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EXECUTIVE SUMMARY - ENFORCEMENT MATTER
DOCKET NO.: 2010-0986-AGR-E **TCEQ ID:** RN101522233 **CASE NO.:** 39887
RESPONDENT NAME: Peter Wilfridus Deridder dba Deridder Dairy

ORDER TYPE:		
<input checked="" type="checkbox"/> 1660 AGREED ORDER	<input type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING
<input type="checkbox"/> FINDINGS DEFAULT ORDER	<input type="checkbox"/> SHUTDOWN ORDER	<input type="checkbox"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
<input type="checkbox"/> AMENDED ORDER	<input type="checkbox"/> EMERGENCY ORDER	
CASE TYPE:		
<input type="checkbox"/> AIR	<input type="checkbox"/> MULTI-MEDIA (check all that apply)	<input type="checkbox"/> INDUSTRIAL AND HAZARDOUS WASTE
<input type="checkbox"/> PUBLIC WATER SUPPLY	<input type="checkbox"/> PETROLEUM STORAGE TANKS	<input type="checkbox"/> OCCUPATIONAL CERTIFICATION
<input checked="" type="checkbox"/> WATER QUALITY	<input type="checkbox"/> SEWAGE SLUDGE	<input type="checkbox"/> UNDERGROUND INJECTION CONTROL
<input type="checkbox"/> MUNICIPAL SOLID WASTE	<input type="checkbox"/> RADIOACTIVE WASTE	<input type="checkbox"/> DRY CLEANER REGISTRATION
<p>SITE WHERE VIOLATION(S) OCCURRED: Deridder Dairy, located at the intersection of County Road 199 and County Road 202, Erath County</p> <p>TYPE OF OPERATION: Dairy farm</p> <p>SMALL BUSINESS: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>OTHER SIGNIFICANT MATTERS: There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.</p> <p>INTERESTED PARTIES: No one other than the ED and the Respondent has expressed an interest in this matter.</p> <p>COMMENTS RECEIVED: The <i>Texas Register</i> comment period expired on December 27, 2010. No comments were received.</p> <p>CONTACTS AND MAILING LIST: TCEQ Attorney/SEP Coordinator: None TCEQ Enforcement Coordinator: Mr. Samuel Short, Enforcement Division, Enforcement Team 3, MC 169, (512) 239-5363; Ms. Laurie Eaves, Enforcement Division, MC 219, (512) 239-4495 Respondent: Mr. Peter Wilfridus de Ridder, Owner, Deridder Dairy, 1572 County Road 202, Iredell, Texas 76649 Respondent's Attorney: Not represented by counsel on this enforcement matter</p>		

VIOLATION SUMMARY CHART:

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p>Type of Investigation: <input type="checkbox"/> Complaint <input checked="" type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input type="checkbox"/> Records Review</p> <p>Date(s) of Complaints Relating to this Case: None</p> <p>Date of Investigation Relating to this Case: March 16, 2010</p> <p>Date of NOV/NOE Relating to this Case: May 28, 2010 (NOE)</p> <p>Background Facts: This was a routine investigation.</p> <p>WATER</p> <p>1) Failed to document in the Pollution Prevention Plan ("PPP") that employee training for all employees who are responsible for work activities relating to compliance with the permit was being conducted. Specifically, no documentation regarding completion of required training was documented in the PPP [30 TEX. ADMIN. CODE § 321.45(a) and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0003290000 Part VII PPP Requirements C.3.].</p> <p>2) Failed to record daily pond marker readings and document conditions resulting in the encroachment into the storage volume reserved for the design rainfall event. Specifically, water levels were recorded weekly and encroachments into the storage volume were not documented [30 TEX. ADMIN. CODE § 321.42(b) and TPDES Permit No. WQ0003290000 Part VII PPP Requirements A.5(a)(3), and Part VIII Recordkeeping, Reporting, and Notification Requirements A.1(b)].</p> <p>3) Failed to maintain complete records for a concentrated animal feeding operation ("CAFO") where manure, litter, or wastewater is applied on property owned, operated, controlled, rented, or leased by the CAFO owner or operator. Specifically, records of the</p>	<p>Total Assessed: \$14,183</p> <p>Total Deferred: \$2,836 <input checked="" type="checkbox"/> Expedited Settlement <input type="checkbox"/> Financial Inability to Pay</p> <p>SEP Conditional Offset: \$0</p> <p>Total Paid (Due) to General Revenue: \$322 (remaining \$11,025 due in 35 monthly payments of \$315 each)</p> <p>Compliance History Classifications: Person/CN - Average Site/RN - Average</p> <p>Major Source: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>Applicable Penalty Policy: September 2002</p>	<p>Ordering Provisions:</p> <p>The Order will require the Respondent to:</p> <p>a. Within 15 days after the effective date of this Agreed Order:</p> <p>i. Begin documenting in the PPP that employee training is being conducted;</p> <p>ii. Develop and implement procedures to ensure that all records, including but not limited to the PPP and the actual annual yield of each harvested crop for each LMU, are maintained at the Facility and are submitted within 5 days of written request; and</p> <p>iii. Begin recording the pond marker reading daily and begin documenting conditions resulting in the encroachment into the storage volume reserved for the design rainfall event.</p> <p>b. Within 30 days after the effective date of this Agreed Order:</p> <p>i. Submit a complete and accurate annual report for the year ending December 31, 2009 to the addresses listed in Ordering Provision d.;</p> <p>ii. Submit the current sludge volume of RCS Nos. 1 and 2 to the addresses listed in Ordering Provision d.;</p> <p>iii. Develop and implement a RCS management plan incorporating the margin of safety developed by a licensed Texas professional engineer;</p> <p>iv. Submit a liner certification for the settling basin to the address listed in Ordering Provision d.;</p> <p>v. Remove manure and settled solids accumulations in the settling basins to assure the attainment of the 50% designed removal efficiency; and</p> <p>vi. Submit payment for all outstanding fees, including any associated penalties and interest.</p> <p>c. Within 60 days after the effective</p>

