225</p> <p>Total Deferred: \$445 <input checked="" type="checkbox"/> Expedited Settlement <input type="checkbox"/> Financial Inability to Pay</p> <p>SEP Conditional Offset: \$0</p> <p>Total Paid to General Revenue: \$1,780</p> <p>Site Compliance History Classification <input checked="" type="checkbox"/> High <input type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Person Compliance History Classification <input checked="" type="checkbox"/> High <input type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Major Source: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>Applicable Penalty Policy: September 2002</p>	<p>Corrective Actions Taken:</p> <p>1) The Executive Director recognizes that on February 21, 2007, Ms. Huckabee and Ms. Griffith removed the accumulated manure and feeding equipment from the pen on the southeast side of the Facility.</p> <p>Ordering Provisions:</p> <p>2) The Order will require the Respondent to:</p> <p>a. Within 30 days after the effective date of this Agreed Order, submit a CNMP for review and approval;</p> <p>b. Respond completely and adequately, as determined by the TSSWCB, to all requests for information concerning the CNMP within 30 days after the date of such requests or by any other deadline specified in writing;</p> <p>c. Within 45 days after the effective date of this Agreed Order, submit certification of compliance with Ordering Provision No. 2.a.; and</p> <p>d. Within 120 days after the effective date of this Agreed Order, submit certification of compliance that the Facility has developed and is operating under a CNMP certified by the TSSWCB. The certification shall include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with this Ordering Provision.</p>



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision January 9, 2007

TCEQ

DATES	Assigned	5-Mar-2007	Screening	30-Mar-2007	EPA Due	
	PCW	30-Mar-2007				

RESPONDENT/FACILITY INFORMATION			
Respondent	Nancy Lea Huckabee and Linda Dianne Griffith dba Huckabee Dairy		
Reg. Ent. Ref. No.	RN102708096		
Facility/Site Region	4-Stephenville	Major/Minor Source	Minor

CASE INFORMATION			
Enf./Case ID No.	33103	No. of Violations	2
Docket No.	2007-0508-AGR-E	Order Type	1660
Media Program(s)	Water Quality	Enf. Coordinator	Lynley Doyen
Multi-Media		EC's Team	EnforcementTeam 1
Admin. Penalty \$	Limit Minimum	\$0	Maximum
			\$10,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)	Subtotal 1	\$2,500
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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	-11% Enhancement	Subtotals 2, 3, & 7	-\$275
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Notes The penalty is reduced for high performer classification and one notice of intent to conduct a self-audit.

Culpability	No	0% Enhancement	Subtotal 4	\$0
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Notes The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply	0% Reduction	Subtotal 5	\$0
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	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary		
N/A	X	(mark with x)

Notes The Respondent does not meet the good faith criteria.

Total EB Amounts	\$701	0% Enhancement*	Subtotal 6	\$0
Approx. Cost of Compliance	\$10,500	*Capped at the Total EB \$ Amount		

SUM OF SUBTOTALS 1-7	Final Subtotal	\$2,225
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OTHER FACTORS AS JUSTICE MAY REQUIRE		Adjustment	\$0
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Reduces or enhances the Final Subtotal by the indicated percentage. (Enter number only; e.g. -30 for -30%.)

Notes

Final Penalty Amount	\$2,225
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$2,225
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DEFERRAL	20% Reduction	Adjustment	-\$445
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Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes

Deferral offered for expedited settlement.

PAYABLE PENALTY	\$1,780
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Screening Date 30-Mar-2007

Docket No. 2007-0508-AGR-E

PCW

Respondent Nancy Lea Huckabee and Linda Dianne Griffith dba Huck

Policy Revision 2 (September 2002)

Case ID No. 33103

PCW Revision January 9, 2007

Reg. Ent. Reference No. RN102708096

Media [Statute] Water Quality

Enf. Coordinator Lynley Doyen

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written NOVs with same or similar violations as those in the current enforcement action (number of NOVs meeting criteria)	0	0%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (number of judgments or consent decrees meeting criteria)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (number of counts)	0	0%
Emissions	Chronic excessive emissions events (number of events)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which notices were submitted)	1	-1%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which violations were disclosed)	0	0%

Please Enter Yes or No

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) -1%

>> 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

The penalty is reduced for high performer classification and one notice of Intent to conduct a self-audit.

