

**EXECUTIVE SUMMARY - ENFORCEMENT MATTER**

**DOCKET NO.:** 2009-0724-AGR-E **TCEQ ID:** RN102336807 and RN102286325 **CASE NO.:** 37621

**RESPONDENT NAME:** Tjitte Tuinier dba Allrounder Dairy and Allrounder Dairy 2

<b>ORDER TYPE:</b>		
<input checked="" type="checkbox"/> <b>1660 AGREED ORDER</b>	<input type="checkbox"/> <b>FINDINGS AGREED ORDER</b>	<input type="checkbox"/> <b>FINDINGS ORDER FOLLOWING SOAH HEARING</b>
<input type="checkbox"/> <b>FINDINGS DEFAULT ORDER</b>	<input type="checkbox"/> <b>SHUTDOWN ORDER</b>	<input type="checkbox"/> <b>IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER</b>
<input type="checkbox"/> <b>AMENDED ORDER</b>	<input type="checkbox"/> <b>EMERGENCY ORDER</b>	
<b>CASE TYPE:</b>		
<input type="checkbox"/> <b>AIR</b>	<input type="checkbox"/> <b>MULTI-MEDIA (check all that apply)</b>	<input type="checkbox"/> <b>INDUSTRIAL AND HAZARDOUS WASTE</b>
<input type="checkbox"/> <b>PUBLIC WATER SUPPLY</b>	<input type="checkbox"/> <b>PETROLEUM STORAGE TANKS</b>	<input type="checkbox"/> <b>OCCUPATIONAL CERTIFICATION</b>
<input checked="" type="checkbox"/> <b>WATER QUALITY</b>	<input type="checkbox"/> <b>SEWAGE SLUDGE</b>	<input type="checkbox"/> <b>UNDERGROUND INJECTION CONTROL</b>
<input type="checkbox"/> <b>MUNICIPAL SOLID WASTE</b>	<input type="checkbox"/> <b>RADIOACTIVE WASTE</b>	<input type="checkbox"/> <b>DRY CLEANER REGISTRATION</b>
<p><b>SITE WHERE VIOLATION(S) OCCURRED:</b> Allrounder Dairy, located on the south side of County Road ("CR") 3310, Hopkins County ("Facility 1") and Allrounder Dairy 2, located southwest of the intersection of CR 3378 and CR 3385, Hopkins County ("Facility 2")</p> <p><b>TYPE OF OPERATION:</b> Dairy operations</p> <p><b>SMALL BUSINESS:</b> <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p><b>OTHER SIGNIFICANT MATTERS:</b> A complaint was received on September 24, 2008, alleging that both sites were allowing discharges, causing excessive flies, manure on roads, and strong offensive odors. There is no record of additional pending enforcement actions regarding this facility location.</p> <p><b>INTERESTED PARTIES:</b> A complaint was received, but the complainant has not expressed a desire to protest this action or to speak at Agenda.</p> <p><b>COMMENTS RECEIVED:</b> The <i>Texas Register</i> comment period expired on November 9, 2009. No comments were received.</p> <p><b>CONTACTS AND MAILING LIST:</b>  <b>TCEQ Attorney/SEP Coordinator:</b> None  <b>TCEQ Enforcement Coordinator:</b> Ms. Evette Alvarado, Enforcement Division, Enforcement Team 1, MC 169, (512) 239-2573; Ms. Cari-Michel La Caille, Enforcement Division, MC 219, (512) 239-1387  <b>Respondent:</b> Mr. Tjitte Tuinier, Owner, Allrounder Dairy and Allrounder Dairy 2, 1160 County Road 3310, Pickton, Texas 75471  <b>Respondent's Attorney:</b> Not represented by counsel on this enforcement matter</p>		

VIOLATION SUMMARY CHART:		
VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p><b>Type of Investigation:</b>  <input checked="" type="checkbox"/> Complaint  <input type="checkbox"/> Routine  <input type="checkbox"/> Enforcement Follow-up  <input type="checkbox"/> Records Review</p> <p><b>Date(s) of Complaints Relating to this Case:</b> September 24, 2008</p> <p><b>Date of Investigation Relating to this Case:</b> October 1, 2008</p> <p><b>Date of NOV/NOE Relating to this Case:</b> April 24, 2009 (NOE)</p> <p><b>Background Facts:</b> This was a complaint investigation.</p> <p><b>WATER</b></p> <p>1) Failure to properly dispose of carcasses. Specifically, cattle carcasses were observed outside the carcass burial site [30 TEX. ADMIN. CODE § 321.36(l) and Texas Pollutant Discharge Elimination System ("TPDES") Concentrated Animal Feeding Operations ("CAFO") General Permit Nos. TXG920121 and TXG920952 Part III.A.10.(c)].</p> <p>2) Failure to update Facility maps. Specifically, the Facility 1 map did not include the total number of land management units ("LMUs"), the current number of retention control structures ("RCSs") or cooling ponds, the location of dead animal disposal, or water wells and the required buffer distance for water wells, and the Facility 2 map did not include boundaries, compost areas, LMUs, control facilities, wells, manure storage areas, and burial sites [30 TEX. ADMIN. CODE § 321.46(a)(7)(A) and TPDES CAFO General Permit Nos. TXG920121 and TXG920952 Part III.A.2.(a)].</p> <p>3) Failure to revise the Pollution Prevention Plan ("PPP"). Specifically, the PPP was not revised to reflect changes in the number of animals at Facility 1, changes in the number of LMUs at Facility 1, or changes that could effect the potential for discharge to water in the state at</p>	<p><b>Total Assessed:</b> \$15,083</p> <p><b>Total Deferred:</b> \$3,016  <input checked="" type="checkbox"/> Expedited Settlement  <input type="checkbox"/> Financial Inability to Pay</p> <p><b>SEP Conditional Offset:</b> \$0</p> <p><b>Total Paid (Due) to General Revenue:</b> \$367 (remaining \$11,700 due in 36 monthly payments of \$325 each)</p> <p>RN102286325 and RN102336807  <b>Site Compliance History Classification</b>  <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p><b>Person Compliance History Classification</b>  <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p><b>Major Source:</b> <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p><b>Applicable Penalty Policy:</b> September 2002</p>	<p><b>Corrective Actions Taken:</b></p> <p>The Executive Director recognizes that the Respondent has implemented the following corrective measures at the Facilities:</p> <p>a. By November 17, 2008, submitted an updated Facility map and PPP for Facility 1;</p> <p>b. By December 31, 2008, ensured that records of annual soil analyses and weekly wastewater levels observed in the RCS were available on site for Facility 1, and that records of weekly wastewater levels observed in the RCS were available on site for Facility 2; and</p> <p>c. By May 21, 2009, submitted an updated Facility map and PPP for Facility 2.</p> <p><b>Ordering Provisions:</b></p> <p>The Order will require the Respondent to:</p> <p>a. Within 30 days after the effective date of this Agreed Order, properly dispose of all dead animal carcasses from Facilities 1 and 2.</p> <p>b. Within 45 days after the effective date of this Agreed Order, submit written certification of compliance with Ordering Provision a.</p> <p>c. Within 90 days after the effective date of this Agreed Order:</p> <p>i. Provide to the TCEQ a plan and schedule of actions that will ensure that all runoff from production areas at Facility 1 drain to the RCS; and</p> <p>ii. Provide to the TCEQ a plan and schedule of actions that will ensure no discharge of wastewater from the RCS and cooling pond system at Facility 2.</p> <p>d. Within 105 days after the effective date of this Agreed Order, submit written certification and include detailed supporting documentation including</p>

DOCKET NO.: 2009-0724-AGR-E

<p>Facilities 1 and 2 [30 TEX. ADMIN. CODE § 321.46(a)(4) and TPDES CAFO General Permit Nos. TXG920121 and TXG920952 Part III.A.1.(b)].</p> <p>4) Failure to maintain on site records of annual soil analysis reports and all weekly wastewater levels observed in the RCS. Specifically, records of soil analyses conducted during 2007 at Facility 1 and the weekly recording of RCS levels at Facilities 1 and 2 were not available on site for review at the time of the investigation [30 TEX. ADMIN. CODE § 321.46(d)(4) and (10), TPDES CAFO General Permit No. TXG920121 Part IV.A.5.(b), and TPDES CAFO General Permit Nos. TXG920121 and TXG920952 Part IV.A.2.(a)].</p> <p>5) Failure to design, construct, operate, and maintain the control structure to contain all manure, litter, and process wastewater, including runoff and precipitation from Facility 1. Specifically, the production area at Facility 1 drains to cooling ponds, which are functioning as RCSs, but are not approved RCSs and do not meet the design standards of the General Permit [30 TEX. ADMIN. CODE §§ 321.36(c) and 321.38(e) and TPDES CAFO General Permit No. TXG920121 Part III.A.6.(b)].</p> <p>6) Failure to prevent the discharge of wastewater from a CAFO production area. Specifically, at Facility 2, the investigator observed a discharge from the RCS into a low lying vegetated area, through a culvert, and into a cooling pond with an overflow pipe. Wastewater was then observed adjacent to the overflow pipe and adjacent to a tributary of Stouts Creek [30 TEX. ADMIN. CODE § 321.37(d), TEX. WATER CODE § 26.121(a)(1), and TPDES CAFO General Permit TXG920952 Part III.A.5(a)].</p>		<p>photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision c.</p>
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Additional ID No(s): TXG920121, TXG920952





# Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

## TCEQ

DATES	Assigned	27-Apr-2009	Screening	11-May-2009	EPA Due	
	PCW	2-Jun-2009				

## RESPONDENT/FACILITY INFORMATION

Respondent	Tjitte Tuinier dba Allrounder Dairy		
Reg. Ent. Ref. No.	RN102286325		
Facility/Site Region	5-Tyler	Major/Minor Source	Minor

## CASE INFORMATION

Enf./Case ID No.	37621	No. of Violations	5
Docket No.	2009-0724-AGR-E	Order Type	1660
Media Program(s)	Water Quality	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Evette Alvarado
		EC's Team	Enforcement Team 1
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$10,000

## Penalty Calculation Section

**TOTAL BASE PENALTY (Sum of violation base penalties)** Subtotal 1

### ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

**Compliance History**  Enhancement Subtotals 2, 3, & 7

Notes

**Culpability**   Enhancement Subtotal 4

Notes

**Good Faith Effort to Comply Total Adjustments** Subtotal 5

**Economic Benefit**  Enhancement\* Subtotal 6

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

**SUM OF SUBTOTALS 1-7** Final Subtotal

**OTHER FACTORS AS JUSTICE MAY REQUIRE**  Adjustment

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes

**Final Penalty Amount**

**STATUTORY LIMIT ADJUSTMENT** Final Assessed Penalty

**DEFERRAL**  Reduction Adjustment

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

Notes

**PAYABLE PENALTY**

Screening Date 11-May-2009

Docket No. 2009-0724-AGR-E

PCW

Respondent Tjitte Tuinier dba Allrounder Dairy

Policy Revision 2 (September 2002)

Case ID No. 37621

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN102286325

Media [Statute] Water Quality

Enf. Coordinator Evette Alvarado

## Compliance History Worksheet

## &gt;&gt; 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)	2	10%
	Other written NOVs	2	4%
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 judgements 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)	0	0%
	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%
<i>Please Enter Yes or No</i>			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 

## &gt;&gt; Repeat Violator (Subtotal 3)

Adjustment Percentage (Subtotal 3) 

## &gt;&gt; Compliance History Person Classification (Subtotal 7)

Adjustment Percentage (Subtotal 7) 

## &gt;&gt; Compliance History Summary

Compliance  
History  
Notes

Enhancement recommended for two NOVs with violations same or similar as those in this action, and two NOVs with unrelated violations.

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

<b>Screening Date</b> 11-May-2009	<b>Docket No.</b> 2009-0724-AGR-E	<b>PCW</b>		
<b>Respondent</b> Tjite Tuinler dba Allrounder Dalry	<small>Policy Revision 2 (September 2002)</small>			
<b>Case ID No.</b> 37621	<small>PCW Revision October 30, 2008</small>			
<b>Reg. Ent. Reference No.</b> RN102286325				
<b>Media [Statute]</b> Water Quality				
<b>Enf. Coordinator</b> Evette Alvarado				
<b>Violation Number</b> 1				
<b>Rule Cite(s)</b>	30 Tex. Admin. Code § 321.38(l) and Texas Pollutant Discharge Elimination System ("TPDES") Concentrated Animal Feeding Operations ("CAFO") General Permit No. TXG920121 Part III.A.10.(c)			
<b>Violation Description</b>	Failed to properly dispose of carcasses, as documented during an investigation on October 1, 2008. Specifically, cattle carcasses were observed outside the carcass burial site.			
<b>Base Penalty</b>		\$10,000		
<b>&gt;&gt; Environmental, Property and Human Health Matrix</b>				
<b>OR</b>	<b>Harm</b>			
	<b>Release</b>	Major	Moderate	Minor
	Actual	<input type="checkbox"/>	<input type="checkbox"/>	X
Potential	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
		<b>Percent</b>	10%	
<b>&gt;&gt; Programmatic Matrix</b>				
<b>Falsification</b>				
Major			Moderate	Minor
<input type="checkbox"/>			<input type="checkbox"/>	<input type="checkbox"/>
		<b>Percent</b>	0%	
<b>Matrix Notes</b>	Human health or the environment has been exposed to insignificant amounts of pollutants which do not exceed protective levels as a result of this violation.			
		<b>Adjustment</b>	\$9,000	
		\$1,000		
<b>Violation Events</b>				
<b>Number of Violation Events</b>		3	<b>Number of violation days</b>	
		222		
<small>mark only one with an x</small>	daily	<input type="checkbox"/>	<b>Violation Base Penalty</b>	
	weekly	<input type="checkbox"/>		
	monthly	<input type="checkbox"/>		
	quarterly	X		
	semiannual	<input type="checkbox"/>		
	annual	<input type="checkbox"/>		
	single event	<input type="checkbox"/>		
Three quarterly events are recommended from the investigation date (October 1, 2008) to the screening date (May 11, 2009).			\$3,000	
<b>Good Faith Efforts to Comply</b>				
		0.0% Reduction	\$0	
		<small>Before NOV    NOV to EDPRP/Settlement Offer</small>		
Extraordinary	<input type="checkbox"/>	<input type="checkbox"/>		
Ordinary	<input type="checkbox"/>	<input type="checkbox"/>		
N/A	X	<small>(mark with x)</small>		
<b>Notes</b>	The Respondent does not meet the good faith criteria for this violation.			
		<b>Violation Subtotal</b>	\$3,000	
<b>Economic Benefit (EB) for this violation</b>		<b>Statutory Limit Test</b>		
<b>Estimated EB Amount</b>		\$306	<b>Violation Final Penalty Total</b>	
			\$3,420	
		<b>This violation Final Assessed Penalty (adjusted for limits)</b>		
		\$3,420		

## Economic Benefit Worksheet

**Respondent** Tjitte Tuinier dba Allrounder Dairy  
**Case ID No.** 37621  
**Reg. Ent. Reference No.** RN102286325  
**Media** Water Quality  
**Violation No.** 1

<b>Percent Interest</b>	<b>Years of Depreciation</b>
5.0	15

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

**Delayed Costs**

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal	\$5,000	1-Oct-2008	22-Dec-2009	1.22	\$306	n/a	\$306
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to properly dispose of dead animal carcasses. Date required is the date of the investigation. Final date is the expected date of compliance.

**Avoided Costs**

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

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$6,000

TOTAL

\$306

<b>Screening Date</b> 11-May-2009	<b>Docket No.</b> 2009-0724-AGR-E	<b>PCW</b>	
<b>Respondent</b> Tjitte Tuinier dba Allrounder Dairy	<small>Policy Revision 2 (September 2002)</small>		
<b>Case ID No.</b> 37621	<small>PCW Revision October 30, 2008</small>		
<b>Reg. Ent. Reference No.</b> RN102286325			
<b>Media [Statute]</b> Water Quality			
<b>Enf. Coordinator</b> Evette Alvarado			
<b>Violation Number</b> 2			
<b>Rule Cite(s)</b>	30 Tex. Admin. Code § 321.46(a)(7)(A) and TPDES CAFO General Permit No. TXG920121 Part III.A.2. (a)		
<b>Violation Description</b>	Failed to update Facility maps, as documented during an investigation on October 1, 2008. Specifically, the Facility map did not include the total number of land management units ("LMUs"), the current number of retention control structures ("RCSs") or cooling ponds, the location of dead animal disposal, or water wells and the required buffer distance for water wells.		
<b>Base Penalty</b>		\$10,000	
<b>&gt;&gt; Environmental, Property and Human Health Matrix</b>			
<b>OR</b>	<b>Harm</b>		
	Major	Moderate	Minor
Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>
Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>
<b>Percent</b>			0%
<b>&gt;&gt; Programmatic Matrix</b>			
<b>Falsification</b>			
Major      Moderate      Minor			
<input type="text"/> <input type="text"/> <input type="text"/> <input checked="" type="text"/>			<b>Percent</b> 1%
<b>Matrix Notes</b>	At least 70% of the rule requirement was met.		
<b>Adjustment</b>			\$9,900
			\$100
<b>Violation Events</b>			
Number of Violation Events <input type="text" value="1"/>		Number of violation days <input type="text" value="47"/>	
<small>mark only one with an x</small>	daily	<input type="text"/>	<b>Violation Base Penalty</b> \$100
	weekly	<input type="text"/>	
	monthly	<input type="text"/>	
	quarterly	<input type="text"/>	
	semiannual	<input type="text"/>	
	annual	<input type="text"/>	
single event	<input checked="" type="text"/>		
One single event is recommended based on documentation of the violation during the October 1, 2008, investigation.			
<b>Good Faith Efforts to Comply</b>			
		<b>25.0%</b> Reduction	\$25
		<small>Before NOV      NOV to EDRP/Settlement Offer</small>	
Extraordinary	<input type="text"/>	<input type="text"/>	
Ordinary	<input checked="" type="text"/>	<input type="text"/>	
N/A	<input type="text"/>	<small>(mark with x)</small>	
<b>Notes:</b>	The Respondent returned to compliance on November 17, 2008.		
<b>Violation Subtotal</b>			\$75
<b>Economic Benefit (EB) for this violation</b>		<b>Statutory Limit Test</b>	
Estimated EB Amount <input type="text" value="\$3"/>		Violation Final Penalty Total <input type="text" value="\$89"/>	
<b>This violation Final Assessed Penalty (adjusted for limits)</b> <input type="text" value="\$89"/>			

