

**Executive Summary – Enforcement Matter – Case No. 39491**  
**Peter H. Schouten DBA P & L Dairy and Nova D. Schouten DBA P & L Dairy**  
**RN102915873**  
**Docket No. 2010-0585-AGR-E**

**Order Type:**  
Agreed Order

**Findings Order Justification:**  
N/A

**Media:**  
AGR

**Small Business:**  
Yes

**Location(s) Where Violation(s) Occurred:**  
Southwest corner of the intersection of County Road 229 and County Road 231, approximately 1.8 miles south of the intersection of County Road 229 and Farm-to-Market Road 913, Erath County

**Type of Operation:**  
confined animal feeding operation ("CAFO")

**Other Significant Matters:**

Additional Pending Enforcement Actions: 2010-0093-AGR-E Peter H. Schouten, Nova D. Schouten and Pieter Bakker DBA Golden Star Dairy  
Past-Due Penalties: None  
Past-Due Fees: None  
Other: None  
Interested Third-Parties: The complainant has expressed an interest in this matter but does not wish to speak at Agenda.

**Texas Register Publication Date:** August 5, 2011

**Comments Received:** None

***Penalty Information***

**Total Penalty Assessed:** \$2,600

**Amount Deferred for Expedited Settlement:** N/A

**Amount Deferred for Financial Inability to Pay:** N/A

**Total Paid to General Revenue:** \$185

**Total Due to General Revenue:** \$2,415

Payment Plan: 23 payments of \$105 each

**SEP Conditional Offset:** N/A

**Compliance History Classifications:**

Person/CN – Average (Both Respondents)  
Site/RN – Average

**Major Source:** No

**Statutory Limit Adjustment:** N/A

**Applicable Penalty Policy:** September 2002

***Investigation Information***

**Complaint Date(s):** January 27, 2010  
Complaint Information: Complaint alleged wastewater leaving the site and running onto an adjacent road.  
**Date(s) of Investigation:** January 27, 2010  
**Date(s) of NOV(s):** N/A  
**Date(s) of NOE(s):** April 9, 2010

***Violation Information***

Failed to prevent the discharge of wastewater from a CAFO [TPDES Permit No. WQ0003675000, Part VII, Pollution Prevention Plan Requirements, Section A.8.(f)(2); 30 TEX. ADMIN. CODE § 321.31(a); and TEX. WATER CODE § 26.121].

***Corrective Actions/Technical Requirements***

**Corrective Action(s) Completed:**

Repaired the broken irrigation riser on or about January 28, 2010.

**Technical Requirements:**

N/A

***Litigation Information***

**Date Petition(s) Filed:** August 24, 2010  
**Date Answer(s) Filed:** September 14, 2010  
**SOAH Referral Date:** December 14, 2010  
**Hearing Date(s):**  
Preliminary hearing: February 10, 2011  
Evidentiary hearing: August 12, 2011  
**Settlement Date:** July 21, 2011

***Contact Information***

**TCEQ Attorneys:** James Sallans, Litigation Division, (512) 239-3400  
Lena Roberts, Litigation Division, (512) 239-3400

**TCEQ SEP Coordinator:** N/A

**TCEQ Enforcement Coordinator:** Jorge Ibarra, Water Enforcement Section, (817) 588-5890

**TCEQ Regional Contact:** Sid Slocum, Abilene Regional Office, (817) 588-5901

**Respondent:** Peter H. and Nova D. Schouten, Owners, P&L Dairy, 287 County Road 2495, Hico, Texas 76547

**Respondent's Attorney:** N/A



# Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

**TCEQ**

<b>DATES</b>	<b>Assigned</b>	12-Apr-2010			
	<b>PCW</b>	6-Jul-2010	<b>Screening</b>	12-Apr-2010	<b>EPA Due</b>

<b>RESPONDENT/FACILITY INFORMATION</b>	
<b>Respondent</b>	Peter Henry Schouten, Sr. and Nova Darlene Schouten dba P & L Dairy
<b>Reg. Ent. Ref. No.</b>	RN102915873
<b>Facility/Site Region</b>	4-Dallas/Fort Worth
<b>Major/Minor Source</b>	Minor