<p>actual annual yield of each harvested crop for each Land Management Unit ("LMU") were not being maintained [30 TEX. ADMIN. CODE § 321.46(d)(8)(F) and TPDES Permit No. WQ0003290000 Part VIII Recordkeeping, Reporting, and Notification Requirements A.4(e)].</p> <p>4) Failed to submit the current sludge volume of the retention control structures ("RCS") within 30 days of the permit issuance. Specifically, the permit was issued on October 29, 2009 and the sludge volume of RCS Nos. 1 and 2 had not been submitted [30 TEX. ADMIN. CODE § 321.39(c) and TPDES Permit No. WQ0003290000 Part X Special Provisions N.].</p> <p>5) Failed to maintain records on site for a minimum of five years from the date the record was created and submit records within five days of written request. Specifically, the PPP was not being maintained on site and the investigator requested records during the exit interview on March 16, 2010 and did not receive the records until March 31, 2010 [30 TEX. ADMIN. CODE § 321.46(d) and TPDES Permit No. WQ0003290000 Part VII PPP Requirements A.1(a)(7) and Part VIII Recordkeeping, Reporting, and Notification Requirements A.].</p> <p>6) Failed to submit a timely, complete, and accurate annual report by February 15 of each year. Specifically, the annual report due on February 15, 2010 was not submitted until March 31, 2010 and did not contain any of the information required by the Special Provisions of the permit or the soil monitoring reports of all soil samples collected [30 TEX. ADMIN. CODE § 321.36(j) and TPDES Permit No. WQ0003290000 Part VIII Recordkeeping, Reporting, and Notification Requirements B.7 and Part X Special Provisions C.J.].</p> <p>7) Failed to develop and implement an RCS management plan incorporating the margin of safety developed by a licensed Texas professional engineer within 30 days of the permit issuance. Specifically, the investigator documented that an RCS management plan had not been developed [30 TEX. ADMIN. CODE § 321.42(g) and TPDES Permit No. WQ0003290000 Part VII PPP Requirements A.5(a)(2) and Part X Special Provisions A.2.].</p>		<p>date of this Agreed Order, re-establish and maintain vegetative cover in the pens that maintain animals.</p> <p>d. Within 75 days after the effective date of this Agreed Order, submit written certification and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision a.i. through c.</p>
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<p>8) Failed to submit a liner certification for the settling basin within 30 days after the permit was issued. Specifically, the permit was issued on October 29, 2009 and the liner certification for the settling basin had not been submitted [30 TEX. ADMIN. CODE § 321.38(g)(3) and TPDES Permit No. WQ0003290000 Part X Special Provisions J.].</p> <p>9) Failed to maintain vegetation, crops, forage growth, or post harvest residues in the normal growing season in pastures that maintain animals. Specifically, the investigator documented that the pasture southeast of the production area was devoid of vegetation and contained animals [30 TEX. ADMIN. CODE § 321.39(g)(2) and TPDES Permit No. WQ0003290000 Part VII PPP Requirements B.7.].</p> <p>10) Failed to maintain manure and settled solids accumulations in the settling basins to assure the attainment of the 50% designed removal efficiency. Specifically, the investigator documented that excessive solids in the settling basin had accumulated to a level above the drainage pipes which was preventing proper drainage from the open lots and caused ponding in the open lots [30 TEX. ADMIN. CODE § 321.36(b) and TPDES Permit No. WQ0003290000 Part X Special Provisions L.].</p> <p>11) Failed to pay outstanding consolidated water quality fees and associated late fees for TCEQ Account No. 23001407 for Fiscal Year 2010 [TEX. WATER CODE §§ 5.702 and 26.0135(h) and 30 TEX. ADMIN. CODE § 21.4].</p>		
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Additional ID No(s): WQ0003290000



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

TCEQ

DATES	Assigned	7-Jun-2010	Screening	15-Jun-2010	EPA Due	
	PCW	13-Jul-2010				

RESPONDENT/FACILITY INFORMATION

Respondent	Peter Wilfridus Deridder dba Deridder Dairy				
Reg. Ent. Ref. No.	RN101522233				
Facility/Site Region	4-Dallas/Fort Worth	Major/Minor Source	Minor		

CASE INFORMATION

Enf./Case ID No.	39887	No. of Violations	11
Docket No.	2010-0986-AGR-E	Order Type	1660
Media Program(s)	Water Quality	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Samuel Short
Admin. Penalty \$ Limit Minimum	\$0	EC's Team	Enforcement Team 3
Maximum	\$10,000		

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)	Subtotal 1	\$9,600
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ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History	45.0% Enhancement	Subtotals 2, 3, & 7	\$4,320
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Notes
Enhancement recommended for four notices of violation ("NOVs") for the same/similar violations and one Agreed Order without denial of liability language within the last five years.

Culpability	No	0.0% Enhancement	Subtotal 4	\$0
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Notes
The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply Total Adjustments	Subtotal 5	\$0
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Economic Benefit	0.0% Enhancement*	Subtotal 6	\$0
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Total EB Amounts	\$877
Approx. Cost of Compliance	\$10,500

*Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7	Final Subtotal	\$13,920
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OTHER FACTORS AS JUSTICE MAY REQUIRE	1.9%	Adjustment	\$263
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes
Recommended enhancement to capture the avoided cost of compliance associated with violation no. 4.

Final Penalty Amount	\$14,183
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$14,183
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DEFERRAL	20.0% Reduction	Adjustment	-\$2,836
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Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes
Deferral offered for expedited settlement.