## Economic Benefit Worksheet

**Respondent** Tjitte Tuinier dba Allrounder Dairy  
**Case ID No.** 37621  
**Reg. Ent. Reference No.** RN102286325  
**Media** Water Quality  
**Violation No.** 2

<b>Percent Interest</b>	<b>Years of Depreciation</b>
5.0	15

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

**Delayed Costs**

	Item Cost	Date Required	Final Date	Yrs.	Interest Saved	Onetime Costs	EB Amount
Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$400	1-Oct-2008	17-Nov-2008	0.13	\$3	n/a	\$3

Notes for DELAYED costs

Estimated delayed cost to prepare an updated Facility map. Date required is the date of the investigation. Final date is the date compliance was achieved.

**Avoided Costs**

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

	Item Cost	Date Required	Final Date	Yrs.	Interest Saved	Onetime Costs	EB Amount
Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$400

**TOTAL**

\$3

<b>Screening Date</b> 11-May-2009	<b>Docket No.</b> 2009-0724-AGR-E	<b>PCW</b>																			
<b>Respondent</b> Tjtte Tuinier dba Allrounder Dairy	<small>Policy Revision 2 (September 2008) PCW Revision October 30, 2008</small>																				
<b>Case ID No.</b> 37621																					
<b>Reg. Ent. Reference No.</b> RN102286325																					
<b>Media [Statute]</b> Water Quality																					
<b>Enf. Coordinator</b> Evette Alvarado																					
<b>Violation Number</b>	3																				
<b>Rule Cite(s)</b>	30 Tex. Admin. Code § 321.46(a)(4) and TPDES CAFO General Permit No. TXG020121 Part III.A.1.(b)																				
<b>Violation Description</b>	Failed to revise the Pollution Prevention Plan ("PPP"), as documented during an investigation on October 1, 2008. Specifically, the PPP was not revised to reflect changes in the number of animals at the Facility, changes in the number of LMUs, or changes that could affect the potential for discharge to water in the state.																				
<b>Base Penalty</b>		\$10,000																			
<b>&gt;&gt; Environmental, Property and Human Health Matrix</b>																					
OR	<table border="1" style="margin-left: auto; margin-right: auto;"> <tr> <td></td> <td colspan="3" style="text-align: center;">Harm</td> <td></td> </tr> <tr> <td style="text-align: center;">Release</td> <td style="text-align: center;">Major</td> <td style="text-align: center;">Moderate</td> <td style="text-align: center;">Minor</td> <td></td> </tr> <tr> <td style="text-align: center;">Actual</td> <td style="width: 40px;"></td> <td style="width: 40px;"></td> <td style="width: 40px;"></td> <td rowspan="2" style="text-align: right; vertical-align: middle;"><b>Percent</b> <span style="border: 1px solid black; padding: 2px;">0%</span></td> </tr> <tr> <td style="text-align: center;">Potential</td> <td></td> <td></td> <td></td> </tr> </table>		Harm				Release	Major	Moderate	Minor		Actual				<b>Percent</b> <span style="border: 1px solid black; padding: 2px;">0%</span>	Potential				
	Harm																				
Release	Major	Moderate	Minor																		
Actual				<b>Percent</b> <span style="border: 1px solid black; padding: 2px;">0%</span>																	
Potential																					
<b>&gt;&gt; Programmatic Matrix</b>																					
	<table border="1" style="margin-left: auto; margin-right: auto;"> <tr> <td></td> <td style="text-align: center;">Major</td> <td style="text-align: center;">Moderate</td> <td style="text-align: center;">Minor</td> <td></td> </tr> <tr> <td style="text-align: center;">Falsification</td> <td style="width: 40px;"></td> <td style="width: 40px; text-align: center;">x</td> <td style="width: 40px;"></td> <td rowspan="2" style="text-align: right; vertical-align: middle;"><b>Percent</b> <span style="border: 1px solid black; padding: 2px;">5%</span></td> </tr> </table>		Major	Moderate	Minor		Falsification		x		<b>Percent</b> <span style="border: 1px solid black; padding: 2px;">5%</span>										
	Major	Moderate	Minor																		
Falsification		x		<b>Percent</b> <span style="border: 1px solid black; padding: 2px;">5%</span>																	
<b>Matrix Notes</b>	Between 30% and 70% of the rule requirement was met.																				
<b>Adjustment</b>		\$9,500																			
		\$500																			
<b>Violation Events</b>																					
	<table border="1" style="margin-left: auto; margin-right: auto;"> <tr> <td style="text-align: right;">Number of Violation Events</td> <td style="width: 40px; text-align: center;">1</td> <td style="width: 40px;"></td> <td style="text-align: right;">Number of violation days</td> <td style="width: 40px; text-align: center;">47</td> </tr> </table>	Number of Violation Events	1		Number of violation days	47															
Number of Violation Events	1		Number of violation days	47																	
<small>mark only one with an x</small>	<table border="1" style="margin-left: auto; margin-right: auto;"> <tr><td style="text-align: center;">daily</td><td style="width: 40px;"></td></tr> <tr><td style="text-align: center;">weekly</td><td style="width: 40px;"></td></tr> <tr><td style="text-align: center;">monthly</td><td style="width: 40px;"></td></tr> <tr><td style="text-align: center;">quarterly</td><td style="width: 40px;"></td></tr> <tr><td style="text-align: center;">semiannual</td><td style="width: 40px;"></td></tr> <tr><td style="text-align: center;">annual</td><td style="width: 40px;"></td></tr> <tr><td style="text-align: center;">single event</td><td style="width: 40px; text-align: center;">x</td></tr> </table>	daily		weekly		monthly		quarterly		semiannual		annual		single event	x	<b>Violation Base Penalty</b> <span style="border: 1px solid black; padding: 2px;">\$500</span>					
daily																					
weekly																					
monthly																					
quarterly																					
semiannual																					
annual																					
single event	x																				
One single event is recommended based on documentation of the violation during the October 1, 2008, investigation.																					
<b>Good Faith Efforts to Comply</b>		\$125																			
	<table border="1" style="margin-left: auto; margin-right: auto;"> <tr> <td></td> <td style="text-align: center;">25.0% Reduction</td> <td></td> </tr> <tr> <td></td> <td style="text-align: center;">Before NOV</td> <td style="text-align: center;">NOV to EDRP/Settlement Offer</td> </tr> <tr> <td style="text-align: center;">Extraordinary</td> <td style="width: 40px;"></td> <td style="width: 40px;"></td> </tr> <tr> <td style="text-align: center;">Ordinary</td> <td style="width: 40px; text-align: center;">x</td> <td style="width: 40px;"></td> </tr> <tr> <td style="text-align: center;">N/A</td> <td colspan="2" style="text-align: center;"><small>(mark with x)</small></td> </tr> </table>		25.0% Reduction			Before NOV	NOV to EDRP/Settlement Offer	Extraordinary			Ordinary	x		N/A	<small>(mark with x)</small>						
	25.0% Reduction																				
	Before NOV	NOV to EDRP/Settlement Offer																			
Extraordinary																					
Ordinary	x																				
N/A	<small>(mark with x)</small>																				
<b>Notes</b>	The Respondent returned to compliance on November 17, 2008.																				
<b>Violation Subtotal</b>		\$375																			
<b>Economic Benefit (EB) for this violation</b>		\$3																			
<b>Statutory Limit Test</b>		\$445																			
<b>Violation Final Penalty Total</b>		\$445																			
<b>This violation Final Assessed Penalty (adjusted for limits)</b>		\$445																			

## Economic Benefit Worksheet

**Respondent** Tjitte Tulnier dba Allrounder Dairy  
**Case ID No.** 37621  
**Reg. Ent. Reference No.** RN102286325  
**Media** Water Quality  
**Violation No.** 3

<b>Percent Interest</b>	<b>Years of Depreciation</b>
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
------------------	-----------	---------------	------------	-----	----------------	---------------	-----------

No commas or \$

**Delayed Costs**

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$400	1-Oct-2008	17-Nov-2008	0.13	\$3	n/a	\$3

Notes for DELAYED costs

Estimated cost to revise the PPP to reflect changes that affect the discharge potential. Date required is the date of the investigation. Final date is the date compliance was achieved.