<b>CASE INFORMATION</b>			
<b>Enf./Case ID No.</b>	39491	<b>No. of Violations</b>	1
<b>Docket No.</b>	2010-0585-AGR-E	<b>Order Type</b>	1660
<b>Media Program(s)</b>	Water Quality	<b>Government/Non-Profit</b>	No
<b>Multi-Media</b>		<b>Enf. Coordinator</b>	Jorge Ibarra, P.E.
		<b>EC's Team</b>	Enforcement Team 3
<b>Admin. Penalty \$ Limit Minimum</b>	\$0	<b>Maximum</b>	\$10,000

## Penalty Calculation Section

<b>TOTAL BASE PENALTY (Sum of violation base penalties)</b>	<b>Subtotal 1</b>	\$2,500
---	-------------------	---------

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

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

<b>Compliance History</b>	4.0% Enhancement	<b>Subtotals 2, 3, &amp; 7</b>	\$100
---------------------------	------------------	--------------------------------	-------

Notes: Respondents were issued two NOV's without the same/similar type of violations.

<b>Culpability</b>	No	0.0% Enhancement	<b>Subtotal 4</b>	\$0
--------------------	----	------------------	-------------------	-----

Notes: The Respondents do not meet the culpability criteria.

<b>Good Faith Effort to Comply Total Adjustments</b>	<b>Subtotal 5</b>	\$0
--	-------------------	-----

<b>Economic Benefit</b>	0.0% Enhancement*	<b>Subtotal 6</b>	\$0
-------------------------	-------------------	-------------------	-----

Total EB Amounts: \$219  
 Approx. Cost of Compliance: \$5,500  
 \*Capped at the Total EB \$ Amount

<b>SUM OF SUBTOTALS 1-7</b>	<b>Final Subtotal</b>	\$2,600
-----------------------------	-----------------------	---------

<b>OTHER FACTORS AS JUSTICE MAY REQUIRE</b>	0.0%	<b>Adjustment</b>	\$0
---	------	-------------------	-----

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

<b>Final Penalty Amount</b>	\$2,600
-----------------------------	---------

<b>STATUTORY LIMIT ADJUSTMENT</b>	<b>Final Assessed Penalty</b>	\$2,600
-----------------------------------	-------------------------------	---------

<b>DEFERRAL</b>		Reduction	<b>Adjustment</b>	\$0
-----------------	--	-----------	-------------------	-----

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

Notes: No deferral offered for non expedited settlement.

<b>PAYABLE PENALTY</b>	\$2,600
------------------------	---------

**Screening Date** 12-Apr-2010

**Docket No.** 2010-0585-AGR-E

**PCW**

**Respondent** Peter Henry Schouten, Sr. and Nova Darlene Schouten c

Policy Revision 2 (September 2002)

**Case ID No.** 39491

PCW Revision October 30, 2008

**Reg. Ent. Reference No.** RN102915873

**Media [Statute]** Water Quality

**Enf. Coordinator** Jorge Ibarra, P.E.

### 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	2	4%
Orders	Any agreed final enforcement orders containing a denial of liability ( <i>number of orders meeting criteria</i> )	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government ( <i>number of 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)** 4%

>> **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** Respondents were issued two NOVs without the same/similar type of violations.

**Total Adjustment Percentage (Subtotals 2, 3, & 7)** 4%

**Screening Date** 12-Apr-2010 **Docket No.** 2010-0585-AGR-E **PCW**  
**Respondent** Peter Henry Schouten, Sr. and Nova Darlene Schouten dba P & L *Policy Revision 2 (September 2002)*  
**Case ID No.** 39491 *PCW Revision October 30, 2008*  
**Reg. Ent. Reference No.** RN102915873  
**Media [Statute]** Water Quality  
**Enf. Coordinator** Jorge Ibarra, P.E.

**Violation Number** 1

**Rule Cite(s)** Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0003675000, Part VII, Pollution Prevention Plan Requirements, Section A.8.(f)(2), 30 Tex. Admin. Code § 321.31(a), and Tex. Water Code § 26.121

**Violation Description** Failed to prevent a discharge of wastewater from a concentrated animal feeding operation. Specifically, the source of wastewater discharge was an irrigation riser in Land Management Unit ("LMU") No. 2 above the freestalls at the Site. The wastewater was observed flowing as it left the Site. The wastewater entered the drainage area of the North Bosque River in Segment No. 1226 of the Brazos River Basin..

