

**EXECUTIVE SUMMARY - ENFORCEMENT MATTER**

**DOCKET NO.: 2009-0415-AGR-E TCEQ ID: RN103920385 CASE NO.: 37317**

**RESPONDENT NAME: Nico Jaap de Boer dba Hilltop Jersey Farm**

<b>ORDER TYPE:</b>		
<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	
<b>CASE TYPE:</b>		
<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><b>SITE WHERE VIOLATION(S) OCCURRED:</b> Hilltop Jersey Farm, 19008 Farm-to-Market 3079, west of Farm-to-Market 315, Henderson County</p> <p><b>TYPE OF OPERATION:</b> Dairy operation</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 March 4, 2008, alleging that dairy wastewater was impacting a stock pond downstream. 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 July 6, 2009. No comments were received.</p> <p><b>CONTACTS AND MAILING LIST:</b>                  TCEQ Attorney/SEP Coordinator: None                  TCEQ Enforcement Coordinator: Ms. Lauren Smitherman, Enforcement Division, Enforcement Team 1, MC 169, (512) 239-5223; Ms. Cari-Michel La Caille, Enforcement Division, MC 219, (512) 239-1387                  Respondent: Mr. Nico de Boer, Owner, Hilltop Jersey Farm, 19008 Farm to Market 3079, Chandler, Texas 75758                  Respondent's Attorney: 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> March 4, 2008</p> <p><b>Date of Investigation Relating to this Case:</b> March 19, 2008</p> <p><b>Date of NOV/NOE Relating to this Case:</b> April 15, 2009 (NOE)</p> <p><b>Background Facts:</b> This was a complaint investigation.</p> <p><b>WATER</b></p> <p>Failure to prevent the unauthorized discharge of process generated wastewater runoff from an animal feeding operation. Specifically, the investigator observed wastewater flowing out of a cooling pond due to a rainfall event and discharging into the bar ditch along Farm-to-Market 3079. Samples taken at the point of discharge into the bar ditch contained elevated concentrations of total phosphorus (29 milligrams per liter ("mg/L")), ammonia nitrogen ("NH3-N")(20.5 mg/L), chemical oxygen demand ("COD") (946 mg/L), and volatile suspended solids ("VSS") (210 mg/L) compared to samples taken upgradient within the bar ditch with concentrations of total phosphorus (5.18 mg/L), NH3-N (6.02 mg/L), COD (273 mg/L), and VSS (30 mg/L) [TEX. WATER CODE § 26.121(a)(1)].</p>	<p><b>Total Assessed:</b> \$950</p> <p><b>Total Deferred:</b> \$190  <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 to General Revenue:</b> \$760</p> <p><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 on March 26, 2008, the Respondent installed a portable pump and extended the irrigation system to include the cooling pond to prevent future wastewater discharges.</p>

Additional ID No(s): TXG921037



## Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

<b>DATES</b>	Assigned	16-Mar-2009			
	PCW	16-Mar-2009	Screening	16-Mar-2009	EPA Due

<b>RESPONDENT/FACILITY INFORMATION</b>			
Respondent	Nico Jaap de Boer dba Hilltop Jersey Farm		
Reg. Ent. Ref. No.	RN103920385		
Facility/Site Region	5-Tyler	Major/Minor Source	Minor

<b>CASE INFORMATION</b>			
Enf./Case ID No.	37317	No. of Violations	1
Docket No.	2009-0415-AGR-E	Order Type	1660
Media Program(s)	Water Quality	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Lauren Smitherman
		EC's Team	Enforcement Team 1
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$10,000