**Avoided Costs**

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

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$400

**TOTAL**

\$3

<b>Screening Date</b> 11-May-2009	<b>Docket No.</b> 2009-0724-AGR-E	<b>PCW</b>		
<b>Respondent</b> Tjitte Tuinier dba Allrounder Dairy	<small>Policy Revision 2 (September 2002)</small>			
<b>Case ID No.</b> 37621	<small>PCW Revision October 30, 2008</small>			
<b>Reg. Ent. Reference No.</b> RN102286325				
<b>Media [Statute]</b> Water Quality				
<b>Enf. Coordinator</b> Evette Alvarado				
<b>Violation Number</b> 4				
<b>Rule Cite(s)</b>	30 Tex. Admin. Code § 321.46(d)(4) and (10) and TPDES CAFO General Permit No. TXG920121 Part IV.A.2.(a) and A.5.(b)			
<b>Violation Description</b>	Failed to maintain on site records of annual soil analysis reports and all weekly wastewater levels observed in the RCS, as documented during an investigation on October 1, 2008. Specifically, records of soil analyses conducted during 2007 and the weekly recording of RCS levels were not available on site for review at the time of the investigation.			
<b>Base Penalty</b>		\$10,000		
<b>&gt;&gt; Environmental, Property and Human Health Matrix</b>				
<b>OR</b>	<b>Harm</b>			
	Release	Major	Moderate	Minor
	Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>
	Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>
				<b>Percent</b> <input type="text" value="0%"/>
<b>&gt;&gt; Programmatic Matrix</b>				
	Falsification	Major	Moderate	Minor
	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input checked="" type="text" value="x"/>
				<b>Percent</b> <input type="text" value="1%"/>
<b>Matrix Notes</b>	At least 70% of the rule requirement was met.			
<b>Adjustment</b>			\$9,900	
<b>\$100</b>				
<b>Violation Events</b>				
Number of Violation Events <input type="text" value="1"/>		Number of violation days <input type="text" value="91"/>		
<small>mark only one with an x</small>	daily	<input type="text"/>		
	weekly	<input type="text"/>		
	monthly	<input type="text"/>		
	quarterly	<input type="text"/>		
	semiannual	<input type="text"/>		
	annual	<input type="text"/>		
single event	<input checked="" type="text" value="x"/>			
<b>Violation Base Penalty</b> <input type="text" value="\$100"/>				
One single event is recommended based on documentation of the violation during the October 1, 2008, investigation.				
<b>Good Faith Efforts to Comply</b>		<b>25.0%</b> Reduction	<input type="text" value="\$25"/>	
		<small>Before NOV    NOV to EDRP/Settlement Offer</small>		
Extraordinary	<input type="text"/>			
Ordinary	<input checked="" type="text" value="x"/>			
N/A	<small>(mark with x)</small>			
<b>Notes</b>	The Respondent returned to compliance by December 31, 2008.			
<b>Violation Subtotal</b>			<input type="text" value="\$75"/>	
<b>Economic Benefit (EB) for this violation</b>		<b>Statutory Limit Test</b>		
Estimated EB Amount <input type="text" value="\$1"/>		Violation Final Penalty Total <input type="text" value="\$89"/>		
<b>This violation Final Assessed Penalty (adjusted for limits)</b> <input type="text" value="\$89"/>				

## Economic Benefit Worksheet

**Respondent** Tjitte Tuinier dba Allrounder Dairy  
**Case ID No.** 37621  
**Reg. Ent. Reference No.** RN102286325  
**Media** Water Quality  
**Violation No.** 4

<b>Percent Interest</b>	<b>Years of Depreciation</b>
5.0	15

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

**Delayed Costs**

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System	\$100	1-Oct-2008	31-Dec-2008	0.25	\$1	n/a	\$1
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to ensure that records of annual soil analyses and weekly recordings of RCS levels are maintained on site. Date required is the date of the investigation. Final date is the date compliance was achieved.

**Avoided Costs**

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

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$100

**TOTAL**

\$1

<b>Screening Date</b> 11-May-2009	<b>Docket No.</b> 2009-0724-AGR-E	<b>PCW</b>		
<b>Respondent</b> Tjtte Tuinier dba Allrounder Dairy	<i>Policy Revision 2 (September 2002)</i>			
<b>Case ID No.</b> 37621	<i>PCW Revision October 30, 2008</i>			
<b>Reg. Ent. Reference No.</b> RN102286325				
<b>Media [Statute]</b> Water Quality				
<b>Enf. Coordinator</b> Evette Alvarado				
<b>Violation Number</b> 5				
<b>Rule Cite(s)</b>	30 Tex. Admin. Code §§ 321.36(c) and 321.38(a) and TPDES CAFO General Permit No. TXG920121 Part III.A.6.(b)			
<b>Violation Description</b>	Failed to design, construct, operate, and maintain the control facility to contain all manure, litter, and process wastewater, including runoff and precipitation from the Facility, as documented during an investigation on October 1, 2008. Specifically, the production area at the Facility drains to cooling ponds, which are functioning as RCSs, but are not approved RCSs and do not meet the design standards of the General Permit.			
<b>Base Penalty</b>		\$10,000		
<b>&gt;&gt; Environmental, Property and Human Health Matrix</b>				
OR	<b>Harm</b>			
	Major	Moderate	Minor	
Actual	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<b>Percent</b> <input type="text" value="10%"/>
Potential	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
<b>&gt;&gt; Programmatic Matrix</b>				
	Major	Moderate	Minor	<b>Percent</b> <input type="text" value="0%"/>
Falsification	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
<b>Matrix Notes</b>	Human health or the environment will or could be exposed to significant amounts of pollutants which would not exceed protective levels as a result of this violation.			
<b>Adjustment</b>				\$9,000
				\$1,000
<b>Violation Events</b>				
	<input type="text" value="3"/>	<input type="text" value="222"/>	Number of violation days	
<i>mark only one with an x</i>	daily	<input type="checkbox"/>	<b>Violation Base Penalty</b>	\$3,000
	weekly	<input type="checkbox"/>		
	monthly	<input type="checkbox"/>		
	quarterly	<input checked="" type="checkbox"/>		
	semiannual	<input type="checkbox"/>		
	annual	<input type="checkbox"/>		
	single event	<input type="checkbox"/>		
Three quarterly events are recommended from the date of the investigation (October 1, 2008) to the screening date (May 11, 2009).				
<b>Good Faith Efforts to Comply</b>		<input type="text" value="0.0%"/>	<b>Reduction</b> <input type="text" value="\$0"/>	
		Before NOV	NOV to EDPRP/Settlement Offer	
Extraordinary	<input type="checkbox"/>	<input type="checkbox"/>		
Ordinary	<input type="checkbox"/>	<input type="checkbox"/>		
N/A	<input checked="" type="checkbox"/>	(mark with x)		
<b>Notes</b>	The Respondent does not meet the good faith criteria for this violation.			
<b>Violation Subtotal</b>				\$3,000
<b>Economic Benefit (EB) for this violation</b>		<b>Statutory Limit Test</b>		
<b>Estimated EB Amount</b>	<input type="text" value="\$708"/>	<b>Violation Final Penalty Total</b>	<input type="text" value="\$3,420"/>	
<b>This violation Final Assessed Penalty (adjusted for limits)</b>		<input type="text" value="\$3,420"/>		

## Economic Benefit Worksheet

**Respondent** Tjltte Tuinier dba Allrounder Dairy  
**Case ID No.** 37621  
**Reg. Ent. Reference No.** RN102286325  
**Media** Water Quality  
**Violation No.** 5

<b>Percent Interest</b>	<b>Years of Depreciation</b>
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
------------------	-----------	---------------	------------	-----	----------------	---------------	-----------

No commas or \$

**Delayed Costs**

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction	\$7,500	1-Oct-2008	5-Feb-2010	1.35	\$34	\$674	\$708
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to ensure that all runoff from the production areas drain to the approved RCS. Date required is the investigation date. Final date is the expected date of compliance.

