

**Executive Summary – Enforcement Matter – Case No. 41674**  
**Olke Andries Jongsma dba Amelia Dairy**  
**RN101516045**  
**Docket No. 2011-0909-AGR-E**

**Order Type:**

Findings Agreed Order

**Findings Order Justification:**

People or environmental receptors have been exposed to pollutants which exceed levels that are protective.

**Media:**

AGR

**Small Business:**

Yes

**Location(s) Where Violation(s) Occurred:**

Amelia Dairy, 248 County Road 4310, Winnsboro, Wood County

**Type of Operation:**

Dairy farm

**Other Significant Matters:**

Additional Pending Enforcement Actions: No

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: None

**Texas Register Publication Date:** March 23, 2012

**Comments Received:** No

***Penalty Information***

**Total Penalty Assessed:** \$10,350

**Amount Deferred for Expedited Settlement:** \$0

**Amount Deferred for Financial Inability to Pay:** \$0

**Total Paid to General Revenue:** \$305

**Total Due to General Revenue:** \$10,045

Payment Plan: 35 payments of \$287 each

**SEP Conditional Offset:** \$0

Name of SEP: N/A

**Compliance History Classifications:**

Person/CN - Average

Site/RN - Average

**Major Source:** No

**Statutory Limit Adjustment:** N/A

**Applicable Penalty Policy:** September 2002

**Executive Summary – Enforcement Matter – Case No. 41674**  
**Olke Andries Jongsma dba Amelia Dairy**  
**RN101516045**  
**Docket No. 2011-0909-AGR-E**

***Investigation Information***

**Complaint Date(s):** N/A

**Complaint Information:** N/A

**Date(s) of Investigation:** February 28, 2011

**Date(s) of NOE(s):** April 27, 2011

***Violation Information***

1. Failed to prevent the unauthorized discharge of wastewater into or adjacent to water in the state [TEX. WATER CODE § 26.121(a)(1), 30 TEX. ADMIN. CODE § 321.31(a) and Texas Pollutant Discharge Elimination System ("TPDES") General Permit No. TXG920068 Part II.A].

2. Failed to sample and analyze all discharges to surface water in the state from retention control structures ("RCSs") and land management units ("LMUs") [30 TEX. ADMIN. CODE § 321.44(b) and TPDES General Permit No. TXG920068 Part III A.5(c)].

3. Failed to maintain a vegetative buffer strip of no less than 100 feet of vegetation between manure, litter, or wastewater application areas and water in the state [30 TEX. ADMIN. CODE § 321.40(h) and TPDES General Permit No. TXG920068 Part III A.11(e)(1)].

4. Failed to design, construct, operate, and maintain the RCS to contain all wastewater from the production area, including the runoff and direct precipitation from the design rainfall event [30 TEX. ADMIN. CODE §§ 321.36(c) and 321.37(d), and TPDES General Permit No. TXG920068 Part II.A.6(d)(ii)].

5. Failed to properly operate and maintain all facilities and systems of treatment and control installed or used by the permittee to achieve compliance with the permit conditions [30 TEX. ADMIN. CODE § 305.125(1) and TPDES General Permit No. TXG920068 Part V.D].

***Corrective Actions/Technical Requirements***

**Corrective Action(s) Completed:**

The Respondent has implemented the following corrective measures at the Facility:

a. On February 28, 2011, ceased the unauthorized discharge of wastewater from LMU No. 8; and

b. On March 1, 2011, made repairs to the damaged riser.

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**Technical Requirements:**

The Order will require the Respondent to:

- a. Immediately, cease applying wastewater within the 100 foot buffer strip associated with LMU No. 6;
- b. Within 30 days:
  - i. Conduct employee training to ensure that all discharges from an RCS or LMU are sampled and analyzed;
  - ii. Update the Facility's operational guidance and conduct employee training to ensure all facilities and systems of treatment and control installed or used to achieve compliance with the permit conditions are properly operated and maintained;
  - iii. Repair the leaking wastewater pump; and
  - iv. Repair the crack in the slab of the free stall barn;
- c. Within 45 days, submit certification of compliance with Ordering Provisions a. through b.iv.;
- d. Within 60 days, begin operating and maintaining all RCSs to contain all wastewater from the production area, including the runoff and direct precipitation from the design rainfall event;
- e. Within 75 days, submit certification of compliance with Ordering Provision d.

