

EXECUTIVE SUMMARY – ENFORCEMENT MATTER – CASE No. 39887
Peter Wilfridus Deridder dba Deridder Dairy
RN101522233
Docket No. 2012-1169-AGR-E

Order Type:

Findings Agreed Order

Findings Order Justification:

Indifference to legal duty based on violation of a previous order.

Media:

AGR

Small Business:

Yes

Location(s) Where Violation(s) Occurred:

1572 County Road 202, at the intersection of County Road 199 and County Road 202, Iredell, Erath County

Type of Operation:

dairy farm

Other Significant Matters:

Additional Pending Enforcement Actions:	None
Past-Due Penalties:	\$10,196.23 (2010-0986-AGR-E)
Past-Due Fees:	\$4,221.62 (Acct. No. 23001407)
Other:	None
Interested Third-Parties:	None

Texas Register Publication Date: December 20, 2013

Comments Received: None

Penalty Information

Total Penalty Assessed: \$8,546

Total Paid to General Revenue: \$276

Total Due to General Revenue: \$8,270

Payment Plan: 34 payments of \$237 each followed by one payment of \$212

Compliance History Classifications:

Person/CN – Poor
Site/RN – Poor

Major Source: No

Statutory Limit Adjustment: None

Applicable Penalty Policy: September 2002 (PCW 1); September 2011 (PCW 2)

Investigation Information

Complaint Date(s): March 6, 2012

Complaint Information: Alleged nuisance odors coming from the Facility.

Date(s) of Investigation: April 9, 2012

Date(s) of NOV(s): N/A

Date(s) of NOE(s): May 31, 2012

Peter Wilfridus Deridder dba Deridder Dairy

RN101522233

Docket No. 2012-1169-AGR-E

Violation Information

1. Failed to develop and implement procedures to ensure that all records are maintained at the Facility [30 TEX. ADMIN. CODE § 321.46(d); Texas Pollutant Discharge Elimination System (“TPDES”) Permit No. WQ0003290000, Section VIII.A., Recordkeeping, Reporting, Notification Requirements; and TCEQ Agreed Order Docket No. 2010-0896-AGR-E, Ordering Provision No. 2.a.ii.].
2. Failed to prevent a discharge of wastewater from a confined animal feeding operation (“CAFO”) by not maintaining a margin of safety in a retention control structure (“RCS”) to contain the volume of runoff and direct precipitation from the 25-year/10-day rainfall event [TEX. WATER CODE § 26.121(a); 30 TEX. ADMIN. CODE §§ 321.39(b) and 321.42(b); and TPDES Permit No. WQ0003290000, Section VII.A.5.(a)(1), Operation and Maintenance of RCS, Sections IX.E. and IX.S., Standard Permit Conditions].
3. Failed to submit a complete and accurate annual report for calendar year 2011 [30 TEX. ADMIN. CODE §§ 321.36(j) and 321.46(e)(2); and TPDES Permit No. WQ0003290000, Section X.C., Special Provisions].
4. Failed to pay outstanding consolidated water quality fees and associated late fees for TCEQ Account No. 23001407 for fiscal year 2012, and the administrative penalty and associated late fees for TCEQ Account No. 23606124 [30 TEX. ADMIN. CODE § 21.4, TEX. WATER CODE § 5.702, and TCEQ Agreed Order Docket No. 2010-0986-AGR-E, Ordering Provision No. 1].

Corrective Actions/Technical Requirements**Corrective Action(s) Completed:**

On April 8, 2012, Respondent repaired and reinstalled pond markers and achieved the proper margin of safety in RCS No. 2 sufficient to contain runoff and precipitation from the 25-year/10-day rainfall event.

Technical Requirements:

1. Within 60 days:
 - a. Develop and implement procedures to ensure that all records, including irrigation records, complete pond marker readings, inspection records, manure logs, and manure and wastewater laboratory reports for the pollution prevention plan, and complete annual reports, are maintained at the Facility and submitted within five working days of a written request; and
 - b. Submit payment for outstanding consolidated water quality fees and associated late fees and interest for TCEQ Account 23001407, and for the administrative penalty and associated late fees and interest for TCEQ Account No. 23606124.
2. Within 75 days, submit written certification to demonstrate compliance.