**Base Penalty** \$10,000

**>> Environmental, Property and Human Health Matrix**

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual		x		25%
	Potential				

**>> Programmatic Matrix**

	Falsification	Major	Moderate	Minor	Percent
					0%

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

**Adjustment** \$7,500

\$2,500

**Violation Events**

Number of Violation Events 1 1 Number of violation days

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

*mark only one with an x*

**Violation Base Penalty** \$2,500

One single event is recommended.

**Good Faith Efforts to Comply**

0.0% Reduction Before NOV NOV to EDRP/Settlement \$0

Extraordinary		
Ordinary		
N/A	x	(mark with x)

**Notes** The Respondents do not meet the good faith criteria for this violation.

**Violation Subtotal** \$2,500

**Economic Benefit (EB) for this violation**

**Statutory Limit Test**

**Estimated EB Amount** \$219

**Violation Final Penalty Total** \$2,600

**This violation Final Assessed Penalty (adjusted for limits)** \$2,600

## Economic Benefit Worksheet

**Respondent** Peter Henry Schouten, Sr. and Nova Darlene Schouten dba P & L Dairy  
**Case ID No.** 39491  
**Reg. Ent. Reference No.** RN102915873  
**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	\$5,000	27-Jan-2010	15-Nov-2010	0.80	\$200	n/a	\$200
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$500	27-Jan-2010	1-Nov-2010	0.76	\$19	n/a	\$19

Notes for DELAYED costs

Estimated cost to develop and implement measures to improve operations and/or maintenance practices to prevent the reoccurrence of wastewater discharges from the Site and to remove all wastewater and contaminated soil from affected areas. Date required is the investigation date and the final date is the expected compliance date.

### 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

\$5,500

**TOTAL**

\$219

## Compliance History Report

Customer/Respondent/Owner-Operator: CN601479512 SCHOUTEN, PETER HENRY, SR. Classification: AVERAGE Rating: 0.58  
 Regulated Entity: RN102915873 P & L DAIRY Classification: AVERAGE Site Rating: 0.57  
 ID Number(s): WASTEWATER AGRICULTURE PERMIT  
 WASTEWATER AGRICULTURE PERMIT

Location: SOUTHWEST CORNER OF THE INTERSECTION OF COUNTY ROAD 229 AND COUNTY ROAD 231 APPROXIMATELY 1.8 MILES SOUTH OF THE INTERSECTION OF COUNTY ROAD 229 AND FARM-TO-MARKET ROAD 913 IN ERATH COUNTY, TEXAS

TCEQ Region: REGION 04 - DFW METROPLEX

Date Compliance History Prepared: April 12, 2010

Agency Decision Requiring Compliance History: Enforcement

Compliance Period: April 12, 2005 to April 12, 2010

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

Name: Jorge Ibarra, P.E. Phone: (817) 588-5890

### 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: 9/1/2009 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	07/29/2005	(401160)
2	05/25/2006	(479766)
3	11/21/2006	(519372)
4	10/16/2007	(596358)
5	02/25/2008	(636674)
6	12/08/2008	(706634)
7	11/09/2009	(780634)

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

Date: 02/08/2008 (616975)

CN601479512

Self Report? NO Classification: Moderate

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

Description: Failure to obtain an amendment under §321.34 or §321.35 of this title prior to making any modification to the facility which would cause a substantial change to the site plan. The facility was applying waste to LMUs not in the current permit. 30 TAC 321.33 (p)

Date: 11/21/2008 (706634)

CN601479512

Self Report? NO Classification: Minor

Description: Failure to collect and analyze at least one representative soil sample from a third party field before commencing wastewater irrigation or manure/litter application.

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

## Compliance History Report

Customer/Respondent/Owner-Operator:	CN601479520 SCHOUTEN, NOVA D.	Classification: AVERAGE	Rating: 0.58
Regulated Entity:	RN102915873 P & L DAIRY	Classification: AVERAGE	Site Rating: 0.57
ID Number(s):	WASTEWATER AGRICULTURE	PERMIT	
	WASTEWATER AGRICULTURE	PERMIT	

Location: SOUTHWEST CORNER OF THE INTERSECTION OF COUNTY ROAD 229 AND COUNTY ROAD 231 APPROXIMATELY 1.8 MILES SOUTH OF THE INTERSECTION OF COUNTY ROAD 229 AND FARM-TO-MARKET ROAD 913 IN ERATH COUNTY, TEXAS