***Litigation Information***

**Date Petition(s) Filed:** N/A  
**Date Answer(s) Filed:** N/A  
**SOAH Referral Date:** N/A  
**Hearing Date(s):** N/A  
**Settlement Date:** N/A

**Executive Summary – Enforcement Matter – Case No. 41674**  
**Olke Andries Jongsma dba Amelia Dairy**  
**RN101516045**  
**Docket No. 2011-0909-AGR-E**

***Contact Information***

**TCEQ Attorney:** N/A

**TCEQ Enforcement Coordinator:** Steve Villatoro, Enforcement Division,  
Enforcement Team 1, MC 169, (512) 239-4930; Debra Barber, Enforcement Division,  
MC 219, (512) 239-0412

**TCEQ SEP Coordinator:** N/A

**Respondent:** Olke Jongsma, Owner, Amelia Dairy, 248 County Road 4310,  
Winnsboro, Texas 75494

**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> | 2-May-2011  | <b>Screening</b> | 17-May-2011 | <b>EPA Due</b> |  |
|              | <b>PCW</b>      | 15-Aug-2011 |                  |             |                |  |

## RESPONDENT/FACILITY INFORMATION

|                             |                                       |                           |       |
|-----------------------------|---------------------------------------|---------------------------|-------|
| <b>Respondent</b>           | Olke Andries Jongsma dba Amelia Dairy |                           |       |
| <b>Reg. Ent. Ref. No.</b>   | RN101516045                           |                           |       |
| <b>Facility/Site Region</b> | 5-Tyler                               | <b>Major/Minor Source</b> | Minor |

## CASE INFORMATION

|                          |                      |                              |                    |          |
|--------------------------|----------------------|------------------------------|--------------------|----------|
| <b>Enf./Case ID No.</b>  | 41674                | <b>No. of Violations</b>     | 5                  |          |
| <b>Docket No.</b>        | 2011-0909-AGR-E      | <b>Order Type</b>            | Findings           |          |
| <b>Media Program(s)</b>  | Water Quality        | <b>Government/Non-Profit</b> | No                 |          |
| <b>Multi-Media</b>       |                      | <b>Enf. Coordinator</b>      | Steve Villatoro    |          |
|                          |                      | <b>EC's Team</b>             | Enforcement Team 1 |          |
| <b>Admin. Penalty \$</b> | <b>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> | \$10,500 |
|---|-------------------|----------|

### 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> | 10.0% Enhancement | <b>Subtotals 2, 3, &amp; 7</b> | \$1,050 |
|---------------------------|-------------------|--------------------------------|---------|

Notes: Enhancement for two NOVs with same/similar violations.

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

Notes: The Respondent does not meet the culpability criteria.

|  |                   |         |
|--|-------------------|---------|
| <b>Good Faith Effort to Comply Total Adjustments</b> | <b>Subtotal 5</b> | \$1,250 |
|--|-------------------|---------|

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

|                            |          |
|----------------------------|----------|
| Total EB Amounts           | \$1,396  |
| Approx. Cost of Compliance | \$25,425 |

\*Capped at the Total EB \$ Amount

|                             |                       |          |
|-----------------------------|-----------------------|----------|
| <b>SUM OF SUBTOTALS 1-7</b> | <b>Final Subtotal</b> | \$10,300 |
|-----------------------------|-----------------------|----------|

|   |      |                   |      |
|---|------|-------------------|------|
| <b>OTHER FACTORS AS JUSTICE MAY REQUIRE</b> | 0.5% | <b>Adjustment</b> | \$50 |
|---|------|-------------------|------|

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes: Adjustment to capture avoided cost associated with Violation No. 2.

|                             |          |
|-----------------------------|----------|
| <b>Final Penalty Amount</b> | \$10,350 |
|-----------------------------|----------|

|                                   |                               |          |
|-----------------------------------|-------------------------------|----------|
| <b>STATUTORY LIMIT ADJUSTMENT</b> | <b>Final Assessed Penalty</b> | \$10,350 |
|-----------------------------------|-------------------------------|----------|

|                 |                |                   |     |
|-----------------|----------------|-------------------|-----|
| <b>DEFERRAL</b> | 0.0% 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 is recommended for Findings Orders.

|                        |          |
|------------------------|----------|
| <b>PAYABLE PENALTY</b> | \$10,350 |
|------------------------|----------|

Screening Date 17-May-2011

Docket No. 2011-0909-AGR-E

PCW

Respondent Olke Andries Jongsma dba Amelia Dairy

Policy Revision 2 (September 2002)