PAYABLE PENALTY	\$11,347
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Screening Date 15-Jun-2010

Docket No. 2010-0986-AGR-E

PCW

Respondent Peter Wilfridus Deridder dba Deridder Dairy

Policy Revision 2 (September 2002)

Case ID No. 39887

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101522233

Media [Statute] Water Quality

Enf. Coordinator Samuel Short

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>)	4	20%
	Other written NOVs	0	0%
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	1	25%
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</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%

Please Enter Yes or No

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

Adjustment Percentage (Subtotal 2) 45%

>> 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 four notices of violation ("NOVs") for the same/similar violations and one Agreed Order without denial of liability language within the last five years.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 45%

Screening Date 15-Jun-2010

Docket No. 2010-0986-AGR-E

PCW

Respondent Peter Wilfridus Deridder dba Deridder Dairy

Policy Revision 2 (September 2002)

Case ID No. 39887

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101522233

Media [Statute] Water Quality

Enf. Coordinator Samuel Short

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code § 321.45(a) and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0003290000 Part VII Pollution Prevention Plan ("PPP") Requirements C.3.

Violation Description Failed to document in the PPP that employee training for all employees who are responsible for work activities relating to compliance with the permit was being conducted. Specifically, no documentation regarding completion of required training was documented in the PPP.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

Release	Harm			Percent
	Major	Moderate	Minor	
Actual				0%
Potential				

>> Programmatic Matrix

Falsification	Harm			Percent
	Major	Moderate	Minor	
	X			10%

Matrix Notes: 100% of the rule requirement was not met.

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events 1 91 Number of violation days

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

Violation Base Penalty \$1,000

One single event is recommended.

Good Faith Efforts to Comply

0.0% Reduction \$0

	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary		
N/A	X	(mark with x)

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

Violation Subtotal \$1,000

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$12

Violation Final Penalty Total \$1,477

This violation Final Assessed Penalty (adjusted for limits) \$1,477

Economic Benefit Worksheet

Respondent Peter Wilfridus Derludder dba Derludder Dalry
Case ID No. 39887
Req. Ent. Reference No. RN101522233
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

Item Description	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	\$250	16-Mar-2010	16-Feb-2011	0.92	\$12	n/a	\$12
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 document in the PPP that employee training for all employees who are responsible for work activities relating to compliance with the permit is being conducted. Date required is the investigation date and the final date is the estimated date of compliance.

Avoided Costs

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

Item Description	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

\$250

TOTAL

\$12

Screening Date 15-Jun-2010

Docket No. 2010-0986-AGR-E

PCW

Respondent Peter Wilfridus Derludder dba Derludder Dairy

Policy Revision 2 (September 2002)

Case ID No. 39887

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101522233

Media [Statute] Water Quality

Enf. Coordinator Samuel Short

Violation Number 2

Rule Cite(s) 30 Tex. Admin. Code § 321.42(h) and TPDES Permit No. WQ0003290000 Part VII PPP Requirements A.5(a)(3), and Part VIII Recordkeeping, Reporting, and Notification Requirements A.1(b)

Violation Description

Failed to record daily pond marker readings and document conditions resulting in the encroachment into the storage volume reserved for the design rainfall event. Specifically, water levels were recorded weekly and encroachments into the storage volume were not documented.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential			

Percent 0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor
	X		

Percent 10%

Matrix Notes

100% of the rule requirement was not met.

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events 1

91 Number of violation days

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	X

mark only one with an x

Violation Base Penalty \$1,000

One single event is recommended.

Good Faith Efforts to Comply

0.0% Reduction

\$0

	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary		
N/A	X	(mark with x)

Notes

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

Violation Subtotal \$1,000

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$12

Violation Final Penalty Total \$1,477

This violation Final Assessed Penalty (adjusted for limits) \$1,477

Economic Benefit Worksheet

Respondent: Peter Wilfridus Deridder dba Deridder Dairy

Case ID No.: 39887

Req. Ent. Reference No.: RN101522233

Media: Water Quality
Violation No.: 2

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	\$250	16-Mar-2010	16-Feb-2011	0.92	\$12	n/a	\$12
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 record the pond marker reading daily and document conditions resulting in the encroachment into the storage volume reserved for the design rainfall event. Date required is the investigation date and the final date is the estimated 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	\$250	TOTAL	\$12
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Screening Date 15-Jun-2010

Docket No. 2010-0986-AGR-E

PCW

Respondent Peter Wilfridus Derldder dba Derldder Dalry

Policy Revision 2 (September 2002)

Case ID No. 39887

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101522233

Media [Statute] Water Quality

Enf. Coordinator Samuel Short

Violation Number 3

Rule Cite(s)

30 Tex. Admin. Code § 321.46(d)(8)(F) and TPDES Permit No. WQ0003290000 Part VIII Recordkeeping, Reporting, and Notification Requirements A.4(e)

Violation Description

Failed to maintain complete records for a concentrated animal feeding operation ("CAFO") where manure, litter, or wastewater is applied on property owned, operated, controlled, rented, or leased by the CAFO owner or operator. Specifically, records of the actual annual yield of each harvested crop for each Land Management Unit ("LMU") were not being maintained.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential			

Percent 0%

>> Programmatic Matrix

Falsification	Harm		
	Major	Moderate	Minor
			x

Percent 1%

Matrix Notes

At least 70% of the rule requirement was met.

Adjustment \$9,900

\$100

Violation Events

Number of Violation Events 1

91 Number of violation days

mark only one with an x

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty \$100

One single event is recommended.