Litigation Information

Date Petition(s) Filed:	August 30, 2012
Date Answer(s) Filed:	October 8, 2012
SOAH Referral Date:	November 19, 2012
Hearing Date(s):	
Preliminary Hearing:	March 7, 2013
Evidentiary Hearing:	August 1, 2013 (scheduled, continued)
Settlement Date:	October 1, 2013

Peter Wilfridus Deridder dba Deridder Dairy

RN101522233

Docket No. 2012-1169-AGR-E

Contact Information

TCEQ Attorneys: Jim Sallans, Litigation Division, (512) 239-3400
Lena Roberts, Litigation Division, (512) 239-3400
Eli Martinez, Public Interest Counsel, (512) 239-6363

TCEQ Enforcement Coordinator: Jorge Ibarra, P.E., Enforcement Division, (817) 588-5890

TCEQ Regional Contact: Jeff Tate, Dallas/Fort Worth Regional Office, (817) 588-5800

Respondent Contact: Peter Deridder, 1572 County Road 202, Iredell, Texas 76649

Respondent's Attorney: N/A

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Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

TCEQ

DATES	Assigned	4-Jun-2012	Screening	8-Jun-2012	EPA Due	
	PCW	24-Jul-2013				

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	1
Docket No.	2012-1169-AGR-E	Order Type	Findings
Media Program(s)	Water Quality	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Jorge Ibarra, P.E.
		EC's Team	Enforcement Team 3
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$10,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)	Subtotal 1	\$1,000
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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	59.0% Enhancement	Subtotals 2, 3, & 7	\$590

Notes: Enhancement for one order with denial of liability, one order without denial of liability, two NOVs with dissimilar violations, and for Poor Performer classification.

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: \$49
 Approx. Cost of Compliance: \$500
 *Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7	Final Subtotal	\$1,590
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OTHER FACTORS AS JUSTICE MAY REQUIRE	0.0%	Adjustment	
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

Final Penalty Amount \$1,590

STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$1,590
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DEFERRAL	0.0%	Reduction	Adjustment	\$0
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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.

PAYABLE PENALTY	\$1,590
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Screening Date 8-Jun-2012

Docket No. 2012-1169-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 Jorge Ibarra, P.E.

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>)	0	0%
	Other written NOVs	2	4%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	1	20%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	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 counts</i>)	0	0%
Emissions	Chronic excessive emissions events (<i>number of events</i>)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which notices were submitted</i>)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which violations were disclosed</i>)	0	0%
<i>Please Enter Yes or No</i>			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 49%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Poor Performer

Adjustment Percentage (Subtotal 7) 10%

>> Compliance History Summary

Compliance History Notes

Enhancement for one order with denial of liability, one order without denial of liability, two NOVs with dissimilar violations, and for Poor Performer classification.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 59%

Screening Date	8-Jun-2012	Docket No.	2012-1169-AGR-E	PCW
Respondent	Peter Wilfridus Deridder dba Deridder Dairy			<i>Policy Revision 2 (September 2002)</i>
Case ID No.	39887			<i>PCW Revision October 30, 2008</i>
Reg. Ent. Reference No.	RN101522233			
Media [Statute]	Water Quality			
Enf. Coordinator	Jorge Ibarra, P.E.			

Violation Number

Rule Cite(s) Texas Pollutant Discharge Elimination System Permit No. WQ0003290000, Section VIII.A., Recordkeeping, Reporting, Notification Requirements, 30 Tex. Admin. Code § 321.46(d), and TCEQ Agreed Order Docket No. 2010-0986-AGR-E, Ordering Provision No. 2.a.ii

Violation Description

Failed to develop and implement procedures to ensure that all records are maintained at the Facility and submitted within five working days of a written request. Specifically, the pollution prevention plan did not include irrigation records, complete pond marker readings, inspection records, manure logs, or manure and wastewater laboratory reports.