Case ID No. 41674

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101516045

Media [Statute] Water Quality

Enf. Coordinator Steve Villatoro

### Compliance History Worksheet

#### >> Compliance History Site Enhancement (Subtotal 2)

| Component                     | Number of...   | Enter Number Here | Adjust. |
|-------------------------------|--|-------------------|---------|
| NOVs                          | Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action ( <i>number of NOVs meeting criteria</i> )  | 2                 | 10%     |
|                               | 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 | 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  | *Please Select    | 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)** 10%

#### >> 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 for two NOVs with same/similar violations.

**Total Adjustment Percentage (Subtotals 2, 3, & 7)** 10%

Screening Date 17-May-2011

Docket No. 2011-0909-AGR-E

PCW

Respondent Olke Andries Jongsma dba Amelia Dairy

Policy Revision 2 (September 2002)

Case ID No. 41674

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101516045

Media [Statute] Water Quality

Enf. Coordinator Steve Villatoro

Violation Number 1

Rule Cite(s) Tex. Water Code § 26.121(a)(1), 30 Tex. Admin. Code § 321.31(a) and Texas Pollutant Discharge Elimination System ("TPDES") General Permit No. TXG920068 Part II.A.

Violation Description Failed to prevent the unauthorized discharge of wastewater into or adjacent to water in the state, as documented during an investigation conducted on February 28, 2011. Specifically, a damaged valve in the riser of Land Management Unit ("LMU") No. 8 resulted in the discharge of approximately 51,840 gallons of wastewater into an unnamed tributary, which flows into Brushy Creek. Samples taken of the discharge indicated significant amounts of nutrients when compared to the upstream reference samples, including elevated levels of ammonia as nitrogen.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

| OR | Release   | Harm  |          |       | Percent |
|----|-----------|-------|----------|-------|---------|
|    |           | Major | Moderate | Minor |         |
|    | Actual    | x     |          |       | 50%     |
|    | Potential |       |          |       |         |

>> Programmatic Matrix

| Falsification | Major | Moderate | Minor | Percent |
|---------------|-------|----------|-------|---------|
|               |       |          |       | 0%      |

Matrix Notes Human health or the environment has been exposed to pollutants which exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment \$5,000

\$5,000

Violation Events

Number of Violation Events 1 Number of violation days 1

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

Violation Base Penalty \$5,000

One daily event is recommended for the date of the discharge (February 28, 2011).

Good Faith Efforts to Comply

25.0% Reduction

\$1,250

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

Notes The Respondent achieved compliance on March 1, 2011.

Violation Subtotal \$3,750

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$0

Violation Final Penalty Total \$4,271

This violation Final Assessed Penalty (adjusted for limits) \$4,271

# Economic Benefit Worksheet

**Respondent** Olke Andries Jongsma dba Amelia Dairy  
**Case ID No.** 41674  
**Reg. Ent. Reference No.** RN101516045  
**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 |
|--------------------------|-----------|---------------|------------|------|----------------|---------------|-----------|
| <b>Delayed Costs</b>     |           |               |            |      |                |               |           |
| No commas or \$          |           |               |            |      |                |               |           |
| 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     | 28-Feb-2011   | 1-Mar-2011 | 0.00 | \$0            | n/a           | \$0       |

**Notes for DELAYED costs**

Estimated costs to repair the riser in LMU No. 8. Date required is date of the investigation. Final date is the date the repairs were completed.

**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**

\$500

**TOTAL**

\$0

Screening Date 17-May-2011

Docket No. 2011-0909-AGR-E

PCW

Respondent Olke Andries Jongsma dba Amelia Dairy

Policy Revision 2 (September 2002)

Case ID No. 41674

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101516045

Media [Statute] Water Quality

Enf. Coordinator Steve Villatoro

Violation Number 2

Rule Cite(s) 30 Tex. Admin. Code § 321.44(b) and TPDES General Permit No. TXG920068 Part III A.5(c)

Violation Description

Failed to sample and analyze all discharges to surface water in the state from retention control structures ("RCS") and LMUs, as documented during an investigation conducted on February 28, 2011. Specifically, the Respondent did not take samples of the unauthorized discharge that occurred on February 28, 2011.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

| Release   | Harm  |          |       |
|-----------|-------|----------|-------|
|           | Major | Moderate | Minor |
| Actual    |       |          |       |
| Potential | x     |          |       |

Percent 25%

>> Programmatic Matrix

| Falsification | Major | Moderate | Minor |
|---------------|-------|----------|-------|
|               |       |          |       |

Percent 0%

Matrix Notes

Human health or the environment will or could be exposed to a significant amount of pollutants which could exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment \$7,500