**Avoided Costs**

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

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$7,500

**TOTAL**

\$708

# Compliance History Report

Customer/Respondent/Owner-Operator: CN601213796 TUINIER, TJITTE Classification: AVERAGE Rating: 1.83  
 Regulated Entity: RN102286326 ALLROUNDER DAIRY Classification: AVERAGE Site Rating: 2.50  
 ID Number(s): WASTEWATER.AGRICULTURE PERMIT TXG920121  
 Location: Located on the south side of CR 3310 in Hopkins Co., Tx  
 TCEQ Region: REGION 05 - TYLER  
 Date Compliance History Prepared: July 22, 2009  
 Agency Decision Requiring Compliance History: Enforcement  
 Compliance Period: July 22, 2004 to July 22, 2009

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

Name:           Evette Alvarado           Phone:           239 - 2573          

### Site Compliance History Components

1. Has the site been in existence and/or operation for the full five year compliance period? Yes
2. Has there been a (known) change in ownership/operator of the site during the compliance period? No
3. If Yes, who is the current owner/operator? N/A
4. If Yes, who was/were the prior owner(s)/operator(s) ? N/A
5. When did the change(s) in owner or operator occur? N/A
6. Rating Date: 9/1/2008 Repeat Violator: NO

### 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 | 06/20/2005 | (393166) |
| 2 | 05/26/2006 | (468217) |
| 3 | 07/27/2007 | (566767) |
| 4 | 09/17/2007 | (593513) |
| 5 | 01/08/2008 | (612583) |
| 6 | 07/18/2008 | (683870) |

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

Date: 03/08/2007 (539627) CN601213796  
 Self Report? NO Classification: Moderate  
 Citation: 30 TAC Chapter 321, SubChapter B 321.40(7)  
 Description: Failure to provide a 100' buffer around a private water well.  
 Self Report? NO Classification: Moderate  
 Citation: 30 TAC Chapter 321, SubChapter B 321.40(e)  
 Description: Failure to manage irrigation practices so as to minimize ponding or puddling and to prevent tailwater discharges to waters in the state.  
 Date: 07/27/2007 (566767) CN601213796  
 Self Report? NO Classification: Moderate  
 Citation: 30 TAC Chapter 321, SubChapter B 321.31(a)  
 Description: Failure to prevent the occurrence of a discharge not authorized under the general permit.

Date: 01/25/2008 (612583) CN601213796  
 Self Report? NO Classification: Minor  
 Citation: 30 TAC Chapter 321, SubChapter B 321.39(e)  
 Description: Failure to protect stored waste not located in the drainage area of the RCS.  
 Self Report? NO Classification: Moderate  
 Citation: 30 TAC Chapter 321, SubChapter B 321.37(d)  
 Description: Failure to design and operate the retention control structure to contain all wastewater

from the production area including the runoff and direct precipitation from the 25-year, 24 hour rainfall event.

Date: 07/24/2008 (683870) CN601213796

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 321, SubChapter B 321.36(l)  
III.A.10(c) PERMIT

Description: Failure to properly dispose of dead animal carcasses.

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 321, SubChapter B 321.46(a)(7)(A)  
III.A.2.(a) PERMIT

Description: Failure to update the site map to include the current status and operation of the facility.

Self Report? NO Classification: Moderate

Citation: TXG920000 Part III.A.1(b) PERMIT  
30 TAC Chapter 321, SubChapter B 321.46(a)(4)

Description: Failure to amend the pollution prevention plan before making changes that affect the discharge potential.

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 321, SubChapter B 321.36(g)(1)  
III.A.12(b) PERMIT

Description: Failure to collect soil samples from each LMU where waste was applied.

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 321, SubChapter B 321.46(d)(4)  
IV.A.2.(a) PERMIT

Description: Failure to record the levels in the RCS in the weekly records.

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 321, SubChapter B 321.40(k)(3)  
TXG920000 Part III.A.11(a) PERMIT

Description: Failure to develop and implement a nutrient management plan.

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 321, SubChapter B 321.46(b)  
TXG920000 Part II.C.3 PERMIT

Description: Failure to amend the current authorization to match the on-site structures and facilities as they were operated at the time of the investigation.

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



# Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

**TCEQ**

<b>DATES</b>	Assigned	27-Apr-2009	Screening	11-May-2009	EPA Due	
	PCW	18-May-2009				

<b>RESPONDENT/FACILITY INFORMATION</b>	
Respondent	Tjltte Tuinier dba Allrounder Dairy 2
Reg. Ent. Ref. No.	RN102336807
Facility/Site Region	5-Tyler
Major/Minor Source	Minor

<b>CASE INFORMATION</b>			
Enf./Case ID No.	37621	No. of Violations	5
Docket No.	2009-0724-AGR-E	Order Type	1660
Media Program(s)	Water Quality	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Evette Alvarado
		EC's Team	Enforcement Team 1
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$10,000

## Penalty Calculation Section

**TOTAL BASE PENALTY (Sum of violation base penalties)** Subtotal 1

**ADJUSTMENTS (+/-) TO SUBTOTAL 1**

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

**Compliance History**  Enhancement Subtotals 2, 3, & 7

Notes

**Culpability**   Enhancement Subtotal 4

Notes

**Good Faith Effort to Comply Total Adjustments** Subtotal 5

**Economic Benefit**  Enhancement\* Subtotal 6

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

**SUM OF SUBTOTALS 1-7** Final Subtotal

**OTHER FACTORS AS JUSTICE MAY REQUIRE**  Adjustment

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes

**Final Penalty Amount**

**STATUTORY LIMIT ADJUSTMENT** Final Assessed Penalty

**DEFERRAL**  Reduction Adjustment

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

Notes

**PAYABLE PENALTY**

Screening Date 11-May-2009

Docket No. 2009-0724-AGR-E

PCW

Respondent Tjltte Tuinier dba Allrounder Dairy 2

Policy Revision 2 (September 2002)

Case ID No. 37621

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN102336807

Media [Statute] Water Quality

Enf. Coordinator Evelte Alvarado

### 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)	3	15%
	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 judgements 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)	0	0%
	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%
<i>Please Enter Yes or No</i>			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 15%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Average Performer

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance History Notes

Enhancement recommended for three NOVs with violations same or similar as those in the current action.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 15%

**Screening Date** 11-May-2009 **Docket No.** 2009-0724-AGR-E **PCW**  
**Respondent** Tjitte Tuinier dba Allrounder Dairy 2 *Policy Revision 2 (September 2002)*  
**Case ID No.** 37621 *PCW Revision October 30, 2008*  
**Reg. Ent. Reference No.** RN102936807  
**Media [Statute]** Water Quality  
**Enf. Coordinator** Evette Alvarado  
**Violation Number** 1  
**Rule Cite(s)** 30 Tex. Admin. Code § 321.36(l) and Texas Pollutant Discharge Elimination System ("TPDES") Concentrated Animal Feeding Operations ("CAFO") General Permit No. TXG920952 Part III.A.10.(c)  
**Violation Description** Failed to properly dispose of carcasses, as documented during an investigation on October 1, 2008. Specifically, cattle carcasses were observed outside the carcass burial site.  
**Base Penalty** \$10,000

>> Environmental, Property and Human Health Matrix

Release	Harm			Percent
	Major	Moderate	Minor	
Actual			X	10%
Potential				

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
				0%

Matrix Notes: Human health or the environment has been exposed to insignificant amounts of pollutants which do not exceed protective levels as a result of this violation.

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events 3 Number of violation days 222

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

Violation Base Penalty \$3,000

Three quarterly events are recommended from the date of the investigation (October 1, 2008) to the screening date (May 11, 2009).

Good Faith Efforts to Comply

0.0% Reduction Before NOV NOV to ED/PRP/Settlement Offer \$0

Extraordinary		
Ordinary		
N/A	X	(mark with x)

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

Violation Subtotal \$3,000

Economic Benefit (EB) for this violation

Estimated EB Amount \$306

Statutory Limit Test

Violation Final Penalty Total \$3,450

This violation Final Assessed Penalty (adjusted for limits) \$3,450

## Economic Benefit Worksheet

**Respondent** Tjilte Tuinier dba Allrounder Dairy 2  
**Case ID No.** 37621  
**Reg. Ent. Reference No.** RN102336807  
**Media** Water Quality  
**Violation No.** 1

<b>Percent Interest</b>	<b>Years of Depreciation</b>
5.0	15

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

**Delayed Costs**

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal	\$5,000	1-Oct-2008	22-Dec-2009	1.22	\$306	n/a	\$306
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to properly dispose of dead animal carcasses. Date required is the investigation date. Final date is the expected date of compliance.