Good Faith Efforts to Comply

0.0% Reduction

\$0

	Reduction	
	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary		
N/A	x	(mark with x)

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

Violation Subtotal \$100

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$12

Violation Final Penalty Total \$148

This violation Final Assessed Penalty (adjusted for limits) \$148

Economic Benefit Worksheet

Respondent: Peter Wilfridus Derludder dba Derludder Dalry

Case ID No.: 39887

Req. Ent. Reference No.: RN101522233

Media: Water Quality

Violation No.: 3

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	\$250	16-Mar-2010	16-Feb-2011	0.92	\$12	n/a	\$12
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 include records of the actual annual yield of each harvested crop for each LMU. Date required is the investigation date and the final date is the estimated 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

\$250

TOTAL

\$12

Screening Date 15-Jun-2010

Docket No. 2010-0986-AGR-E

PCW

Respondent Peter Wilfridus Derldder dba Derldder Dairy

Policy Revision 2 (September 2002)

Case ID No. 39887

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101522233

Media [Statute] Water Quality

Enf. Coordinator Samuel Short

Violation Number 4

Rule Cite(s)

30 Tex. Admin. Code § 321.39(c) and TPDES Permit No. WQ0003290000 Part X Special Provisions N.

Violation Description

Failed to submit the current sludge volume of the retention control structures ("RCS") within 30 days of the permit issuance. Specifically, the permit was issued on October 29, 2009 and the sludge volume of RCS Nos. 1 and 2 had not been submitted.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential			

Percent 0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor
	X		

Percent 10%

Matrix Notes

100% of the rule requirement was not met.

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events 2

207 Number of violation days

mark only one with an x

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	X

Violation Base Penalty \$2,000

Two single events are recommended, one for each RCS.

Good Faith Efforts to Comply

0.0% Reduction

\$0

	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary		
N/A	X	(mark with x)

Notes

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

Violation Subtotal \$2,000

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$263

Violation Final Penalty Total \$2,955

This violation Final Assessed Penalty (adjusted for limits) \$2,955

Economic Benefit Worksheet

Respondent: Peter Wilfridus Deridder dba Deridder Dalry
Case ID No.: 39887
Req. Ent. Reference No.: RN101522233
Media: Water Quality
Violation No.: 4

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

Item Description	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)	0.00				\$0	n/a	\$0

Notes for DELAYED costs

Avoided Costs

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

Item Description	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]	\$250	29-Oct-2009	28-Nov-2009	1.00	\$13	\$250	\$263
Other (as needed)	0.00				\$0	\$0	\$0

Notes for AVOIDED costs

Estimated cost to submit the current sludge volume of the RCSs within 30 days of the permit issuance.
 Date required is the date the permit was issued and the final date is the date the sludge volume was due.

Approx. Cost of Compliance

\$250

TOTAL

\$263

Screening Date 15-Jun-2010

Docket No. 2010-0986-AGR-E

PCW

Respondent Peter Wilfridus Derldder dba Derldder Dairy

Policy Revision 2 (September 2002)

Case ID No. 39887

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101522233

Media [Statute] Water Quality

Enf. Coordinator Samuel Short

Violation Number 5

Rule Cite(s) 30 Tex. Admin. Code § 321.46(d) and TPDES Permit No. WQ0003290000 Part VII PPP Requirements A.1(a)(7) and Part VIII Recordkeeping, Reporting, and Notification Requirements A.

Violation Description Failed to maintain records on-site for a minimum of five years from the date the record was created and submit records within five days of written request. Specifically, the PPP was not being maintained on site and the investigator requested records during the exit interview on March 16, 2010 and did not receive the records until March 31, 2010.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

Release	Harm			Percent
	Major	Moderate	Minor	
Actual				0%
Potential				

>> Programmatic Matrix

Matrix Notes	Falsification	Major	Moderate	Minor	Percent
			X		
100% of the rule requirement was not met.					

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events 1 Number of violation days 91

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

Violation Base Penalty \$1,000

One single event is recommended.

Good Faith Efforts to Comply

0.0% Reduction

\$0

	Before NOV	NOV to EDRP/Settlement Offer
Extraordinary		
Ordinary		
N/A	X	(mark with x)

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

Violation Subtotal \$1,000

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$23

Violation Final Penalty Total \$1,477

This violation Final Assessed Penalty (adjusted for limits) \$1,477

Economic Benefit Worksheet

Respondent: Peter Wilfridus Deridder dba Deridder Dalry

Case ID No.: 39887

Reg. Ent. Reference No.: RN101522233

Media: Water Quality

Violation No.: 5

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

Item Description	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)	\$500	16-Mar-2010	16-Feb-2011	0.92	\$23	n/a	\$23

Notes for DELAYED costs

Estimated cost to develop and implement procedures to ensure that records are maintained at the Facility and are submitted within 5 days of written request. Date required is the investigation date and the final date is the estimated date of compliance.

Avoided Costs

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

Item Description	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

\$500

TOTAL

\$23

Screening Date 15-Jun-2010

Docket No. 2010-0986-AGR-E

PCW

Respondent Peter Wilfridus Deridder dba Derldder Dalry

Policy Revision 2 (September 2002)

Case ID No. 39887

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101522233

Media [Statute] Water Quality

Enf. Coordinator Samuel Short

Violation Number 6

Rule Cite(s) 30 Tex. Admin. Code § 321.36(j) and TPDES Permit No. WQ0003290000 Part VIII Recordkeeping, Reporting, and Notification Requirements B.7 and Part X Special Provisions C.

Violation Description Failed to submit a timely, complete, and accurate annual report by February 15 of each year. Specifically, the annual report due on February 15, 2010 was not submitted until March 31, 2010 and did not contain any of the information required by the Special Provisions of the permit or the soil monitoring reports of all soil samples collected.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual				0%
	Potential				

>> Programmatic Matrix

Matrix Notes	Falsification	Harm			Percent
		Major	Moderate	Minor	
			X		5%

Matrix Notes 30 to 70% of the rule requirement was not met.

Adjustment \$9,500

\$500

Violation Events

Number of Violation Events 1 Number of violation days 120

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

Violation Base Penalty \$500

One single event is recommended.