\$2,500

Violation Events

Number of Violation Events 1

64 Number of violation days

mark only one with an x

|              |   |
|--------------|---|
| daily        |   |
| weekly       |   |
| monthly      |   |
| quarterly    |   |
| semiannual   |   |
| annual       |   |
| single event | x |

Violation Base Penalty \$2,500

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 \$2,500

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$54

Violation Final Penalty Total \$2,763

This violation Final Assessed Penalty (adjusted for limits) \$2,763

## Economic Benefit Worksheet

**Respondent** Olke Andries Jongsma dba Amelia Dairy  
**Case ID No.** 41674  
**Reg. Ent. Reference No.** RN101516045  
**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 |
|--------------------------------|-----------|---------------|------------|-----|----------------|---------------|-----------|
| <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        | \$100 | 28-Feb-2011 | 31-Dec-2011 | 0.84 | \$4 | n/a | \$4 |
| 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

The estimated cost to conduct training to ensure sampling of all discharges is conducted. Date required is the date of the discharge. 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]    | \$50 | 28-Feb-2011 | 28-Feb-2011 | 0.00 | \$0 | \$50 | \$50 |
| Other (as needed)             |      |             |             | 0.00 | \$0 | \$0  | \$0  |

Notes for AVOIDED costs

Estimated cost to sample the discharge from LMU No. 8 upon becoming aware of the discharge.

Approx. Cost of Compliance

\$150

**TOTAL**

\$54

Screening Date 17-May-2011

Docket No. 2011-0909-AGR-E

PCW

Respondent Oike Andries Jongsma dba Amelia Dairy

Policy Revision 2 (September 2002)

Case ID No. 41674

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101516045

Media [Statute] Water Quality

Enf. Coordinator Steve Villatoro

Violation Number 3

Rule Cite(s) 30 Tex. Admin. Code § 321.40(h), and TPDES General Permit No. TXG920068 Part III A.11(e)(1)

Violation Description

Failed to maintain a vegetative buffer strip of no less than 100 feet of vegetation between manure, litter, or wastewater application areas and water in the state, as documented during an investigation conducted on February 28, 2011. Specifically, a center pivot was used to irrigate LMU No. 6, a portion of which is located within the 100 foot buffer strip and is a natural drainage area that flows to Brushy Creek.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

| Release   | Harm  |          |       | Percent |
|-----------|-------|----------|-------|---------|
|           | Major | Moderate | Minor |         |
| Actual    |       |          |       | 10%     |
| Potential |       | x        |       |         |

>> Programmatic Matrix

| Matrix Notes   | Falsification |          |       | Percent |
|--|---------------|----------|-------|---------|
|  | Major         | Moderate | Minor |         |
| Human health or the environment will or could be exposed to significant amounts of pollutants which would not exceed levels that are protective of human health or environmental receptors as a result of the violation. |               |          |       | 0%      |

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events 1 Number of violation days 78

|                         |              |   |
|-------------------------|--------------|---|
| 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 date of the investigation (February 28, 2011) to the date of screening (May 17, 2011).

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 \$650

Violation Final Penalty Total \$1,105

This violation Final Assessed Penalty (adjusted for limits) \$1,105

## Economic Benefit Worksheet

**Respondent** Olke Andries Jongsma dba Amelia Dairy  
**Case ID No.** 41674  
**Reg. Ent. Reference No.** RN101516045  
**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 |
|--------------------------------|-----------|---------------|------------|-----|----------------|---------------|-----------|
| <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)        | \$14,075 | 28-Feb-2011 | 31-Jan-2012 | 0.92 | \$650 | n/a | \$650 |

#### Notes for DELAYED costs

Estimated cost to remove the stop from the center pivot in LUM No. 6, to submit Notice of Change, update Nutrient Management Plan, and cost of filling and farming the drainage ways. Date required is the date of the investigation. Final date is the expected date of compliance.