Base Penalty

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

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text" value="0%"/>
	Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>	

>> **Programmatic Matrix**

	Falsification	Major	Moderate	Minor	Percent
	<input type="text"/>	<input checked="" type="text" value="x"/>	<input type="text"/>	<input type="text"/>	<input type="text" value="10%"/>

Matrix Notes

Adjustment

Violation Events

Number of Violation Events Number of violation days

mark only one with an x

daily	<input type="text"/>
weekly	<input type="text"/>
monthly	<input type="text"/>
quarterly	<input type="text"/>
semiannual	<input type="text"/>
annual	<input type="text"/>
single event	<input checked="" type="text" value="x"/>

Violation Base Penalty

Good Faith Efforts to Comply

Reduction

	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary	<input type="text"/>	<input type="text"/>
Ordinary	<input type="text"/>	<input type="text"/>
N/A	<input checked="" type="text" value="x"/>	(mark with x)

Notes

Violation Subtotal

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount **Violation Final Penalty Total**

This violation Final Assessed Penalty (adjusted for limits)

Economic Benefit Worksheet

Respondent Peter Wilfridus Deridder dba Deridder Dairy
Case ID No. 39887
Reg. 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

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	20-Feb-2011	1-Feb-2013	1.95	\$49	n/a	\$49
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 develop and implement procedures to ensure that all records are maintained at the Facility and submitted within five working days of a written request. Date required is the effective date of the Agreed Order 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)

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	\$49
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Penalty Calculation Worksheet (PCW)

Policy Revision 3 (September 2011)

PCW Revision August 3, 2011

TCEQ

DATES	Assigned	4-Jun-2012	Screening	8-Jun-2012	EPA Due	
	PCW	16-Sep-2013				

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	3
Docket No.	2012-1169-AGR-E	Order Type	Findings
Media Program(s)	Water Quality	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Jorge Ibarra, P.E.
		EC's Team	Enforcement Team 3
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$25,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties) **Subtotal 1** **\$4,375**

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History **59.0%** Enhancement **Subtotals 2, 3, & 7** **\$2,581**

Notes: Enhancement for one order with denial of liability, one order without denial of liability, two NOVs with dissimilar violations, and for Poor Performer classification.

Culpability **No** **0.0%** Enhancement **Subtotal 4** **\$0**

Notes: The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply Total Adjustments **Subtotal 5** **\$0**

Economic Benefit **0.0%** Enhancement* **Subtotal 6** **\$0**

Total EB Amounts **\$103**
 Approx. Cost of Compliance **\$2,200**
 *Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7 **Final Subtotal** **\$6,956**

OTHER FACTORS AS JUSTICE MAY REQUIRE **0.0%** **Adjustment**

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

Final Penalty Amount **\$6,956**

STATUTORY LIMIT ADJUSTMENT **Final Assessed Penalty** **\$6,956**

DEFERRAL **0.0%** Reduction **Adjustment** **\$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.

PAYABLE PENALTY **\$6,956**

Screening Date 8-Jun-2012 **Docket No.** 2012-1169-AGR-E
Respondent Peter Wilfridus Deridder dba Deridder Dairy
Case ID No. 39887
Reg. Ent. Reference No. RN101522233
Media [Statute] Water Quality
Enf. Coordinator Jorge Ibarra, P.E.

PCW

Policy Revision 3 (September 2011)

PCW Revision August 3, 2011

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>)	0	0%
	Other written NOVs	2	4%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	1	20%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	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 counts</i>)	0	0%
Emissions	Chronic excessive emissions events (<i>number of events</i>)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which notices were submitted</i>)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which violations were disclosed</i>)	0	0%
<i>Please Enter Yes or No</i>			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 49%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Poor Performer

Adjustment Percentage (Subtotal 7) 10%

>> Compliance History Summary

Compliance History Notes

Enhancement for one order with denial of liability, one order without denial of liability, two NOVs with dissimilar violations, and for Poor Performer classification.

Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7) 59%

>> Final Compliance History Adjustment

Final Adjustment Percentage *capped at 100% 59%

Screening Date	8-Jun-2012	Docket No.	2012-1169-AGR-E	PCW
Respondent	Peter Wilfridus Deridder dba Deridder Dairy		<i>Policy Revision 3 (September 2011)</i>	
Case ID No.	39887	<i>PCW Revision August 3, 2011</i>		
Reg. Ent. Reference No.	RN101522233			
Media [Statute]	Water Quality			
Enf. Coordinator	Jorge Ibarra, P.E.			

Violation Number

Rule Cite(s) Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0003290000, Section VII.A.5.(a)(1), Operation and Maintenance of Retention Control Structure ("RCS"), Sections IX.E. and IX.S., Standard Permit Conditions, 30 Tex. Admin. Code §§ 321.39(b), and 321.42(d), and Tex. Water Code § 26.121(a)

Violation Description Failed to prevent a discharge of wastewater from a concentrated animal feeding operation ("CAFO") by not maintaining a margin of safety in the RCS to contain the volume of runoff and direct precipitation from the 25-year/10-day rainfall event. Specifically, the Respondent did not maintain the required rainfall capacity in RCS No. 2 and failed to irrigate to prevent the unauthorized discharges from the RCS on March 20, 2012. The Respondent estimated approximately 22,320 gallons were discharged from RCS No. 2 in a one-hour period.

Base Penalty

>> Environmental, Property and Human Health Matrix

OR	Harm				Percent <input type="text" value="15.0%"/>
	Release	Major	Moderate	Minor	
	Actual	<input type="text"/>	<input checked="" type="checkbox"/>	<input type="text"/>	
	Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>	

>> Programmatic Matrix

	Falsification	Major	Moderate	Minor	Percent <input type="text" value="0.0%"/>
Matrix Notes	Human health or the environment has been exposed to significant amounts of pollutants as a result of the violation.				

Adjustment

Violation Events

Number of Violation Events Number of violation days

<i>mark only one with an x</i>	daily	<input type="text"/>
	weekly	<input type="text"/>
	monthly	<input checked="" type="checkbox"/>
	quarterly	<input type="text"/>
	semiannual	<input type="text"/>
	annual	<input type="text"/>
	single event	<input type="text"/>

Violation Base Penalty

Good Faith Efforts to Comply Reduction

	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary	<input type="text"/>	<input type="text"/>
Ordinary	<input type="text"/>	<input type="text"/>
N/A	<input checked="" type="checkbox"/>	(mark with x)

Notes

Violation Subtotal

Economic Benefit (EB) for this violation **Statutory Limit Test**

Violation Final Penalty Total

This violation Final Assessed Penalty (adjusted for limits)

Economic Benefit Worksheet

Respondent Peter Wilfridus Deridder dba Deridder Dairy
Case ID No. 39887
Reg. 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
Delayed Costs							
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)	\$2,000	9-Apr-2012	15-Mar-2013	0.93	\$93	n/a	\$93

Notes for DELAYED costs

Estimated cost to begin maintaining a margin of safety in the RCS and to place soil in path of the discharge to contain the discharge. Date required is the investigation date 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)**

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	\$2,000	TOTAL	\$93
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Screening Date 8-Jun-2012 **Docket No.** 2012-1169-AGR-E **PCW**
Respondent Peter Wilfridus Deridder dba Deridder Dairy *Policy Revision 3 (September 2011)*
Case ID No. 39887 *PCW Revision August 3, 2011*
Reg. Ent. Reference No. RN101522233
Media [Statute] Water Quality
Enf. Coordinator Jorge Ibarra, P.E.