**Avoided Costs**

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

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$5,000

**TOTAL**

\$306

<b>Screening Date</b> 11-May-2009	<b>Docket No.</b> 2009-0724-AGR-E	<b>PCW</b>	
<b>Respondent</b> Tjltte Tunier dba Allrounder Dairy 2	<small>Policy Revision 2 (September 2002)</small>		
<b>Case ID No.</b> 37621	<small>PCW Revision October 30, 2008</small>		
<b>Reg. Ent. Reference No.</b> RN102336807			
<b>Media [Statute]</b> Water Quality			
<b>Enf. Coordinator</b> Evette Alvarado			
<b>Violation Number</b> 2			
<b>Rule Cite(s)</b>	30 Tex. Admin. Code § 321.46(a)(7)(A) and TPDES CAFO General Permit No. TXG920952 Part III.A.2. (a)		
<b>Violation Description</b>	Failed to update Facility maps, as documented during an investigation on October 1, 2008. Specifically, the Facility map was not updated to include boundaries, compost areas, land management units ("LMUs"), control facilities, wells, manure storage areas, and burial sites.		
<b>Base Penalty</b>		\$10,000	
<b>&gt;&gt; Environmental, Property and Human Health Matrix</b>			
<b>Harm</b>			
Release	Major	Moderate	Minor
Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>
Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>
<b>OR</b>			<b>Percent</b> <input type="text" value="0%"/>
<b>&gt;&gt; Programmatic Matrix</b>			
<b>Falsification</b>			
Major	Moderate	Minor	
<input type="text"/>	<input checked="" type="text" value="x"/>	<input type="text"/>	<b>Percent</b> <input type="text" value="5%"/>
<b>Matrix Notes</b>	Between 30% and 70% of the rule requirement was met.		
<b>Adjustment</b>		\$9,500	
		\$500	
<b>Violation Events</b>			
<b>Number of Violation Events</b>	<input type="text" value="1"/>	<input type="text" value="222"/>	<b>Number of violation days</b>
<small>mark only one with an x</small>	daily	<input type="text"/>	
	weekly	<input type="text"/>	
	monthly	<input type="text"/>	
	quarterly	<input type="text"/>	
	semiannual	<input type="text"/>	
	annual	<input type="text"/>	
	single event	<input checked="" type="text" value="x"/>	<b>Violation Base Penalty</b> <input type="text" value="\$500"/>
One single event is recommended based on documentation of the violation during the October 1, 2008, investigation.			
<b>Good Faith Efforts to Comply</b>		<b>10.0% Reduction</b>	<input type="text" value="\$50"/>
	<small>Before NOV</small>	<small>NOV to ED/PRP/Settlement Offer</small>	
Extraordinary	<input type="text"/>	<input type="text"/>	
Ordinary	<input type="text"/>	<input checked="" type="text" value="x"/>	
N/A	<small>(mark with x)</small>		
<b>Notes</b>	The Respondent returned to compliance on May 21, 2009.		
<b>Violation Subtotal</b>		\$450	
<b>Economic Benefit (EB) for this violation</b>		<b>Statutory Limit Test</b>	
<b>Estimated EB Amount</b>	<input type="text" value="\$13"/>	<b>Violation Final Penalty Total</b>	<input type="text" value="\$525"/>
		<b>This violation Final Assessed Penalty (adjusted for limits)</b> <input type="text" value="\$525"/>	

## Economic Benefit Worksheet

**Respondent** Tjitte Tuinier dba Allrounder Dairy 2  
**Case ID No.** 37621  
**Reg. Ent. Reference No.** RN102336807  
**Media** Water Quality  
**Violation No.** 2

<b>Percent Interest</b>	<b>Years of Depreciation</b>
5.0	15

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

**Delayed Costs**

	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$400	1-Oct-2008	21-May-2009	0.64	\$13	n/a	\$13

Notes for DELAYED costs

Estimated cost to prepare an updated Facility map. Date required is the investigation date. Final date is the date compliance was achieved.

**Avoided Costs**

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

	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$400

**TOTAL**

\$13

<b>Screening Date</b> 11-May-2009	<b>Docket No.</b> 2009-0724-AGR-E	<b>PCW</b>			
<b>Respondent</b> Tjitte Tuinier dba Allrounder Dairy 2	<small>Policy Revision 2 (September 2002)</small>				
<b>Case ID No.</b> 37621	<small>PCW Revision October 30, 2008</small>				
<b>Reg. Ent. Reference No.</b> RN102336807					
<b>Media [Statute]</b> Water Quality					
<b>Enf. Coordinator</b> Evelte Alvarado					
<b>Violation Number</b>	3				
<b>Rule Cite(s)</b>	30 Tex. Admin. Code § 321.46(a)(4) and TPDES CAFO General Permit No. TXG920952 Part III.A.1.(b)				
<b>Violation Description</b>	Failed to revise the Pollution Prevention Plan ("PPP"), as documented during an investigation on October 1, 2008. Specifically, the PPP was not revised to reflect the change in the Facility from a pasture operation to a dry lot operation. Changing from a pasture operation to a dry lot operation affects the potential for discharge of pollutants to surface water in the state.				
<b>Base Penalty</b>		\$10,000			
<b>&gt;&gt; Environmental, Property and Human Health Matrix</b>					
<b>OR</b>	<b>Release</b>	<b>Harm</b>			
		Major      Moderate      Minor			
	Actual	<input type="text"/> <input type="text"/> <input type="text"/>	<b>Percent</b> <input type="text" value="0%"/>		
	Potential	<input type="text"/> <input type="text"/> <input type="text"/>			
<b>&gt;&gt; Programmatic Matrix</b>					
	<b>Falsification</b>	<b>Major</b>	<b>Moderate</b>	<b>Minor</b>	<b>Percent</b> <input type="text" value="1%"/>
	<input type="text"/>	<input type="text"/>	<input type="text"/>	x	
<b>Matrix Notes</b>	At least 70% of the rule requirement was met.				
<b>Adjustment</b>		\$9,900			
<b>\$100</b>					
<b>Violation Events</b>					
<b>Number of Violation Events</b>		<input type="text" value="1"/>	<b>Number of violation days</b>		
		<input type="text" value="222"/>			
<small>mark only one with an x</small>	daily	<input type="text"/>	<b>Violation Base Penalty</b> <input type="text" value="\$100"/>		
	weekly	<input type="text"/>			
	monthly	<input type="text"/>			
	quarterly	<input type="text"/>			
	semiannual	<input type="text"/>			
	annual	<input type="text"/>			
single event	x				
One single event is recommended based on documentation of the violation during the October 1, 2008, investigation.					
<b>Good Faith Efforts to Comply</b>					
		<b>10.0%</b>	<b>Reduction</b>		<input type="text" value="\$10"/>
		<small>Before NOV</small>	<small>NOV to EDRP/Settlement Offer</small>		
Extraordinary	<input type="text"/>	<input type="text"/>			
Ordinary	<input type="text"/>	x			
N/A	<input type="text"/>	<small>(mark with x)</small>			
<b>Notes</b>	The Respondent returned to compliance on May 21, 2009.				
<b>Violation Subtotal</b>					\$90
<b>Economic Benefit (EB) for this violation</b>			<b>Statutory Limit Test</b>		
<b>Estimated EB Amount</b>		<input type="text" value="\$13"/>	<b>Violation Final Penalty Total</b>		<input type="text" value="\$105"/>
<b>This violation Final Assessed Penalty (adjusted for limits)</b>					<input type="text" value="\$105"/>

## Economic Benefit Worksheet

**Respondent** Tjitte Tuinier dba Allrounder Dairy 2  
**Case ID No.** 37621  
**Reg. Ent. Reference No.** RN102336807  
**Media** Water Quality  
**Violation No.** 3

<b>Percent Interest</b>	<b>Years of Depreciation</b>
5.0	15

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

**Delayed Costs**

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$400	1-Oct-2008	21-May-2009	0.64	\$13	n/a	\$13

Notes for DELAYED costs

Estimated cost to revise the PPP to reflect changes that affect the discharge potential. Date required is the date of the investigation. Final date is the date compliance was achieved.