Total Adjustment Percentage (Subtotals 2, 3, & 7) -11%

Screening Date 30-Mar-2007

Docket No. 2007-0508-AGR-E

PCW

Respondent Nancy Lea Huckabee and Linda Dianne Griffith dba Huckabee D:

Policy Revision 2 (September 2002)

Case ID No. 33103

PCW Revision January 9, 2007

Reg. Ent. Reference No. RN102708096

Media [Statute] Water Quality

Enf. Coordinator Lynley Doyen

Violation Number 1

Rule Cite(s)

30 Tex. Admin. Code § 321.42(s)

Violation Description

Failed to develop and operate under a comprehensive nutrient management plan ("CNMP") certified by the Texas State Soil and Water Conservation Board ("TSSWCB").

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential			

Percent 0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor
	x		

Percent 10%

Matrix Notes

100% of the rule requirement was not met.

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events 2

50 Number of violation days

mark only one with an x

daily	
monthly	x
quarterly	
semiannual	
annual	
single event	

Violation Base Penalty \$2,000

Two monthly events are recommended based on the investigation date (February 8, 2007) through the date of screening (March 30, 2007).

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$700

Violation Final Penalty Total \$1,780

This violation Final Assessed Penalty (adjusted for limits) \$1,780

Economic Benefit Worksheet

Respondent: Nancy Lea Huckabee and Linda Dianne Griffith dba Huckabee Dairy
Case ID No.: 33103
Reg. Ent. Reference No.: RN102708096
Media: Water Quality
Violation No.: 1

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)	\$10,000	31-Dec-2006	31-Dec-2007	1.0	\$33	\$667	\$700
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to develop and implement a comprehensive nutrient management plan. Date required is the date the plan was required to be developed and implemented. Final date is the expected date of compliance.

Avoided Costs

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

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$10,000

TOTAL

\$700

Screening Date 30-Mar-2007

Docket No. 2007-0508-AGR-E

PCW

Respondent Nancy Lea Huckabee and Linda Dianne Griffith dba Huckabee Dai

Policy Revision 2 (September 2002)

Case ID No. 33103

PCW Revision January 9, 2007

Reg. Ent. Reference No. RN102708096

Media [Statute] Water Quality

Enf. Coordinator Lynley Doyen

Violation Number 2

Rule Cite(s)

30 Tex. Admin. Code § 321.40(1) and Texas Pollutant Discharge Elimination System Registration No. WQ0003699000, Section V. Conditions of the Registration

Violation Description

Failed to design, construct, and operate waste control facilities to manage contaminated rainfall runoff from open lots and associated areas. Specifically, a feeding area in a pen on the southeast side of the Facility had an accumulation of manure. The pen is uncontained and drains to an intermittent creek below Retention Control Structure No. 2.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential			X

Percent 5%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0%

Matrix Notes

Failure to properly manage waste control facilities may expose human health or the environment to insignificant amounts of pollutants.

Adjustment \$9,500

\$500

Violation Events

Number of Violation Events 1

13 Number of violation days

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

Violation Base Penalty \$500

One single event is recommended based on documentation of the violation during the February 8, 2007 investigation.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$1

Violation Final Penalty Total \$445

This violation Final Assessed Penalty (adjusted for limits) \$445

Economic Benefit Worksheet

Respondent: Nancy Lea Huckabee and Linda Dianne Griffith dba Huckabee Dairy
Case ID No.: 33103
Reg. Ent. Reference No.: RN102708096
Media: Water Quality
Violation No.: 2

Percent Interest	Years of Depreciation
5.0	15

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

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)	\$500	8-Feb-2007	21-Feb-2007	0.0	\$0	\$1	\$1
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to remove accumulated manure and feeding equipment from the pen. Date required is the investigation date. Final date is the date of compliance.