### Avoided Costs

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

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

#### Notes for AVOIDED costs

Approx. Cost of Compliance

\$14,075

**TOTAL**

\$650

Screening Date 17-May-2011

Docket No. 2011-0909-AGR-E

PCW

Respondent Olke Andries Jongsma dba Amelia Dairy

Policy Revision 2 (September 2002)

Case ID No. 41674

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101516045

Media [Statute] Water Quality

Enf. Coordinator Steve Villatoro

Violation Number 4

Rule Cite(s) 30 Tex. Admin. Code §§ 321.36(c) and 321.37(d), and TPDES General Permit No. TXG920068 Part II.A.6(d)(ii)

Violation Description

Failed to design, construct, operate, and maintain the RCS to contain all wastewater from the production area, including the runoff and direct precipitation from the design rainfall event, as documented during an investigation conducted on February 28, 2011. Specifically, runoff from the open lot located to the west and northwest of RCS No. 4 had formed channelized ditches which divert contaminated rainfall runoff to the west of RCS No. 4 and then into Brushy Creek.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

| OR        | Release | Harm  |          |       | Percent |
|-----------|---------|-------|----------|-------|---------|
|           |         | Major | Moderate | Minor |         |
| Actual    |         |       |          |       | 10%     |
| Potential |         |       | x        |       |         |

>> Programmatic Matrix

| Falsification | Major | Moderate | Minor | Percent |
|---------------|-------|----------|-------|---------|
|               |       |          |       | 0%      |

Matrix Notes

Human health or the environment will or could be exposed to a significant amount of pollutants.

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events 1 Number of violation days 78

|                         |              |   |
|-------------------------|--------------|---|
| 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 date of the investigation (February 28, 2011) to the date of screening (May 17, 2011).

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 \$498

Violation Final Penalty Total \$1,105

This violation Final Assessed Penalty (adjusted for limits) \$1,105

## Economic Benefit Worksheet

**Respondent** Olke Andries Jongsma dba Amelia Dairy  
**Case ID No.** 41674  
**Reg. Ent. Reference No.** RN101516045  
**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

|                          |         |             |             |      |      |       |       |
|--------------------------|---------|-------------|-------------|------|------|-------|-------|
| Equipment                |         |             |             | 0.00 | \$0  | \$0   | \$0   |
| Buildings                |         |             |             | 0.00 | \$0  | \$0   | \$0   |
| Other (as needed)        |         |             |             | 0.00 | \$0  | \$0   | \$0   |
| Engineering/construction | \$7,700 | 28-Feb-2011 | 31-Jan-2012 | 0.92 | \$24 | \$474 | \$498 |
| 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 excavate RCS No. 4, sample and test liner, certify capacity, and conduct a water balance for feed lane. Required date is the investigation date. Final date is the expected date of compliance.

### Avoided Costs

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

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

**Notes for AVOIDED costs**

Approx. Cost of Compliance \$7,700

**TOTAL** \$498

Screening Date 17-May-2011

Docket No. 2011-0909-AGR-E

PCW

Respondent Olke Andries Jongsma dba Amelia Dairy

Policy Revision 2 (September 2002)

Case ID No. 41674

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101516045

Media [Statute] Water Quality

Enf. Coordinator Steve Villatoro

Violation Number 5

Rule Cite(s) 30 Tex. Admin. Code § 305.125(1) and TPDES General Permit No. TXG920068 Part V.D

Violation Description Failed to properly operate and maintain all facilities and systems of treatment and control installed or used by the permittee to achieve compliance with the permit conditions, as documented during an investigation conducted on February 28, 2011. Specifically, an irrigation pump was leaking and there was a crack in the slab of the free stall barn.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

Table with columns: Release (Actual, Potential), Harm (Major, Moderate, Minor), and Percent (5%). Includes an 'OR' label.

>> Programmatic Matrix

Table with columns: Falsification, Major, Moderate, Minor, and Percent (0%).

Matrix Notes Human health or the environment will or could be 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 \$9,500

\$500

Violation Events

Number of Violation Events 2 Number of violation days 78

Table for frequency: daily, weekly, monthly, quarterly, semiannual, annual, single event. Includes instruction 'mark only one with an x'.

Violation Base Penalty \$1,000

Two single events are recommended, one for each maintenance issue.

Good Faith Efforts to Comply

0.0% Reduction

\$0

Table for Good Faith Efforts: Extraordinary, Ordinary, N/A. Includes 'Before NOV' and 'NOV to EDPRP/Settlement Offer' columns.

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 \$194

Violation Final Penalty Total \$1,105

This violation Final Assessed Penalty (adjusted for limits) \$1,105

# Economic Benefit Worksheet

**Respondent** Olke Andries Jongsma dba Amelia Dairy  
**Case ID No.** 41674  
**Reg. Ent. Reference No.** RN101516045  
**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

|                          |         |             |             |      |     |       |       |
|--------------------------|---------|-------------|-------------|------|-----|-------|-------|
| Equipment                |         |             |             | 0.00 | \$0 | \$0   | \$0   |
| Buildings                |         |             |             | 0.00 | \$0 | \$0   | \$0   |
| Other (as needed)        |         |             |             | 0.00 | \$0 | \$0   | \$0   |
| Engineering/construction | \$3,000 | 28-Feb-2011 | 31-Jan-2012 | 0.92 | \$9 | \$185 | \$194 |
| 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 repair the pump and the crack in the free stall barn slab. Required date is the investigation date. Final date is the expected date of compliance.