**Avoided Costs**

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

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$400

**TOTAL**

\$13

<b>Screening Date</b> 11-May-2009	<b>Docket No.</b> 2009-0724-AGR-E	<b>PCW</b>	
<b>Respondent</b> Tjitte Tuinier dba Allrounder Dairy 2	<small>Policy Revision 2 (September 2002) PCW Revision October 30, 2008</small>		
<b>Case ID No.</b> 37621			
<b>Reg. Ent. Reference No.</b> RN102336807			
<b>Media [Statute]</b> Water Quality			
<b>Enf. Coordinator</b> Evette Alvarado			
<b>Violation Number</b> 4			
<b>Rule Cite(s)</b>	30 Tex. Admin. Code § 321.46(d)(4) and TPDES CAFO General Permit No. TXG920952 Part IV.A.2.(e)		
<b>Violation Description</b>	Failed to maintain an on site record of all weekly wastewater levels observed in the RCS, as documented during an investigation on October 1, 2008. Specifically, records of the weekly recording of RCS levels were not available on site for review at the time of the investigation.		
<b>Base Penalty</b>		\$10,000	
<b>&gt;&gt; Environmental, Property and Human Health Matrix</b>			
<b>OR</b>	<b>Harm</b>		
	Major	Moderate	Minor
	Actual	Potential	Percent
	<input type="text"/>	<input type="text"/>	<input type="text" value="0%"/>
<b>&gt;&gt; Programmatic Matrix</b>			
	Major	Moderate	Minor
	Falsification	Major	Minor
	<input type="text"/>	<input type="text"/>	<input type="text" value="x"/>
			Percent <input type="text" value="1%"/>
<b>Matrix Notes</b>	At least 70% of the rule requirement was met.		
<b>Adjustment</b>		\$9,900	
		\$100	
<b>Violation Events</b>			
Number of Violation Events <input type="text" value="1"/>		Number of violation days <input type="text" value="91"/>	
<small>mark only one with an x</small>	daily	<input type="text"/>	<b>Violation Base Penalty</b> <input type="text" value="\$100"/>
	weekly	<input type="text"/>	
	monthly	<input type="text"/>	
	quarterly	<input type="text"/>	
	semiannual	<input type="text"/>	
	annual	<input type="text"/>	
	single event	<input type="text" value="x"/>	
One single event is recommended based on documentation of the violation during the October 1, 2008, investigation.			
<b>Good Faith Efforts to Comply</b>		<b>25.0% Reduction</b> <input type="text" value="\$25"/>	
		<small>Before NOV    NOV to EOPRP/Settlement Offer</small>	
Extraordinary	<input type="text"/>	<input type="text"/>	
Ordinary	<input type="text" value="x"/>		
N/A	<input type="text"/>		
<b>Notes</b>	The Respondent returned to compliance by December 31, 2008.		
<b>Violation Subtotal</b>		\$75	
<b>Economic Benefit (EB) for this violation</b>		<b>Statutory Limit Test</b>	
Estimated EB Amount <input type="text" value="\$1"/>		Violation Final Penalty Total <input type="text" value="\$90"/>	
		This violation Final Assessed Penalty (adjusted for limits) <input type="text" value="\$90"/>	

## Economic Benefit Worksheet

**Respondent** Tjitte Tuinier dba Allrounder Dairy 2  
**Case ID No.** 37621  
**Reg. Ent. Reference No.** RN102336807  
**Media** Water Quality  
**Violation No.** 4

<b>Percent Interest</b>	<b>Years of Depreciation</b>
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
<b>Delayed Costs</b>							
Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System	\$50	1-Oct-2008	31-Dec-2008	0.25	\$1	n/a	\$1
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to ensure that records of weekly RCS levels are maintained on site. Date required is the date of the investigation. Final date is the date compliance was achieved.

**Avoided Costs**

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

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$50

TOTAL

\$1

<b>Screening Date</b> 11-May-2009	<b>Docket No.</b> 2009-0724-AGR-E	<b>PCW</b>
<b>Respondent</b> Tjittle Tuinler dba Allrounder Dairy 2	<small>Policy Revision 2 (September 2002)</small>	
<b>Case ID No.</b> 37821	<small>PCW Revision October 30, 2009</small>	
<b>Reg. Ent. Reference No.</b> RN102336807		
<b>Media [Statute]</b> Water Quality		
<b>Enf. Coordinator</b> Evette Alvarado		
<b>Violation Number</b> <input type="text" value="5"/>		
<b>Rule Cite(s)</b>	30 Tex. Admin. Code § 321.37(d), Tex. Water Code § 26.121(a)(1), and TPDES CAFO General Permit TXG920952 Part III.A.5(a)	
<b>Violation Description</b>	Failed to prevent the discharge of wastewater from a CAFO production area, as documented during an investigation on October 1, 2008. Specifically, the investigator observed a discharge from the retention control structure ("RCS") into a low lying vegetated area, through a culvert, and into a cooling pond with an overflow pipe. Wastewater was then observed adjacent to the overflow pipe and adjacent to a tributary of Stouts Creek.	
<b>Base Penalty</b>		<input type="text" value="\$10,000"/>
<b>&gt;&gt; Environmental, Property and Human Health Matrix</b>		
<b>OR</b>	<b>Harm</b>	
	Major      Moderate      Minor	
Actual	<input type="text"/>	<input type="text" value="X"/>
Potential	<input type="text"/>	<input type="text"/>
<b>Percent</b>		<input type="text" value="10%"/>
<b>&gt;&gt; Programmatic Matrix</b>		
	Major      Moderate      Minor	
	<input type="text"/>	<input type="text"/>
<b>Percent</b>		<input type="text" value="0%"/>
<b>Matrix Notes</b>	Human health or the environment has been exposed to insignificant amounts of pollutants which do not exceed protective levels as a result of this violation.	
<b>Adjustment</b>		<input type="text" value="\$9,000"/>
		<input type="text" value="\$1,000"/>
<b>Violation Events</b>		
<b>Number of Violation Events</b>	<input type="text" value="3"/>	<b>Number of violation days</b> <input type="text" value="222"/>
<small>mark only one with an x</small>	daily	<input type="text"/>
	weekly	<input type="text"/>
	monthly	<input type="text"/>
	quarterly	<input type="text" value="X"/>
	semiannual	<input type="text"/>
	annual	<input type="text"/>
	single event	<input type="text"/>
<b>Violation Base Penalty</b>		<input type="text" value="\$3,000"/>
Three quarterly events are recommended from the date of the investigation (October 1, 2008) to the screening date (May 11, 2009).		
<b>Good Faith Efforts to Comply</b>		
<b>0.0% Reduction</b>		<input type="text" value="\$0"/>
	Before NOV      NOV to EDPRP/Settlement Offer	
Extraordinary	<input type="text"/>	<input type="text"/>
Ordinary	<input type="text"/>	<input type="text"/>
N/A	<input type="text" value="X"/>	<small>(mark with x)</small>
<b>Notes</b>	The Respondent does not meet the good faith criteria for this violation.	
<b>Violation Subtotal</b>		<input type="text" value="\$3,000"/>
<b>Economic Benefit (EB) for this violation</b>		
<b>Statutory Limit Test</b>		
<b>Estimated EB Amount</b>	<input type="text" value="\$708"/>	<b>Violation Final Penalty Total</b> <input type="text" value="\$3,450"/>
<b>This violation Final Assessed Penalty (adjusted for limits)</b>		<input type="text" value="\$3,450"/>

## Economic Benefit Worksheet

**Respondent** Tjitte Tuinier dba Allrounder Dairy 2  
**Case ID No.** 37821  
**Reg. Ent. Reference No.** RN102336807  
**Media** Water Quality  
**Violation No.** 5

<b>Percent Interest</b>	<b>Years of Depreciation</b>
5.0	15

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

**Delayed Costs**

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction	\$7,500	1-Oct-2008	5-Feb-2010	1.35	\$34	\$674	\$708
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to design RCS and cooling pond in a manner to prevent the discharge of wastewater from the production area. Date required is the date of the investigation. Final date is the expected date of compliance.

**Avoided Costs**

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

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$7,500

**TOTAL**

\$708



Self Report?	NO	Classification:	Minor
Citation:	30 TAC Chapter 321, SubChapter B 321.39(e)		
Description:	Failure to store waste more than 30 days within the drainage area of the RCS or protected to prevent contaminated runoff.		
Self Report?	NO	Classification:	Moderate
Citation:	30 TAC Chapter 321, SubChapter B 321.36(l) III.A.10.(c) PERMIT		
Description:	Failure to properly dispose of dead animal carcasses.		
Self Report?	NO	Classification:	Minor
Citation:	30 TAC Chapter 321, SubChapter B 321.46(a)(7)(A) III.A.2.(a) PERMIT		
Description:	Failure to update the site map to include boundaries, production & compost areas, control facilities, LMUs, wells, surface waters, manure storage, and burial sites.		
Self Report?	NO	Classification:	Minor
Citation:	30 TAC Chapter 321, SubChapter B 321.46(a)(4) III.A.1.(b)(4) PERMIT		
Description:	Failure to amend the Pollution Prevention Plan before making changes to affect the discharge potential.		
Self Report?	NO	Classification:	Minor
Citation:	30 TAC Chapter 321, SubChapter B 321.46(d)(4) IV.A.2(a) PERMIT		
Description:	Failure to record the levels of the RCS in the weekly records.		