### Penalty Calculation Section

<b>TOTAL BASE PENALTY (Sum of violation base penalties)</b>		<i>Subtotal 1</i>	\$1,000
<b>ADJUSTMENTS (+/-) TO SUBTOTAL 1</b>			
Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.			
Compliance History	20.0% Enhancement	<i>Subtotals 2, 3, &amp; 7</i>	\$200
Notes	Enhancement due to one previous final enforcement order containing a denial of liability.		
Culpability	No	<i>Subtotal 4</i>	\$0
Notes	The Respondent does not meet the culpability criteria.		
<b>Good Faith Effort to Comply Total Adjustments</b>		<i>Subtotal 5</i>	\$250
Economic Benefit	0.0% Enhancement*	<i>Subtotal 6</i>	\$0
Total EB Amounts <input type="text" value="\$1"/> Approx. Cost of Compliance <input type="text" value="\$600"/>		*Capped at the Total EB \$ Amount	
<b>SUM OF SUBTOTALS 1-7</b>		<i>Final Subtotal</i>	\$950
<b>OTHER FACTORS AS JUSTICE MAY REQUIRE</b>		<i>Adjustment</i>	\$0
Reduces or enhances the Final Subtotal by the indicated percentage.			
Notes			
		<i>Final Penalty Amount</i>	\$950
<b>STATUTORY LIMIT ADJUSTMENT</b>		<i>Final Assessed Penalty</i>	\$950
<b>DEFERRAL</b>	20.0% Reduction	<i>Adjustment</i>	-\$190
Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)			
Notes	Deferral offered for expedited settlement.		
<b>PAYABLE PENALTY</b>			\$760

<b>Screening Date</b> 16-Mar-2009	<b>Docket No.</b> 2009-0415-AGR-E	<b>PCW</b>
<b>Respondent</b> Nico Jaap de Boer dba Hilltop Jersey Farm	<i>Policy Revision 2 (September 2002)</i>	
<b>Case ID No.</b> 37317	<i>PCW Revision October 30, 2008</i>	
<b>Reg. Ent. Reference No.</b> RN103920385		
<b>Media [Statute]</b> Water Quality		
<b>Enf. Coordinator</b> Lauren Smitherman		

### 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 <i>(number of NOVs meeting criteria)</i>	0	0%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability <i>(number of orders meeting criteria)</i>	1	20%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government <i>(number of judgements or consent decrees meeting criteria)</i>	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government <i>(number of counts)</i>	0	0%
Emissions	Chronic excessive emissions events <i>(number of events)</i>	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 <i>(number of audits for which notices were submitted)</i>	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 <i>(number of audits for which violations were disclosed)</i>	0	0%
<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)** 20%

>> **Repeat Violator (Subtotal 3)**

<span style="border: 1px solid black; padding: 2px;">No</span>	<b>Adjustment Percentage (Subtotal 3)</b> <span style="border: 1px solid black; padding: 2px;">0%</span>
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>> **Compliance History Person Classification (Subtotal 7)**

<span style="border: 1px solid black; padding: 2px;">Average Performer</span>	<b>Adjustment Percentage (Subtotal 7)</b> <span style="border: 1px solid black; padding: 2px;">0%</span>
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>> **Compliance History Summary**

<b>Compliance History Notes</b>	Enhancement due to one previous final enforcement order containing a denial of liability.
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**Total Adjustment Percentage (Subtotals 2, 3, & 7)** 20%