Good Faith Efforts to Comply

0.0% Reduction

\$0

	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary		
N/A	X	(mark with x)

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

Violation Subtotal \$500

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$25

Violation Final Penalty Total \$739

This violation Final Assessed Penalty (adjusted for limits) \$739

Economic Benefit Worksheet

Respondent: Peter Wilfridus Deridder dba Deridder Dairy

Case ID No.: 39887

Req. Ent. Reference No.: RN101522233

Media: Water Quality

Violation No.: 6

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

Item Description	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	\$500	15-Feb-2010	16-Feb-2011	1.00	\$25	n/a	\$25
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 submit a timely, complete, and accurate annual report; Date required is the date the report was due and the final date is the estimated date of compliance.

Avoided Costs

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

Item Description	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

\$500

TOTAL

\$25

Screening Date 15-Jun-2010

Docket No. 2010-0986-AGR-E

PCW

Respondent Peter Wilfridus Deridder dba Deridder Dairy

Policy Revision 2 (September 2002)

Case ID No. 39887

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101522233

Media [Statute] Water Quality

Enf. Coordinator Samuel Short

Violation Number 7

Rule Cite(s) 30 Tex. Admin. Code § 321.42(g) and TPDES Permit No. WQ0003290000 Part VII PPP Requirements A.5(a)(2) and Part X Special Provisions A.2.

Violation Description Failed to develop and implement a RCS management plan incorporating the margin of safety developed by a licensed Texas professional engineer within 30 days of the permit issuance. Specifically, the investigator documented that an RCS management plan had not been developed.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential			

Percent 0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor
	X		

Percent 10%

Matrix Notes

100% of the rule requirement was not met.

Adjustment \$9,000

\$1,000

Violation Events

1

199 Number of violation days

mark only one with an x

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	X

Violation Base Penalty \$1,000

One single event is recommended.

Good Faith Efforts to Comply

0.0% Reduction

\$0

	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary		
N/A	X	(mark with x)

Notes

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

Violation Subtotal \$1,000

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$315

Violation Final Penalty Total \$1,477

This violation Final Assessed Penalty (adjusted for limits) \$1,477

Economic Benefit Worksheet

Respondent: Peter Wilfridus Deridder dba Deridder Dalry

Case ID No.: 39887

Req. Ent. Reference No.: RN101522233

Media: Water Quality

Violation No.: 7

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

Item Description	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)	\$5,000	28-Nov-2009	3-Mar-2011	1.26	\$315	n/a	\$315

Notes for DELAYED costs

Estimated cost to develop and implement an RCS management plan incorporating the margin of safety developed by a licensed Texas professional engineer. Date required is the date the plan was due and the final date is the estimated date of compliance.

Avoided Costs

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

Item Description	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

\$5,000

TOTAL

\$315

Screening Date 15-Jun-2010

Docket No. 2010-0986-AGR-E

PCW

Respondent Peter Wilfridus Deridder dba Deridder Dairy

Policy Revision 2 (September 2002)

Case ID No. 39887

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101522233

Media [Statute] Water Quality

Enf. Coordinator Samuel Short

Violation Number 8

Rule Cite(s) 30 Tex. Admin. Code § 321.38(g)(3) and TPDES Permit No. WQ0003290000 Part X Special Provisions J.

Violation Description

Failed to submit a liner certification for the settling basin within 30 days after the permit was issued. Specifically, the permit was issued on October 29, 2009 and the liner certification for the settling basin had not been submitted.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential			

Percent 0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor
	X		

Percent 10%

Matrix Notes

100% of the rule requirement was not met.

Adjustment \$9,000

\$1,000

Violation Events

1

91 Number of violation days

mark only one with an x

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	X

Violation Base Penalty \$1,000

One single event is recommended.

Good Faith Efforts to Comply

0.0% Reduction

\$0

	Before NOV	NOV to EDRP/Settlement Offer
Extraordinary		
Ordinary		
N/A	X	(mark with x)

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

Violation Subtotal \$1,000

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$95

Violation Final Penalty Total \$1,477

This violation Final Assessed Penalty (adjusted for limits) \$1,477

Economic Benefit Worksheet

Respondent: Peter Wilfridus Deridder dba Deridder Dairy

Case ID No.: 39887

Reg. Ent. Reference No.: RN101522233

Media: Water Quality

Violation No.: 8

Percent Interest	Years of Depreciation
5.0	15

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

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)	\$1,500	28-Nov-2009	3-Mar-2011	1.26	\$95	n/a	\$95

Notes for DELAYED costs

Estimated cost to hire a Texas Licensed Professional Engineer to prepare and submit the liner certification. Date required is the date the liner certification was due and the final date is the estimated 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

\$1,500

TOTAL

\$95

Screening Date 15-Jun-2010

Docket No. 2010-0986-AGR-E

PCW

Respondent Peter Wilfridus Derludder dba Derludder Dairy

Policy Revision 2 (September 2002)

Case ID No. 39887

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101522233

Media [Statute] Water Quality

Enf. Coordinator Samuel Short

Violation Number 9

Rule Cite(s) 30 Tex. Admin. Code § 321.39(g)(2) and TPDES Permit No. WQ0003290000 Part VII PPP Requirements B.7.

Violation Description

Failed to maintain vegetation, crops, forage growth, or post harvest residues in the normal growing season in pastures that maintain animals. Specifically, the investigator documented that the pasture southeast of the production area was devoid of vegetation and contained animals.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential		X	

Percent 10%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0%

Matrix Notes

Human health or the environment will or could be exposed to significant amounts of pollutants which would not exceed level that are protective of human health or environmental receptors as a result of the violation.

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events 1

91 Number of violation days

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

Violation Base Penalty \$1,000

One quarterly event is recommended from the investigation date, March 16, 2010, to the date of screening, June 15, 2010.