Avoided Costs

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

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$500

TOTAL

\$1

Compliance History

Customer/Respondent/Owner-Operator: CN602931388 GRIFFITH, LINDA DIANNE Classification: HIGH Rating: 0.00
Regulated Entity: RN102708096 HUCKABEE DAIRY Classification: HIGH Site Rating: 0.00
ID Number(s): WASTEWATER AGRICULTURE PERMIT WQ0003699000
Location: LOCATED ON THE E SIDE OF FM 219 AT THE INTX
CR 120 AND FM 219, HAMILTON CO, TX
TCEQ Region: REGION 09 - WACO
Date Compliance History Prepared: March 30, 2007
Agency Decision Requiring Compliance History: Enforcement
Compliance Period: March 30, 2002 to March 30, 2007
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History
Name: Lynley Doyen Phone: 512-239-1364

Site Compliance History Components

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

Components (Multimedia) for the Site :

- A. Final Enforcement Orders, court judgements, and consent decrees of the state of Texas and the federal government.
N/A
- B. Any criminal convictions of the state of Texas and the federal government.
N/A
- C. Chronic excessive emissions events.
N/A
- D. The approval dates of investigations. (CCEDS Inv. Track. No.)
1 08/12/2002 (7261)
2 08/04/2003 (147772)
3 08/05/2004 (284229)
4 08/04/2006 (490039)
5 02/27/2007 (535694)
- E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)
- F. Environmental audits.

Notice of Intent Date: 03/16/2005 (376243)
No DOV Associated

- G. Type of environmental management systems (EMSs).
N/A
- H. Voluntary on-site compliance assessment dates.
N/A
- I. Participation in a voluntary pollution reduction program.
N/A
- J. Early compliance.
N/A

Sites Outside of Texas

N/A

Compliance History

Customer/Respondent/Owner-Operator: CN602931370 HUCKABEE, NANCY LEA Classification: HIGH Rating: 0.00
Regulated Entity: RN102708096 HUCKABEE DAIRY Classification: HIGH Site Rating: 0.00
ID Number(s): WASTEWATER AGRICULTURE PERMIT WQ0003699000
Location: LOCATED ON THE E SIDE OF FM 219 AT THE INTX
CR 120 AND FM 219, HAMILTON CO, TX
TCEQ Region: REGION 09 - WACO
Date Compliance History Prepared: March 30, 2007
Agency Decision Requiring Compliance History: Enforcement
Compliance Period: March 30, 2002 to March 30, 2007
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History
Name: Lynley Doyen Phone: 512-239-1364

Site Compliance History Components

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

Components (Multimedia) for the Site :

- A. Final Enforcement Orders, court judgements, and consent decrees of the state of Texas and the federal government.
N/A
- B. Any criminal convictions of the state of Texas and the federal government.
N/A
- C. Chronic excessive emissions events.
N/A
- D. The approval dates of investigations. (CCEDS Inv. Track. No.)
1 08/12/2002 (7261)
2 08/04/2003 (147772)
3 08/05/2004 (284229)
4 08/04/2006 (490039)
5 02/27/2007 (535694)
- E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)
- F. Environmental audits.
Notice of Intent Date: 03/16/2005 (376243)
No DOV Associated
- 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
NANCY LEA HUCKABEE AND
LINDA DIANNE GRIFFITH DBA
HUCKABEE DAIRY
RN102708096**

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**BEFORE THE

TEXAS COMMISSION ON

ENVIRONMENTAL QUALITY**

AGREED ORDER DOCKET NO. 2007-0508-AGR-E

I. JURISDICTION AND STIPULATIONS

At its _____ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding Nancy Lea Huckabee and Linda Dianne Griffith dba Huckabee Dairy ("Ms. Huckabee and Ms. Griffith") under the authority of TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, through the Enforcement Division, and Ms. Huckabee and Ms. Griffith appear before the Commission and together stipulate that:

1. Ms. Huckabee and Ms. Griffith own a dairy located on the east side of Farm-to-Market Road 219 at the intersection of County Road 120 and Farm-to-Market Road 219 in Hamilton County, Texas (the "Facility").
2. Ms. Huckabee and Ms. Griffith have caused, suffered, allowed or permitted the discharge of any waste or the performance of any activity in violation of TEX. WATER CODE ch. 26 or any rule, permit, or order of the Commission.
3. The Commission and Ms. Huckabee and Ms. Griffith agree that the Commission has jurisdiction to enter this Agreed Order, and that Ms. Huckabee and Ms. Griffith are subject to the Commission's jurisdiction.
4. Ms. Huckabee and Ms. Griffith received notice of the violations alleged in Section II ("Allegations") on or about March 4, 2007.

5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by Ms. Huckabee and Ms. Griffith of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
6. An administrative penalty in the amount of Two Thousand Two Hundred Twenty-Five Dollars (\$2,225) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). Ms. Huckabee and Ms. Griffith have paid One Thousand Seven Hundred Eighty Dollars (\$1,780) of the administrative penalty and Four Hundred Forty-Five Dollars (\$445) is deferred contingent upon Ms. Huckabee's and Ms. Griffith's timely and satisfactory compliance with all the terms of this Agreed Order. The deferred amount will be waived upon full compliance with the terms of this Agreed Order. If Ms. Huckabee and Ms. Griffith fail to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require Ms. Huckabee and Ms. Griffith to pay all or part of the deferred penalty.
7. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.
8. The Executive Director of the TCEQ and Ms. Huckabee and Ms. Griffith have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
9. The Executive Director recognizes that on February 21, 2007, Ms. Huckabee and Ms. Griffith removed the accumulated manure and feeding equipment from the pen on the southeast side of the Facility.
10. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that Ms. Huckabee and Ms. Griffith have not complied with one or more of the terms or conditions in this Agreed Order.
11. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
12. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

II. ALLEGATIONS

As owners of the Facility, Ms. Huckabee and Ms. Griffith are alleged to have:

1. Failed to develop and operate under a comprehensive nutrient management plan ("CNMP") certified by the Texas State Soil and Water Conservation Board ("TSSWCB"), in violation of 30 TEX. ADMIN. CODE § 321.42(s), as documented during an investigation conducted on February 8, 2007.

2. Failed to design, construct, and operate waste control facilities to manage contaminated rainfall runoff from open lots and associated areas, in violation of 30 TEX. ADMIN. CODE § 321.40(1) and Texas Pollutant Discharge Elimination System Registration No. WQ0003699000, Section V. Conditions of the Registration, as documented during an investigation conducted on February 8, 2007. Specifically, a feeding area in a pen on the southeast side of the Facility had an accumulation of manure. The pen is uncontained and drains to an intermittent creek below Retention Control Structure No. 2.

III. DENIALS

Ms. Huckabee and Ms. Griffith generally deny each allegation in Section II ("Allegations").

IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that Ms. Huckabee and Ms. Griffith pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and Ms. Huckabee's and Ms. Griffith's compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective action or penalties for violations, which are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: Nancy Lea Huckabee and Linda Dianne Griffith dba Huckabee Dairy, Docket No. 2007-0508-AGR-E" to:

Financial Administration Division, Revenues Section
Attention: Cashier's Office, MC 214
Texas Commission on Environmental Quality
P.O. Box 13088
Austin, Texas 78711-3088
2. Ms. Huckabee and Ms. Griffith are jointly and severally liable for the violations documented in this Agreed Order, and are jointly and severally liable for timely and satisfactory compliance with all terms and conditions of this Agreed Order.
3. It is further ordered that Ms. Huckabee and Ms. Griffith shall undertake the following technical requirements:
 - a. Within 30 days after the effective date of this Agreed Order, submit a CNMP for review and approval to:

Texas State Soil and Water Conservation Board
Attn: Mr. Joe Ballard
611 East Blackjack
Dublin, Texas 76446