<b>Screening Date</b> 16-Mar-2009	<b>Docket No.</b> 2009-0415-AGR-E	<b>PCW</b>		
<b>Respondent</b> Nico Jaap de Boer dba Hilltop Jersey Farm	<i>Policy Revision 2 (September 2002)</i>			
<b>Case ID No.</b> 37317	<i>PCW Revision October 30, 2008</i>			
<b>Reg. Ent. Reference No.</b> RN103920385				
<b>Media [Statute]</b> Water Quality				
<b>Enf. Coordinator</b> Lauren Smitherman				
<b>Violation Number</b> <input type="text" value="1"/>				
<b>Rule Cite(s)</b>	Tex. Water Code § 26.121(a)(1)			
<b>Violation Description</b>	Failed to prevent the unauthorized discharge of process generated wastewater runoff from an animal feeding operation, as documented during an investigation conducted on March 19, 2008. Specifically, the investigator observed wastewater flowing out of a cooling pond due to a rainfall event and discharging into the bar ditch along Farm-to-Market 3079. Samples taken at the point of discharge into the bar ditch contained elevated concentrations of total phosphorus (29 milligrams per liter ("mg/L")), ammonia nitrogen ("NH3-N")(20.5 mg/L), chemical oxygen demand ("COD") (946 mg/L), and volatile suspended solids ("VSS") (210 mg/L) compared to samples taken upgradient within the bar ditch with concentrations of total phosphorus (5.18 mg/L), NH3-N (6.02 mg/L), COD (273 mg/L), and VSS (30 mg/L).			
	<b>Base Penalty</b>	<input type="text" value="\$10,000"/>		
<b>&gt;&gt; Environmental, Property and Human Health Matrix</b>				
OR	<b>Harm</b>			
	Release	Major	Moderate	Minor
	Actual	<input type="text"/>	<input type="text"/>	<input checked="" type="checkbox"/>
	Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>
		<b>Percent</b>	<input type="text" value="10%"/>	
<b>&gt;&gt; Programmatic Matrix</b>				
	Falsification	Major	Moderate	Minor
	<input type="text"/>	<input type="text"/>	<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 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>				
	Number of Violation Events	<input type="text" value="1"/>	<input type="text" value="7"/>	Number of violation days
mark only one with an x	daily	<input type="text"/>		
	weekly	<input type="text"/>		
	monthly	<input type="text"/>		
	quarterly	<input checked="" type="checkbox"/>		
	semiannual	<input type="text"/>		
	annual	<input type="text"/>		
	single event	<input type="text"/>		
		<b>Violation Base Penalty</b>	<input type="text" value="\$1,000"/>	
One quarterly event is recommended based on the investigation date (March 19, 2008) to the date of compliance (March 26, 2008).				
<b>Good Faith Efforts to Comply</b>		<input type="text" value="25.0%"/>	Reduction	<input type="text" value="\$250"/>
		Before NOV	NOV to EDPRP/Settlement	
Extraordinary	<input type="text"/>	<input type="text"/>		
Ordinary	<input checked="" type="checkbox"/>	<input type="text"/>		
N/A	<input type="text"/>	(mark with x)		
<b>Notes</b>	The Respondent came into compliance on March 26, 2008.			
			<b>Violation Subtotal</b>	<input type="text" value="\$750"/>
<b>Economic Benefit (EB) for this violation</b>		<b>Statutory Limit Test</b>		
<b>Estimated EB Amount</b>	<input type="text" value="\$1"/>	<b>Violation Final Penalty Total</b>	<input type="text" value="\$950"/>	
			<b>This violation Final Assessed Penalty (adjusted for limits)</b>	<input type="text" value="\$950"/>

## Economic Benefit Worksheet

**Respondent:** Nico Jaap de Boer dba Hilltop Jersey Farm  
**Case ID No.:** 37317  
**Reg. Ent. Reference No.:** RN103920385  
**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
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	\$600	19-Mar-2008	26-Mar-2008	0.02	\$1	n/a	\$1
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to install a portable pump and extend the irrigation system to include the cooling pond to prevent future wastewater discharges. 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				0.00	\$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

\$600

**TOTAL**

\$1

# Compliance History Report

Customer/Respondent/Owner-Operator: CN601180649 de Boer, Nico Jaap Classification: AVERAGE Rating: 17.21  
Regulated Entity: RN103920385 HILLTOP JERSEY FARM Classification: AVERAGE Site Rating: 33.75

ID Number(s): WASTEWATER AGRICULTURE PERMIT TXG921037

Location: 19008 FM 3079, W OF FM 315, HENDERSON CO, TX

TCEQ Region: REGION 05 - TYLER

Date Compliance History Prepared: March 24, 2009

Agency Decision Requiring Compliance History: Enforcement

Compliance Period: March 16, 2004 to March 16, 2009

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

Name: Lauren Smitherman Phone: 512-239-5223

## 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
  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.

Effective Date: 11/09/2007

ADMINORDER 2007-0196-AGR-E

Classification: Moderate

Citation: 30 TAC Chapter 321, SubChapter B 321.33(d)

Description: Failure to obtain authorization to expand an existing AFO upon meeting the definition of a CAFO through an individual water quality or a CAFO general permit.