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  
TJITTE TUINIER DBA  
ALLROUNDER DAIRY AND  
ALLROUNDER DAIRY 2  
RN102286325 and RN102336807

§  
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BEFORE THE  
  
TEXAS COMMISSION ON  
  
ENVIRONMENTAL QUALITY

AGREED ORDER  
DOCKET NO. 2009-0724-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 Tjitte Tuinier dba Allrounder Dairy and Allrounder Dairy 2 ("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 appear before the Commission and together stipulate that:

1. The Respondent owns and operates two dairy operations located on the south side of County Road ("CR") 3310 in Hopkins County, Texas ("Facility 1"), and southwest of the intersection of CR 3378 and CR 3385 in Hopkins County, Texas ("Facility 2").
2. The Respondent has discharged agricultural waste into or adjacent to any water in the state under TEX. WATER CODE ch. 26.
3. The Commission and the Respondent agree that the Commission has jurisdiction to enter this Agreed Order, and that the Respondent is subject to the Commission's jurisdiction.
4. The Respondent received notice of the violations alleged in Section II ("Allegations") on or about April 29, 2009.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by the Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.

6. An administrative penalty in the amount of Fifteen Thousand Eighty-Three Dollars (\$15,083) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid Three Hundred Sixty-Seven Dollars (\$367) of the administrative penalty and Three Thousand Sixteen Dollars (\$3,016) is deferred contingent upon the Respondent's timely and satisfactory compliance with all the terms of this Agreed Order. If the Respondent fails to timely and satisfactorily comply with all requirements of this Agreed Order, including the payment schedule, the Executive Director may require the Respondent to pay all or part of the deferred penalty.

The remaining amount of Eleven Thousand Seven Hundred Dollars (\$11,700) of the administrative penalty shall be payable in 36 monthly payments of Three Hundred Twenty-Five Dollars (\$325) each. The next monthly payment shall be paid within 30 days after the effective date of this Agreed Order. The subsequent payments shall each be paid not later than 30 days following the due date of the previous payment until paid in full. If the Respondent fails to timely and satisfactorily comply with the payment requirements of this Agreed Order, the Executive Director may, at the Executive Director's option, accelerate the maturity of the remaining installments, in which event the unpaid balance shall become immediately due and payable without demand or notice. In addition, the failure of the Respondent to meet the payment schedule of this Agreed Order constitutes the failure by the Respondent to timely and satisfactorily comply with all the terms of this Agreed Order.

7. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.
8. The Executive Director of the TCEQ and the Respondent have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
9. The Executive Director recognizes that the Respondent has implemented the following corrective measures at the Facilities:
  - a. By November 17, 2008, submitted an updated Facility map and Pollution Prevention Plan ("PPP") for Facility 1;
  - b. By December 31, 2008, ensured that records of annual soil analyses and weekly wastewater levels observed in the retention control structure ("RCS") were available on site for Facility 1, and that records of weekly wastewater levels observed in the RCS were available on site for Facility 2; and
  - c. By May 21, 2009, submitted an updated Facility map and PPP for Facility 2.
10. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
11. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.

12. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

## II. ALLEGATIONS

As owner and operator of the Facilities, the Respondent is alleged to have:

1. Failed to properly dispose of carcasses, in violation of 30 TEX. ADMIN. CODE § 321.36(I) and Texas Pollutant Discharge Elimination System ("TPDES") Concentrated Animal Feeding Operations ("CAFO") General Permit Nos. TXG920121 and TXG920952 Part III.A.10.(c), as documented during an investigation on October 1, 2008. Specifically, cattle carcasses were observed outside the carcass burial site.
2. Failed to update Facility maps, in violation of 30 TEX. ADMIN. CODE § 321.46(a)(7)(A) and TPDES CAFO General Permit Nos. TXG920121 and TXG920952 Part III.A.2.(a), as documented during an investigation on October 1, 2008. Specifically, the Facility 1 map did not include the total number of land management units ("LMUs"), the current number of RCSs or cooling ponds, the location of dead animal disposal, or water wells and the required buffer distance for water wells, and the Facility 2 map did not include boundaries, compost areas, LMUs, control facilities, wells, manure storage areas, and burial sites.
3. Failed to revise the PPP, in violation of 30 TEX. ADMIN. CODE § 321.46(a)(4) and TPDES CAFO General Permit Nos. TXG920121 and TXG920952 Part III.A.1.(b), as documented during an investigation on October 1, 2008. Specifically, the PPP was not revised to reflect changes in the number of animals at Facility 1, changes in the number of LMUs at Facility 1, or changes that could effect the potential for discharge to water in the state at Facilities 1 and 2.
4. Failed to maintain on site records of annual soil analysis reports and all weekly wastewater levels observed in the RCS, in violation of 30 TEX. ADMIN. CODE § 321.46(d)(4) and (10), TPDES CAFO General Permit No. TXG920121 Part IV.A.5.(b), and TPDES CAFO General Permit Nos. TXG920121 and TXG920952 Part IV.A.2.(a), as documented during an investigation on October 1, 2008. Specifically, records of soil analyses conducted during 2007 at Facility 1 and the weekly recording of RCS levels at Facilities 1 and 2 were not available on site for review at the time of the investigation.
5. Failed to design, construct, operate, and maintain the control structure to contain all manure, litter, and process wastewater, including runoff and precipitation from Facility 1, in violation of 30 TEX. ADMIN. CODE §§ 321.36(c) and 321.38(e) and TPDES CAFO General Permit No. TXG920121 Part III.A.6.(b), as documented during an investigation on October 1, 2008. Specifically, the production area at Facility 1 drains to cooling ponds, which are functioning as RCSs, but are not approved RCSs and do not meet the design standards of the General Permit.
6. Failed to prevent the discharge of wastewater from a CAFO production area, in violation of 30 TEX. ADMIN. CODE § 321.37(d), TEX. WATER CODE § 26.121(a)(1), and TPDES CAFO General Permit TXG920952 Part III.A.5(a), as documented during an investigation on October 1, 2008. Specifically, at Facility 2, the investigator observed a discharge from the RCS into a low lying

vegetated area, through a culvert, and into a cooling pond with an overflow pipe. Wastewater was then observed adjacent to the overflow pipe and adjacent to a tributary of Stouts Creek.

### III. DENIALS

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

### IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that the Respondent pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and the Respondent'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: Tjitte Tuinier dba Allrounder Dairy and Allrounder Dairy 2, Docket No. 2009-0724-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. It is further ordered that the Respondent shall undertake the following technical requirements:
  - a. Within 30 days after the effective date of this Agreed Order, properly dispose of all dead animal carcasses from Facilities 1 and 2, in accordance with 30 TEX. ADMIN. CODE § 321.36(l);
  - b. Within 45 days after the effective date of this Agreed Order, submit written certification of compliance with Ordering Provision No. 2.a, in accordance with Ordering Provision No. 2.d. below;
  - c. Within 90 days after the effective date of this Agreed Order:
    - i. Provide to the TCEQ a plan and schedule of actions that will ensure that all runoff from production areas at Facility 1 drain to the RCS; and
    - ii. Provide to the TCEQ a plan and schedule of actions that will ensure no discharge of wastewater from the RCS and cooling pond system at Facility 2.
  - d. Within 105 days after the effective date of this Agreed Order, submit written certification as described below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision No. 2.c. 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 fines 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  
Tyler Regional Office  
Texas Commission on Environmental Quality  
2916 Teague Drive  
Tyler, Texas 75701-3734

3. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facilities operations referenced in this Agreed Order.
4. If the Respondent fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, the Respondent's failure to comply is not a violation of this Agreed 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.
5. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by the 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.
6. This Agreed 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 Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.

7. This Agreed Order may be executed in multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreed Order may be transmitted by facsimile transmission to the other parties, which shall constitute an original signature for all purposes under this Agreed Order.
8. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to the Respondent, or three days after the date on which the Commission mails notice of the Order to the Respondent, 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

10/9/2009  
\_\_\_\_\_  
Date

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

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

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

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



\_\_\_\_\_  
Signature

16 Sep 09  
\_\_\_\_\_  
Date

Tjitte Tuinier  
\_\_\_\_\_  
Name (Printed or typed)

Owner  
\_\_\_\_\_  
Title

Authorized Representative of  
Tjitte Tuinier dba Allrounder Dairy and  
Allrounder Dairy 2

**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.