### Avoided Costs

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

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

Notes for AVOIDED costs

Approx. Cost of Compliance

\$3,000

**TOTAL**

\$194

## Compliance History

Customer/Respondent/Owner-Operator: CN602563660 JONGSMA, OLKE ANDRIES Classification: AVERAGE Rating: 2.33

Regulated Entity: RN101516045 AMELIA DAIRY Classification: AVERAGE Site Rating: 2.33

ID Number(s): WASTEWATER AGRICULTURE EPA ID TX0130877  
WASTEWATER AGRICULTURE PERMIT TXG920068

Location: 248 COUNTY ROAD 4310, WINNSBORO, TX, 75494

TCEQ Region: REGION 05 - TYLER

Date Compliance History Prepared: June 10, 2011

Agency Decision Requiring Compliance History: Enforcement

Compliance Period: June 10, 2006 to June 10, 2011

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

Name: Steve Villatoro Phone: (512) 239-4930

### 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: 9/1/2010 Repeat Violator: NO

### Components (Multimedia) for the Site :

- A. Final Enforcement Orders, court judgments, and consent decrees of the State of Texas and the federal government.  
N/A
- B. Any criminal convictions of the state of Texas and the federal government.  
N/A
- C. Chronic excessive emissions events.  
N/A
- D. The approval dates of investigations. (CCEDS Inv. Track. No.)

- |   |            |          |
|---|------------|----------|
| 1 | 08/01/2007 | (570523) |
| 2 | 11/01/2007 | (595891) |
| 3 | 02/26/2008 | (617634) |
| 4 | 11/05/2008 | (705783) |
| 5 | 01/27/2010 | (789410) |
| 6 | 04/27/2010 | (799716) |
| 7 | 07/14/2010 | (830318) |
| 8 | 04/28/2011 | (912890) |

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

Date: 08/08/2007 (570523) CN602563660

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 321, SubChapter B 321.39(g)(1)  
TXG920068 Part III.B.2. PERMIT

Description: Failure to restrict confined animals at the CAFO from coming into direct contact with surface water in the state.

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 321, SubChapter B 321.37(d)  
TXG920068 Part V. B. PERMIT

Description: Failure to design, construct, operate, and maintain retention control structures (RCSs) to contain all wastewater from the production area, including the runoff and direct precipitation from the 25-year, 24-hour rainfall event.

Date 02/03/2010 (789410) CN602563660

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 321, SubChapter B 321.37(d)

Description: Failure to design, construct, operate, and maintain retention control structures (RCSs) to contain all wastewater from the production area, including the runoff and direct precipitation from the 25-year, 24-hour rainfall event.

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 321, SubChapter B 321.39(f)

TXG920000 Part III.B(4) PERMIT

Description: Failure to ensure that the drainage from the entire compost area is in the drainage area of the RCS.

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 321, SubChapter B 321.38(b)(1)

TXG920000 Part III.A.4(c) PERMIT

Description: Failure to follow buffer zone requirements for water wells located on site.

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 321, SubChapter B 321.38(g)(3)(A)

TXG920000 Part III.A.6(g) PERMIT

Description: Failure to provide liner certifications, certified by a licensed Texas professional engineer or licensed Texas professional geoscientist, for each retention control structure on site.

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 321, SubChapter B 321.40(k)(2)

TXG920000 Part III.A.13(a) PERMIT

Description: Failure to land apply wastewater in accordance with the Nutrient Management Plan (NMP).

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>TEXAS COMMISSION ON</b>   |
| <b>OLKE ANDRIES JONGSMA DBA</b> | <b>§</b> |                              |
| <b>AMELIA DAIRY</b>             | <b>§</b> |                              |
| <b>RN101516045</b>              | <b>§</b> | <b>ENVIRONMENTAL QUALITY</b> |

**AGREED ORDER**  
**DOCKET NO. 2011-0909-AGR-E**

At its \_\_\_\_\_ agenda, the Texas Commission on Environmental Quality (“the Commission” or “TCEQ”) considered this agreement of the parties, resolving an enforcement action regarding Olke Andries Jongsma dba Amelia Dairy (“the Respondent”) under the authority of TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent presented this agreement to the Commission.