Good Faith Efforts to Comply

0.0% Reduction \$0

	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary		
N/A	X	(mark with x)

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

Violation Subtotal \$1,000

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$73

Violation Final Penalty Total \$1,477

This violation Final Assessed Penalty (adjusted for limits) \$1,477

Economic Benefit Worksheet

Respondent: Peter Wilfridus Deridder dba Deridder Dalry

Case ID No.: 39887

Reg. Ent. Reference No.: RN101522233

Media: Water Quality

Violation No.: 9

Percent Interest	Years of Depreciation
5.0	15

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

Item Description No commas or \$

Delayed Costs

Item Description	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	\$1,000	16-Mar-2010	3-Apr-2011	1.05	\$3	\$70	\$73
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 re-establish and maintain vegetative cover in the pens that maintain animals. Date required is the date of the investigation and the final date is the expected date of compliance.

Avoided Costs

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

Item Description	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

\$1,000

TOTAL

\$73

Screening Date 15-Jun-2010

Docket No. 2010-0986-AGR-E

PCW

Respondent Peter Wilfridus Deridder dba Deridder Dairy

Policy Revision 2 (September 2002)

Case ID No. 39887

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101522233

Media [Statute] Water Quality

Enf. Coordinator Samuel Short

Violation Number 10

Rule Cite(s) 30 Tex. Admin. Code § 321.36(b) and TPDES Permit No. WQ0003290000 Part X Special Provisions L.

Violation Description Failed to maintain manure and settled solids accumulations in the settling basin to assure the attainment of the 50% designed removal efficiency. Specifically, the investigator documented that excessive solids in the settling basin had accumulated to a level above the drainage pipes which prevented proper drainage from the open lots and caused ponding in the open lots.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual			X	10%
	Potential				

>> Programmatic Matrix

Matrix Notes	Falsification	Harm			Percent
		Major	Moderate	Minor	
					0%

Human health or the environment has been exposed to insignificant amounts of pollutants which would not exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events 1 Number of violation days 91

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

Violation Base Penalty \$1,000

One quarterly event is recommended from the investigation date, March 16, 2010, to the date of screening, June 15, 2010.

Good Faith Efforts to Comply

0.0% reduction

\$0

	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary		
N/A	X	(mark with x)

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

Violation Subtotal \$1,000

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$48

Violation Final Penalty Total \$1,477

This violation Final Assessed Penalty (adjusted for limits) \$1,477

Economic Benefit Worksheet

Respondent: Peter Wilfridus Derludder dba Derludder Dairy

Case ID No.: 39887

Reg. Ent. Reference No.: RN101522233

Media: Water Quality

Violation No.: 10

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

Item Description	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	\$1,000	16-Mar-2010	3-Mar-2011	0.96	\$48	n/a	\$48
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to remove manure and settled solids accumulations in the settling basin to assure the attainment of the 50% designed removal efficiency. Date required is the date of the investigation and the final date is the expected date of compliance.

Avoided Costs

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

Item Description	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

\$1,000

TOTAL

\$48

Screening Date 15-Jun-2010

Docket No. 2010-0986-AGR-E

PCW

Respondent Peter Wilfridus Derludder dba Derludder Dalry

Policy Revision 2 (September 2002)

Case ID No. 39887

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101522233

Media [Statute] Water Quality

Enf. Coordinator Samuel Short

Violation Number 11

Rule Cite(s)

Tex. Water Code §§ 5.702 and 26.0135(h) and 30 Tex. Admin. Code § 21.4

Violation Description

Failed to pay outstanding consolidated water quality fees and associated late fees for TCEQ Account No. 23001407 for Fiscal Year 2010.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential			

Percent 0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0%

Matrix Notes

Adjustment \$10,000

\$0

Violation Events

Number of Violation Events

Number of violation days

mark only one with an x

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	

Violation Base Penalty \$0

No penalty is recommended because penalty and interest will be assessed at the next billing.

Good Faith Efforts to Comply

0.0% Reduction

\$0

Before NOV NOV to EDPRP/Settlement Offer

Extraordinary		
Ordinary		
N/A		(mark with x)

Notes

Violation Subtotal \$0

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$0

Violation Final Penalty Total \$0

This violation Final Assessed Penalty (adjusted for limits) \$0

Economic Benefit Worksheet

Respondent: Peter Wilfridus Derludder dba Derludder Dairy

Case ID No.: 39887

Reg. Ent. Reference No.: RN101522233

Media: Water Quality

Violation No.: 11

Percent Interest	Years of Depreciation
5.0	15

Item Cost **Date Required** **Final Date** **Yrs** **Interest Saved** **Onetime Costs** **EB Amount**
Item Description: 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)			0.00	\$0	n/a	\$0

Notes for DELAYED costs

N/A

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

\$0

TOTAL

\$0

Compliance History Report

Customer/Respondent/Owner-Operator: CN600796742 DERIDDER, PETER WILFRIDUS Classification: AVERAGE Rating: 22.73
Regulated Entity: RN101522233 DERIDDER DAIRY Classification: AVERAGE Site Rating: 22.73
ID Number(s): WASTEWATER AGRICULTURE PERMIT WQ0003290000
WASTEWATER AGRICULTURE PERMIT TX0130087
Location: located at the intersection of County Road 199 and County Road 202 in Erath County, Texas
TCEQ Region: REGION 04 - DFW METROPLEX
Date Compliance History Prepared: June 14, 2010
Agency Decision Requiring Compliance History: Enforcement
Compliance Period: June 14, 2005 to June 14, 2010

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

Name: Samuel Short Phone: (512) 239-5363

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.

Effective Date: 11/19/2007 ADMINORDER 2007-0552-AGR-E
Classification: Major
Citation: 30 TAC Chapter 321, SubChapter B 321.42(s)
Description: Failure to develop and operate under a comprehensive nutrient management plan (CNMP) certified by the Texas State Soil and Water Conservation Board.