Violation Number 2

Rule Cite(s)

TPDES Permit No. WQ0003290000, Section X.C., Special Provisions, and 30 Tex. Admin. Code §§ 321.36(j) and 321.46(e)(2)

Violation Description

Failed to submit a complete and accurate annual report for calendar year 2011. Specifically, the soil monitoring reports were not completed by using most current soil sampling analysis, the application records did not include the amount of nutrients applied, the weather conditions, and the manure and wastewater samples.

Base Penalty \$25,000

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

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual				0.0%
	Potential				

>> **Programmatic Matrix**

Matrix Notes	Falsification	Harm			Percent
		Major	Moderate	Minor	
			x		2.5%

Matrix Notes

50% of the rule requirement was not met.

Adjustment \$24,375

\$625

Violation Events

Number of Violation Events 1 117 Number of violation days

<i>mark only one with an x</i>	daily	
	weekly	
	monthly	
	quarterly	
	semiannual	
	annual	
	single event	x

Violation Base Penalty \$625

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 \$625

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$10

Violation Final Penalty Total \$994

This violation Final Assessed Penalty (adjusted for limits) \$994

Economic Benefit Worksheet

Respondent Peter Wilfridus Deridder dba Deridder Dairy
Case ID No. 39887
Reg. 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				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)	\$200	15-Feb-2012	1-Feb-2013	0.96	\$10	n/a	\$10

Notes for DELAYED costs

Estimated cost to submit a complete and accurate annual report. Date required is the date the report was due 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)

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 \$200

TOTAL \$10

Screening Date	8-Jun-2012	Docket No.	2012-1169-AGR-E	PCW
Respondent	Peter Wilfridus Deridder dba Deridder Dairy			<i>Policy Revision 3 (September 2011)</i>
Case ID No.	39887			<i>PCW Revision August 3, 2011</i>
Reg. Ent. Reference No.	RN101522233			
Media [Statute]	Water Quality			
Enf. Coordinator	Jorge Ibarra, P.E.			
Violation Number	3			
Rule Cite(s)	30 Tex. Admin. Code § 21.4, Texas Water Code § 5.702 and TCEQ Agreed Order Docket No. 2010-0986-AGR-E, Ordering Provision No. 1			
Violation Description	Failed to pay outstanding consolidated water quality fees and associated late fees for TCEQ Account No. 23001407 for fiscal year 2012 and administrative penalty and associated late fees for TCEQ Account No. 23606124.			
		Base Penalty	\$25,000	

>> Environmental, Property and Human Health Matrix

OR		Harm			
	Release	Major	Moderate	Minor	
	Actual				Percent 0.0%
Potential					

>> Programmatic Matrix

	Falsification	Major	Moderate	Minor	
					Percent 0.0%
Matrix Notes	N/A				
					Adjustment \$25,000

Violation Events

Number of Violation Events Number of violation days

<i>mark only one with an x</i>	daily	<input type="text"/>
	weekly	<input type="text"/>
	monthly	<input type="text"/>
	quarterly	<input type="text"/>
	semiannual	<input type="text"/>
	annual	<input type="text"/>
	single event	<input type="text"/>

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	<input type="text"/>	<input type="text"/>
Ordinary	<input type="text"/>	<input type="text"/>
N/A	x	(mark with x)
Notes	The Respondent does not meet the good faith criteria for this violation.	
	Violation Subtotal	\$0

Economic Benefit (EB) for this violation	Statutory Limit Test
Estimated EB Amount <input type="text"/> \$0	Violation Final Penalty Total <input type="text"/> \$0
This violation Final Assessed Penalty (adjusted for limits) <input type="text"/> \$0	

Economic Benefit Worksheet

Respondent Peter Wilfridus Deridder dba Deridder Dairy
Case ID No. 39887
Reg. 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				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: POOR Rating: 53.00
Regulated Entity: RN101522233 DERIDDER DAIRY Classification: POOR Site Rating: 53.00
ID Number(s): WASTEWATER AGRICULTURE PERMIT WQ0003290000
WASTEWATER AGRICULTURE EPA ID TX0130087
Location: 1572 County Road ("CR") 202, at the intersection of CR 199 and CR 202 in Iredell, Erath County, Texas
TCEQ Region: REGION 04 - DFW METROPLEX
Date Compliance History Prepared: June 11, 2012
Agency Decision Requiring Compliance History: Enforcement
Compliance Period: June 11, 2007 to June 11, 2012
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History
Name: Jorge Ibarra, P.E. Phone: (817) 588-5890