The Respondent understands that he has certain procedural rights at certain points in the enforcement process, including, but not limited to, the right to formal notice of violations, notice of an evidentiary hearing, the right to an evidentiary hearing, and a right to appeal. By entering into this Agreed Order, the Respondent agrees to waive all notice and procedural rights.

It is further understood and agreed that this Order represents the complete and fully-integrated settlement of the parties. 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. The duties and responsibilities imposed by this Agreed Order are binding upon the Respondent.

The Commission makes the following Findings of Fact and Conclusions of Law:

**I. FINDINGS OF FACT**

1. The Respondent owns and operates a dairy farm located at 248 County Road 4310 in Winnsboro, Wood County, Texas (the “Facility”).

2. The Respondent has discharged agricultural waste into or adjacent to any water in the state under TEX. WATER CODE ch. 26.
3. During an investigation on February 28, 2011, TCEQ staff documented that a damaged valve in the riser of Land Management Unit ("LMU") No. 8, resulted in the discharge of approximately 51,840 gallons of wastewater into an unnamed tributary, which flows into Brushy Creek. Samples taken of the discharge indicated significant amounts of nutrients when compared to the upstream reference samples, including elevated levels of ammonia as nitrogen.
4. During an investigation on February 28, 2011, TCEQ staff documented that the Respondent did not take samples of the unauthorized discharge that occurred on February 28, 2011.
5. During an investigation on February 28, 2011, TCEQ staff documented that a center pivot was used to irrigate LMU No. 6, a portion of which is located within the 100 foot buffer strip and is a natural drainage area that flows to Brushy Creek.
6. During an investigation on February 28, 2011, TCEQ staff documented that runoff from the open lot located to the west and northwest of retention control structure ("RCS") No. 4 had formed channelized ditches which divert contaminated rainfall runoff to the west of RCS No. 4 and then into Brushy Creek.
7. During an investigation on February 28, 2011, TCEQ staff documented that an irrigation pump was leaking and there was a crack in the slab of the free stall barn.
8. The Respondent received notice of the violations on May 2, 2011.
9. The Executive Director recognizes that the Respondent has implemented the following corrective measures at the Facility:
  - a. On February 28, 2011, ceased the unauthorized discharge of wastewater from LMU No. 8; and
  - b. On March 1, 2011, made repairs to the damaged riser.

## **II. CONCLUSIONS OF LAW**

1. The Respondent is subject to the jurisdiction of the TCEQ pursuant to TEX. WATER CODE chs. 7 and 26 and the rules of the Commission.
2. As evidenced by Findings of Fact No. 3, the Respondent failed to prevent the unauthorized discharge of wastewater into or adjacent to water in the state, in violation of TEX. WATER CODE § 26.121(a)(1), 30 TEX. ADMIN. CODE § 321.31(a) and Texas

Pollutant Discharge Elimination System ("TPDES") General Permit No. TXG920068 Part II.A.

3. As evidenced by Findings of Fact No. 4, the Respondent failed to sample and analyze all discharges to surface water in the state from RCSs and LMUs, in violation of 30 TEX. ADMIN. CODE § 321.44(b) and TPDES General Permit No. TXG920068 Part III A.5(c).
4. As evidenced by Findings of Fact No. 5, the Respondent failed to maintain a vegetative buffer strip of no less than 100 feet of vegetation between manure, litter, or wastewater application areas and water in the state, in violation of 30 TEX. ADMIN. CODE § 321.40(h) and TPDES General Permit No. TXG920068 Part III A.11(e)(1).
5. As evidenced by Findings of Fact No. 6, the Respondent failed to design, construct, operate, and maintain the RCS to contain all wastewater from the production area, including the runoff and direct precipitation from the design rainfall event, in violation of 30 TEX. ADMIN. CODE §§ 321.36(c) and 321.37(d), and TPDES General Permit No. TXG920068 Part II.A.6(d)(ii).
6. As evidenced by Findings of Fact No. 7, the Respondent failed to properly operate and maintain all facilities and systems of treatment and control installed or used by the permittee to achieve compliance with the permit conditions, in violation of 30 TEX. ADMIN. CODE § 305.125(1) and TPDES General Permit No. TXG920068 Part V.D.
7. Pursuant to TEX. WATER CODE § 7.051, the Commission has the authority to assess an administrative penalty against the Respondent for violations of the Texas Water Code and the Texas Health and Safety Code within the Commission's jurisdiction; for violations of rules adopted under such statutes; or for violations of orders or permits issued under such statutes.
8. An administrative penalty in the amount of Ten Thousand Three Hundred Fifty Dollars (\$10,350) is justified by the facts recited in this Agreed Order, and considered in light of the factors set forth in TEX. WATER CODE § 7.053. The Respondent has paid Three Hundred Five Dollars (\$305) of the administrative penalty.