Classification: Moderate

Citation: 2A TWC Chapter 5, SubChapter A 5.702
2D TWC Chapter 26, SubChapter A 26.0135(h)

30 TAC Chapter 21 21.4

Description: Failed to pay outstanding Consolidated Water Quality fees and associated late fees for TCEQ Account No. 23001407 for Fiscal Years 2005, 2006 and 2007.

Classification: Moderate

Citation: 30 TAC Chapter 321, SubChapter B 321.39(f)(24)(B)
Description: Failure to store stockpiled manure in a well drained area with no ponding of water and in a contained area where contaminated runoff would be retained on site.

Classification: Minor

Citation: 30 TAC Chapter 321, SubChapter B 321.49(f)
Description: Failure to timely submit soil sample results to the TCEQ within 60 days of the sampling.

- B. Any criminal convictions of the state of Texas and the federal government.

N/A

- C. Chronic excessive emissions events.

N/A

D. The approval dates of investigations. (CCEDS Inv. Track. No.)

1	08/11/2005	(403409)
2	05/16/2006	(454892)
3	03/29/2007	(543643)
4	05/25/2007	(557233)
5	01/17/2008	(614601)
6	02/07/2008	(617538)
7	05/20/2008	(641092)
8	01/23/2009	(724051)
9	05/01/2009	(739933)
10	06/26/2009	(749604)
11	11/30/2009	(784089)
12	06/01/2010	(795945)

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

Date: 08/08/2005 (403409) CN600796742
Self NO Classification: Minor
Citation: 30 TAC Chapter 321, SubChapter B 321.49(f)
Description: Failure to submit soil analysis results to the TCEQ within 60 days of the date the samples are collected for analysis.

Date: 05/05/2006 (454892) CN600796742
Self NO Classification: Minor
Citation: 30 TAC Chapter 321, SubChapter B 321.39(f)(14)
Description: Failure to install and maintain a rain gauge capable of measuring the design rainfall event.

Date: 05/23/2008 (641092) CN600796742
Self NO Classification: Moderate
Citation: 30 TAC Chapter 321, SubChapter B 321.40(1)
Description: Failure to construct, manage, and maintain runoff from open lots.

Date: 04/24/2009 (739933) CN600796742
Self NO Classification: Moderate
Citation: 30 TAC Chapter 321, SubChapter B 321.39(f)(24)(L)
Description: Failure to maintain the settling basin.

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
PETER WILFRIDUS DERIDDER
DBA DERIDDER DAIRY
RN101522233

§ BEFORE THE
§
§ TEXAS COMMISSION ON
§
§ ENVIRONMENTAL QUALITY

AGREED ORDER
DOCKET NO. 2010-0986-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 Peter Wilfridus Deridder dba Deridder Dairy ("the Respondent") under the authority of TEX. WATER CODE chs. 5, 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 farm located at the intersection of County Road 199 and County Road 202 in Erath County, Texas (the "Facility").
2. The Respondent caused, suffered, allowed or permitted the discharge of any waste or the performance of any activity in violation of TEX. WATER CODE ch. 26 or any rule, permit, or order of the Commission.
3. The Commission and 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 June 2, 2010.
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 Fourteen Thousand One Hundred Eighty-Three Dollars (\$14,183) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid Three Hundred Twenty-Two Dollars (\$322) of the administrative penalty and Two Thousand Eight Hundred Thirty-Six Dollars (\$2,836) 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.

The remaining amount of Eleven Thousand Twenty-Five Dollars (\$11,025) of the administrative penalty shall be payable in 35 monthly payments of Three Hundred Fifteen Dollars (\$315) 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 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.
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

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

1. Failed to document in the Pollution Prevention Plan ("PPP") that employee training for all employees who are responsible for work activities relating to compliance with the

permit was being conducted, in violation of 30 TEX. ADMIN. CODE § 321.45(a) and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0003290000 Part VII PPP Requirements C.3., as documented during an investigation conducted on March 16, 2010. Specifically, no documentation regarding completion of required training was documented in the PPP.

2. Failed to record daily pond marker readings and document conditions resulting in the encroachment into the storage volume reserved for the design rainfall event, in violation of 30 TEX. ADMIN. CODE § 321.42(h) and TPDES Permit No. WQ0003290000 Part VII PPP Requirements A.5(a)(3), and Part VIII Recordkeeping, Reporting, and Notification Requirements A.1(b), as documented during an investigation conducted on March 16, 2010. Specifically, water levels were recorded weekly and encroachments into the storage volume were not documented.
3. Failed to maintain complete records for a concentrated animal feeding operation ("CAFO") where manure, litter, or wastewater is applied on property owned, operated, controlled, rented, or leased by the CAFO owner or operator., in violation of 30 TEX. ADMIN. CODE § 321.46(d)(8)(F) and TPDES Permit No. WQ0003290000 Part VIII Recordkeeping, Reporting, and Notification Requirements A.4(e), as documented during an investigation conducted on March 16, 2010. Specifically, records of the actual annual yield of each harvested crop for each Land Management Unit ("LMU") were not being maintained.
4. Failed to submit the current sludge volume of the retention control structures ("RCS") within 30 days of the permit issuance, in violation of 30 TEX. ADMIN. CODE § 321.39(c) and TPDES Permit No. WQ0003290000 Part X Special Provisions N., as documented during an investigation conducted on March 16, 2010. Specifically, the permit was issued on October 29, 2009 and the sludge volume of RCS Nos. 1 and 2 had not been submitted.
5. Failed to maintain records on site for a minimum of five years from the date the record was created and submit records within five days of written request, in violation of 30 TEX. ADMIN. CODE § 321.46(d) and TPDES Permit No. WQ0003290000 Part VII PPP Requirements A.1(a)(7) and Part VIII Recordkeeping, Reporting, and Notification Requirements A., as documented during an investigation conducted on March 16, 2010. Specifically, the PPP was not being maintained on site and the investigator requested records during the exit interview on March 16, 2010 and did not receive the records until March 31, 2010.
6. Failed to submit a timely, complete, and accurate annual report by February 15 of each year, in violation of 30 TEX. ADMIN. CODE § 321.36(j) and TPDES Permit No. WQ0003290000 Part VIII Recordkeeping, Reporting, and Notification Requirements B.7 and Part X Special Provisions C., as documented during an investigation conducted on March 16, 2010. Specifically, the annual report due on February 15, 2010 was not submitted until March 31, 2010 and did not contain any of the information required by the Special Provisions of the permit or the soil monitoring reports of all soil samples collected.
7. Failed to develop and implement an RCS management plan incorporating the margin of safety developed by a licensed Texas professional engineer within 30 days of the permit issuance, in violation of 30 TEX. ADMIN. CODE § 321.42(g) and TPDES Permit No.