TCEQ Region: REGION 04 - DFW METROPLEX

Date Compliance History Prepared: April 12, 2010

Agency Decision Requiring Compliance History: Enforcement

Compliance Period: April 12, 2005 to April 12, 2010

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

Name: Jorge Ibarra, P.E. Phone: (817) 588-5890

### 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: 9/1/2009 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	07/29/2005	(401160)
2	05/25/2006	(479766)
3	11/21/2006	(519372)
4	10/16/2007	(596358)
5	02/25/2008	(636674)
6	12/08/2008	(706634)
7	11/09/2009	(780634)

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

Date: 02/08/2008 (616975) **CN601479512**

Self Report? NO Classification: Moderate

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

Description: Failure to obtain an amendment under §321.34 or §321.35 of this title prior to making any modification to the facility which would cause a substantial change to the site plan. The facility was applying waste to LMUs not in the current permit. 30 TAC 321.33 (p)

Date: 11/21/2008 (706634) **CN601479512**

Self Report? NO Classification: Minor

Description: Failure to collect and analyze at least one representative soil sample from a third party field before commencing wastewater irrigation or manure/litter application.

- 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



<b>IN THE MATTER OF AN</b>	<b>§</b>	<b>BEFORE THE</b>
<b>ENFORCEMENT ACTION</b>	<b>§</b>	
<b>CONCERNING</b>	<b>§</b>	
<b>PETER H. SCHOUTEN DBA</b>	<b>§</b>	<b>TEXAS COMMISSION ON</b>
<b>P &amp; L DAIRY AND</b>	<b>§</b>	
<b>NOVA D. SCHOUTEN DBA</b>	<b>§</b>	
<b>P &amp; L DAIRY;</b>	<b>§</b>	<b>ENVIRONMENTAL QUALITY</b>
<b>RN102915873</b>	<b>§</b>	

## AGREED ORDER

DOCKET NO. 2010-0585-AGR-E

### I. JURISDICTION AND STIPULATIONS

At its \_\_\_\_\_ agenda meeting, the Texas Commission on Environmental Quality ("Commission" or "TCEQ") considered this agreement of the parties (the "Agreed Order"), resolving an enforcement action regarding Peter H. Schouten DBA P & L Dairy and Nova D. Schouten DBA P & L Dairy ("Respondents") under the authority of TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, represented by the Litigation Division, and Respondents appear before the Commission and together stipulate that:

1. Respondents own and operate a confined animal feeding operation ("CAFO") located on the southwest corner of the intersection of County Road 229 and County Road 231, approximately 1.8 miles south of the intersection of County Road 229 and Farm-to-Market Road 913 in Erath County, Texas (the "Site"). The Site adjoins, is contiguous with, surrounds, or is near or adjacent to water in the state as defined in TEX. WATER CODE § 26.001(5).
2. This Agreed Order is entered into pursuant to TEX. WATER CODE §§ 7.051 and 7.070. The Commission has jurisdiction of this matter pursuant to TEX. WATER CODE § 5.013 because it alleges violations TEX. WATER CODE ch. 26 and TCEQ rules.
3. The Executive Director and Respondents agree that the Commission has jurisdiction to enter this Agreed Order, and that Respondents are subject to the Commission's jurisdiction.
4. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by Respondents of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
5. An administrative penalty in the amount of two thousand six hundred dollars (\$2,600.00) is assessed by the Commission in settlement of the violations alleged in Section II. Respondents paid one hundred eighty-five dollars (\$185.00) of the administrative penalty. The remaining amount of two thousand four hundred fifteen dollars (\$2,415.00) of the administrative penalty shall be payable in twenty-three

(23) monthly payments of one hundred five dollars (\$105.00) each. The first monthly payment shall be paid within 30 days after the effective date of this Agreed Order. The subsequent payments shall be paid not later than 30 days following the due date of the previous payment. If Respondents fail to timely and satisfactorily comply with the payment requirements of this Agreed Order, including the payment schedule, the Executive Director may, at his 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, Respondents' failure to meet the payment schedule of this Agreed Order constitutes the failure by Respondents to timely and satisfactorily comply with all of the terms of this Agreed Order.