The remaining amount of Ten Thousand Forty-Five Dollars (\$10,045) of the administrative penalty shall be payable in 35 monthly payments of Two Hundred Eighty-Seven Dollars (\$287) 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.

### III. ORDERING PROVISIONS

NOW, THEREFORE, THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY ORDERS that:

1. The Respondent is assessed an administrative penalty in the amount of Ten Thousand Three Hundred Fifty Dollars (\$10,350) as set forth in Section II, Paragraph 8 above, for violations of TCEQ rules and state statutes. The payment of this administrative penalty and the Respondent's compliance with all the terms and conditions set forth in this Agreed Order completely resolve the violations set forth by this Agreed Order in this action. However, the Commission shall not be constrained in any manner from requiring corrective actions or penalties for other violations that are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: Olke Andries Jongsma dba Amelia Dairy, Docket No. 2011-0909-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. Immediately, cease applying wastewater within the 100 foot buffer strip associated with LMU No. 6;
  - b. Within 30 days after the effective date of this Agreed Order:
    - i. Conduct employee training to ensure that all discharges from an RCS or LMU are sampled and analyzed, in accordance with 30 TEX. ADMIN. Code § 321.44(b) and TPDES General Permit No. TXG920068 Part III A.5(c);
    - ii. Update the Facility's operational guidance and conduct employee training to ensure all facilities and systems of treatment and control installed or used to achieve compliance with the permit conditions are properly operated and maintained, in accordance with 30 TEX. ADMIN. CODE §§ 305.125(1) and 321.31(a), and TPDES General Permit No. TXG920068 Part V.D;
    - iii. Repair the leaking wastewater pump; and
    - iv. Repair the crack in the slab of the free stall barn;

- c. Within 45 days after the effective date of this Agreed Order, submit certification of compliance with Ordering Provision Nos. 2.a through 2.b.iv. The certification shall be in accordance with Ordering Provision No. 2.f below;
- d. Within 60 days after the effective date of this Agreed Order, begin operating and maintaining all RCSs to contain all wastewater from the production area, including the runoff and direct precipitation from the design rainfall event, in accordance with 30 TEX. ADMIN. CODE §§ 321.36(c) and 321.37(d), and TPDES General Permit No. TXG920068 Part II.A.6(d)(ii);
- e. Within 75 days after the effective date of this Agreed Order, submit certification of compliance with Ordering Provision No. 2.d. The certification shall be in accordance with Ordering Provision No. 2.f below;
- f. The written certification of compliance required by Ordering Provision Nos. 2.c and 2.e shall include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance. 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 fine and imprisonment for knowing violations."

The certification shall be submitted to:

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

with a copy to:

Water Section, Manager  
Tyler Regional Office  
Texas Commission on Environmental Quality  
2916 Teague Drive  
Tyler, Texas 75701-3734

3. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the 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. The Executive Director may refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings without notice to the Respondent if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
7. 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.
8. 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.
9. 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.

10. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties. By law, the effective date of this Agreed Order is the third day after the mailing date, as provided by 30 TEX. ADMIN. CODE § 70.10(b) and TEX. GOV'T CODE § 2001.142.

## SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

\_\_\_\_\_  
For the Commission

*Pam Jansin*  
For the Executive Director

9/4/12  
Date

I, the undersigned, have read and understand the attached Agreed Order in the matter of Olke Andries Jongsma dba Amelia Dairy. I am authorized to agree to the attached Agreed Order on behalf of Olke Andries Jongsma dba Amelia Dairy, and do agree to the specified terms and conditions. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I understand that by entering into this Agreed Order, Olke Andries Jongsma dba Amelia Dairy waives certain procedural rights, including, but not limited to, the right to formal notice of violations addressed by this Agreed Order, notice of an evidentiary hearing, the right to an evidentiary hearing, and the right to appeal. I agree to the terms of the Agreed Order in lieu of an evidentiary hearing. This Agreed Order constitutes full and final adjudication by the Commission of the violations set forth in this Agreed Order.

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.

*Olke Jongsma*  
Signature  
*Olke Jongsma*  
Name (Printed or typed)  
Authorized Representative of  
Olke Andries Jongsma dba Amelia Dairy

1-25-2012  
Date  
owner  
Title

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