WQ0003290000 Part VII PPP Requirements A.5(a)(2) and Part X Special Provisions A.2., as documented during an investigation conducted on March 16, 2010. Specifically, the investigator documented that an RCS management plan had not been developed.

8. Failed to submit a liner certification for the settling basin within 30 days after the permit was issued, in violation of 30 TEX. ADMIN. CODE § 321.38(g)(3) and TPDES Permit No. WQ0003290000 Part X Special Provisions J., as documented during an investigation conducted on March 16, 2010. Specifically, the permit was issued on October 29, 2009 and the liner certification for the settling basin had not been submitted.
9. Failed to maintain vegetation, crops, forage growth, or post harvest residues in the normal growing season in pastures that maintain animals, in violation of 30 TEX. ADMIN. CODE § 321.39(g)(2) and TPDES Permit No. WQ0003290000 Part VII PPP Requirements B.7., as documented during an investigation conducted on March 16, 2010. Specifically, the investigator documented that the pasture southeast of the production area was devoid of vegetation and contained animals.
10. Failed to maintain manure and settled solids accumulations in the settling basins to assure the attainment of the 50% designed removal efficiency, in violation of 30 TEX. ADMIN. CODE § 321.36(b) and TPDES Permit No. WQ0003290000 Part X Special Provisions L., as documented during an investigation conducted on March 16, 2010. Specifically, the investigator documented that excessive solids in the settling basin had accumulated to a level above the drainage pipes which was preventing proper drainage from the open lots and caused ponding in the open lots.
11. Failed to pay outstanding consolidated water quality fees and associated late fees for TCEQ Account No. 23001407 for Fiscal Year 2010, in violation of TEX. WATER CODE §§ 5.702 and 26.0135(h) and 30 TEX. ADMIN. CODE § 21.4, as documented during an investigation conducted on June 15, 2010.

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: Peter Wilfridus Deridder dba Deridder Dairy, Docket No. 2010-0986-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 15 days after the effective date of this Agreed Order:
 - i. Begin documenting in the PPP that employee training is being conducted, in accordance with 30 TEX. ADMIN. CODE § 321.45 and TPDES Permit No. WQ0003290000;
 - ii. Develop and implement procedures to ensure that all records, including but not limited to the PPP and the actual annual yield of each harvested crop for each LMU, are maintained at the Facility and are submitted within 5 days of written request; and
 - iii. Begin recording the pond marker reading daily and begin documenting conditions resulting in the encroachment into the storage volume reserved for the design rainfall event, in accordance with 30 TEX. ADMIN. CODE § 321.42(h).
 - b. Within 30 days after the effective date of this Agreed Order:
 - i. Submit a complete and accurate annual report for the year ending December 31, 2009, in accordance with TPDES Permit No. WQ0003290000 Part VIII Recordkeeping, Reporting, and Notification Requirements B.7 and Part X Special Provisions C., to the addresses listed in Ordering Provision 2.d;
 - ii. Submit the current sludge volume of RCS Nos. 1 and 2, in accordance with TPDES Permit No. WQ0003290000 Part X Special Provisions N., to the addresses listed in Ordering Provision 2.d;
 - iii. Develop and implement a RCS management plan incorporating the margin of safety developed by a licensed Texas professional engineer, in accordance with TPDES Permit No. WQ0003290000 Part VII PPP Requirements A.5.(a)(2);
 - iv. Submit a liner certification for the settling basin, in accordance with TPDES Permit No. WQ0003290000 Part X Special Provisions J. and Part VII PPP Requirements A.3.(g), to the address listed in Ordering Provision 2.d;
 - v. Remove manure and settled solids accumulations in the settling basins to assure the attainment of the 50% designed removal efficiency; and

- vi. Submit payment for all outstanding fees, including any associated penalties and interest and with the notation, "Re: Peter Wilfridus Deridder dba Deridder Dairy, TCEQ Account No. 23001407," to the address referenced in Ordering Provision No. 1 above.
- c. Within 60 days after the effective date of this Agreed Order, re-establish and maintain vegetative cover in the pens that maintain animals in accordance with 30 TEX. ADMIN. CODE 321.39(g)(2).
- d. Within 75 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 Nos. 2.a.i through 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 I have personally examined and am familiar with the information submitted and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is 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
Dallas/Fort Worth Regional Office
Texas Commission on Environmental Quality
2309 Gravel Drive
Fort Worth, Texas 76118-6951

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 Facility 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

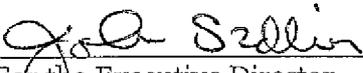
shall notify the Executive Director within seven days after the Respondent becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.

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

Date 12/21/2010

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

Date 10-13-10



Name (Printed or typed)
Authorized Representative of
Peter Wilfridus Deridder dba Deridder Dairy

Title OWNER

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