6. 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.
7. The Executive Director of the TCEQ and Respondents agree on a settlement of the matters addressed in this Agreed Order, subject to the approval of the Commission.
8. The Executive Director recognizes that Respondents on January 28, 2010, ceased pumping and repaired the broken irrigation riser that caused the discharge.
9. 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 Respondents has not complied with one or more of the terms or conditions in this Agreed Order.
10. 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.
11. 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**

1. During an investigation conducted on January 27, 2010, a TCEQ Dallas/Fort Worth Regional Office investigator documented that Respondents violated Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0003675000, Part VII, Pollution Prevention Plan Requirements, Section A.8.(f)(2); 30 TEX. ADMIN. CODE § 321.31 (a); and TEX. WATER CODE § 26.121, by failing to prevent the discharge of wastewater from a CAFO. Specifically, agricultural wastewater from the Site discharged from a broken irrigation riser in Land Management Unit ("LMU") No. 2 and entered the drainage area of the North Bosque River Segment No. 1226 of the Brazos River Basin.
2. Respondents received notice of the violation on or about April 14, 2010.

## **III. DENIALS**

Respondents generally deny each Allegation in Section II.

#### IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that Respondents pay an administrative penalty as set forth in Section I, Paragraph 5. The payment of this administrative penalty and Respondents' 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 considering or requiring corrective actions or penalties for violations which are not raised here. Administrative penalty payments shall be made payable to "Texas Commission on Environmental Quality" and shall be sent with the notation "Re: Peter H. Schouten DBA P & L Dairy and Nova D. Schouten DBA P & L Dairy Docket No. 2010-0585-AGR-E" to:  

Financial Administration Division, Revenues Section  
Texas Commission on Environmental Quality  
Attention: Cashier's Office, MC 214  
P.O. Box 13088  
Austin, Texas 78711-3088
2. All relief not expressly granted in this Agreed Order is denied.
3. The duties and provisions imposed by this Agreed Order shall apply to and be binding upon Respondents. Respondents are ordered to give notice of this Agreed Order to personnel who maintain day-to-day control over the Site operations referenced in this Agreed Order.
4. If Respondents fail to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, Respondents' failure to comply is not a violation of this Agreed Order. Respondents shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. Respondents shall notify the Executive Director within seven days after 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 Respondents shall be made in writing to the Executive Director. Extensions are not effective until Respondents receive 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 Respondents 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 separate and multiple counterparts, which together shall constitute a single instrument. Any page of this Agreed Order may be copied, scanned, digitized, converted to electronic portable document format ("pdf"), or otherwise reproduced and may be transmitted by digital or electronic transmission, including but not limited to facsimile transmission and electronic mail. Any signature affixed to this Agreed Order shall constitute an original signature for all purposes and may be used, filed, substituted, or issued for any purpose for which

an original signature could be used. The term "signature" shall include manual signatures and true and accurate reproductions of manual signatures created, executed, endorsed, adopted, or authorized by the person or persons to whom the signatures are attributable. Signatures may be copied or reproduced digitally, electronically, by photocopying, engraving, imprinting, lithographing, electronic mail, facsimile transmission, stamping, or any other means or process which the Executive Director deems acceptable. In this paragraph exclusively, the terms "electronic transmission" "owner" "person" "writing" and "written" shall have the meanings assigned to them under TEX. BUS. ORG. CODE § 1.002.

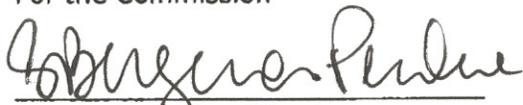
8. Pursuant to 30 TEX. ADMIN. CODE § 70.10(b) and TEX. GOV'T CODE § 2001.142, the effective date of this Agreed Order is the date of hand delivery of this Agreed Order to Respondents, or three days after the date on which the Commission mails notice of this Agreed Order to Respondents, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

Peter H. Schouten DBA P & L Dairy and Nova D. Schouten DBA P & L Dairy  
Docket No. 2010-0585-AGR-E  
Page 5

**SIGNATURE PAGE**

**TEXAS COMMISSION ON ENVIRONMENTAL QUALITY**

For the Commission



For the Executive Director

8/30/2011

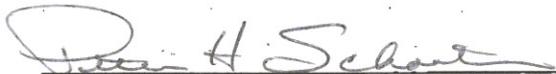
Date

I, the undersigned, have read and understand the attached Agreed Order. I represent that I am authorized to agree to the attached Agreed Order on behalf of Peter H. Schouten DBA P & L Dairy and Nova D. Schouten DBA P & L Dairy, 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 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;
- 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, I understand that any falsification of any compliance documents may result in criminal prosecution.



Peter H. Schouten

7-21-11

Date



Nova D. Schouten

7-21-11

Date