Classification: Moderate

Citation: 30 TAC Chapter 321, SubChapter B 321.47(d)(3)

Description: Failure to provide certification from a licensed Texas professional engineer that the design and construction of all RCSs are in accordance with the technical standards developed by the NRCS.

Classification: Moderate

Citation: 30 TAC Chapter 321, SubChapter B 321.38(b)

30 TAC Chapter 321, SubChapter B 321.47(d)(6)

Description: Failure to maintain the minimum well buffer distance requirements from control facilities.

- 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 03/09/2005 (349518)

2 10/17/2005 (434290)

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

N/A

F. Environmental audits.

N/A

G. Type of environmental management systems (EMSs).

N/A

H. Voluntary on-site compliance assessment dates.

N/A

I. Participation in a voluntary pollution reduction program.

N/A

J. Early compliance.

N/A

Sites Outside of Texas

N/A

# TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



IN THE MATTER OF AN  
ENFORCEMENT ACTION  
CONCERNING  
NICO JAAP DE BOER DBA HILLTOP  
JERSEY FARM  
RN103920385

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BEFORE THE  
TEXAS COMMISSION ON  
ENVIRONMENTAL QUALITY

## AGREED ORDER DOCKET NO. 2009-0415-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 Nico Jaap de Boer dba Hilltop Jersey Farm ("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 a dairy operation located at 19008 Farm-to-Market 3079, west of Farm-to-Market 315 in Henderson County, Texas (the "Facility").
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 20, 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 Nine Hundred Fifty Dollars (\$950) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent

has paid Seven Hundred Sixty Dollars (\$760) of the administrative penalty and One Hundred Ninety Dollars (\$190) is deferred contingent upon the Respondent'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 the Respondent fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require the Respondent 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 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 on March 26, 2008, the Respondent installed a portable pump and extended the irrigation system to include the cooling pond to prevent future wastewater discharges.
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 Facility, the Respondent is alleged to have failed to prevent the unauthorized discharge of process generated wastewater runoff from an animal feeding operation, in violation of TEX. WATER CODE § 26.121(a)(1), as documented during an investigation conducted on March 19, 2008. Specifically, the investigator observed wastewater flowing out of a cooling pond due to a rainfall event and discharging into the bar ditch along Farm-to-Market 3079. Samples taken at the point of discharge into the bar ditch contained elevated concentrations of total phosphorus (29 milligrams per liter ("mg/L")), ammonia nitrogen ("NH<sub>3</sub>-N") (20.5 mg/L), chemical oxygen demand ("COD") (946 mg/L), and volatile suspended solids ("VSS") (210 mg/L) compared to samples taken upgradient within the bar ditch with concentrations of total phosphorus (5.18 mg/L), NH<sub>3</sub>-N (6.02 mg/L), COD (273 mg/L), and VSS (30 mg/L).

## 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: Nico Jaap de Boer dba Hilltop Jersey Farm, Docket No. 2009-0415-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. 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 Facility operations referenced in this Agreed Order.
3. 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.
4. 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.
5. 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

*John Srobin*  
For the Executive Director

6/18/2009  
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.

*N de Boer*  
Signature

6-29-09  
Date

Nico de Boer  
Name (Printed or typed)  
Authorized Representative of  
Nico Jaap de Boer dba Hilltop Jersey Farm

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.