- b. Respond completely and adequately, as determined by the TSSWCB, to all requests for information concerning the CNMP within 30 days after the date of such requests or by any other deadline specified in writing;
- c. Within 45 days after the effective date of this Agreed Order, submit certification of compliance with Ordering Provision No. 2.a. to the addresses referenced in Ordering Provision No. 2.d. below; and
- d. Within 120 days after the effective date of this Agreed Order, submit certification of compliance that the Facility has developed and is operating under a CNMP certified by the TSSWCB. The certification shall include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with this Ordering Provision. The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

The certification shall be submitted to:

Order Compliance Team
Enforcement Division, MC 149A
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

with a copy to:

Water Section, Manager
Dallas/Fort Worth Regional Office
Texas Commission on Environmental Quality
2309 Gravel Drive
Fort Worth, Texas 76118-6951

4. The provisions of this Agreed Order shall apply to and be binding upon Ms. Huckabee and Ms. Griffith. Ms. Huckabee and Ms. Griffith are ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
5. If Ms. Huckabee and Ms. Griffith fail to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, Ms. Huckabee's and Ms. Griffith's failure to comply is not a

- violation of this Agreed Order. Ms. Huckabee and Ms. Griffith shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. Ms. Huckabee and Ms. Griffith shall notify the Executive Director within seven days after Ms. Huckabee and Ms. Griffith become 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 Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by Ms. Huckabee and Ms. Griffith shall be made in writing to the Executive Director. Extensions are not effective until Ms. Huckabee and Ms. Griffith receive written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
 7. This Agreed Order, issued by the Commission, shall not be admissible against Ms. Huckabee and Ms. Griffith in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
 8. This agreement may be executed in multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreement may be transmitted by facsimile transmission to the other parties, which shall constitute an original signature for all purposes.
 9. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to Ms. Huckabee and Ms. Griffith, or three days after the date on which the Commission mails notice of the Order to Ms. Huckabee and Ms. Griffith, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission



For the Executive Director

Date 10/3/07

I, the undersigned, have read and understand the attached Agreed Order. I am authorized to agree to the attached Agreed Order on behalf of the entity indicated below my signature, and I do agree to the terms and conditions specified therein. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I also understand that failure to comply with the Ordering Provisions, if any, in this order and/or failure to timely pay the penalty amount, may result in:

- A negative impact on compliance history;
- Greater scrutiny of any permit applications submitted;
- Referral of this case to the Attorney General's Office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions;
- Automatic referral to the Attorney General's Office of any future enforcement actions; and
- TCEQ seeking other relief as authorized by law.

In addition, any falsification of any compliance documents may result in criminal prosecution.

^{Lea}


Signature

Date 9/11/07

NANCY LEA HUCKABEE
Name (Printed or typed)
Authorized Representative of
Nancy Lea Huckabee dba Huckabee Dairy

Title OWNER

Instructions: Send the original, signed Agreed Order with penalty payment to the Financial Administration Division, Revenues Section at the address in Section IV, Paragraph 1 of this Agreed Order.

Nancy Lea Huckabee and Linda Dianne Griffith dba Huckabee Dairy
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SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

John Sredlin
For the Executive Director

10/16/07
Date

I, the undersigned, have read and understand the attached Agreed Order. I am authorized to agree to the attached Agreed Order on behalf of the entity indicated below my signature, and I do agree to the terms and conditions specified therein. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I also understand that failure to comply with the Ordering Provisions, if any, in this order and/or failure to timely pay the penalty amount, may result in:

- A negative impact on compliance history;
- Greater scrutiny of any permit applications submitted;
- Referral of this case to the Attorney General's Office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions;
- Automatic referral to the Attorney General's Office of any future enforcement actions; and
- TCEQ seeking other relief as authorized by law.

In addition, any falsification of any compliance documents may result in criminal prosecution.

Linda Dianne Griffith
Signature

10/15/07
Date

LINDA DIANNE GRIFFITH
Name (Printed or typed)
Authorized Representative of
Linda Dianne Griffith dba Huckabee Dairy

OWNER
Title

Instructions: Send the original, signed Agreed Order with penalty payment to the Financial Administration Division, Revenues Section at the address in Section IV, Paragraph 1 of this Agreed Order.