Site Compliance History Components

1. Has the site been in existence and/or operation for the full five year compliance period? YES
2. Has there been a (known) change in ownership/operator of the site during the compliance period? NO
3. If **YES**, who is the current owner/operator? N/A
4. If **YES**, who was/were the prior owner(s)/operator(s)? N/A
5. If **YES**, when did the change(s) in owner or operator occur? N/A
6. Rating Date: 9/1/2011 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.

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.

Effective Date: 02/20/2011

ADMINORDER 2010-0986-AGR-E

Classification: Moderate

Citation: 30 TAC Chapter 321, SubChapter B 321.42(g)

Rqmt Prov: PP VII. A.5.(a)(2) OP

PP X.A.2. OP

Description: 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.

Classification: Moderate

Citation: 30 TAC Chapter 321, SubChapter B 321.42(h)

Rqmt Prov: PP VII. 5.(a)(3) OP

PP VIII.A.1.(b) OP

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

Classification: Moderate

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

Rqmt Prov: PP X.J. OP

Description: Failed to submit a liner certification for the settling basin within 30 days after the permit was issued.

Classification: Moderate

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

Rqmt Prov: X.N. OP

Description: Failed to submit the current sludge volume of the retention control structures ("RCS") within 30 days of permit issuance.

Classification: Minor

Citation: 30 TAC Chapter 321, SubChapter B 321.46(d)(8)(F)

Rqmt Prov: VIII.A.4.(e) OP

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.

Classification: Minor

Citation: 30 TAC Chapter 321, SubChapter B 321.45(a)

Rqmt Prov: VII.C.3. OP

Description: 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.

Classification: Moderate

Citation: 30 TAC Chapter 321, SubChapter B 321.39(g)(2)

Rqmt Prov: VII.B.7. OP

Description: Failed to maintain vegetation, crops, forage growth, or post harvest residues in the normal growing season in pastures that maintain animals.

Classification: Moderate

Citation: 30 TAC Chapter 321, SubChapter B 321.46(d)

Rqmt Prov: VII.A.1.a.(7) OP

VIII.A. OP

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.

Classification: Moderate

Citation: 30 TAC Chapter 321, SubChapter B 321.36(b)

Rqmt Prov: X.L. OP

Description: Failed to maintain manure and settled solids accumulations in the settling basins to assure the attainment of the 50% designed removal efficiency.

Classification: Moderate

Citation: 30 TAC Chapter 321, SubChapter B 321.36(j)

Rqmt Prov: VIII.B.7. OP

X.C. OP

Description: Failed to submit a timely, complete, and accurate annual report by February 15 of each year.

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	1/17/2008	(614601)	6	6/26/2009	(749604)
2	2/7/2008	(617538)	7	11/30/2009	(784089)
3	5/20/2008	(641092)	8	6/1/2010	(795945)
4	1/23/2009	(724051)	9	6/23/2011	(920785)
5	5/1/2009	(739933)			

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

Date: 5/23/2008 (641092) CN600796742

Self Report? 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: 4/24/2009 (739933) CN600796742

Self Report? 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. 2012-1169-AGR-E

At its _____ agenda meeting, the Texas Commission on Environmental Quality ("Commission" or "TCEQ") considered this agreement of the parties (the "Agreed Order"), resolving an enforcement action regarding Peter Wilfridus Deridder dba Deridder Dairy ("Respondent") under the authority of TEX. WATER CODE chs. 5, 7, and 26. The Executive Director of the TCEQ, represented by the Litigation Division, and Respondent presented this Agreed Order to the Commission.

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, Respondent agrees to waive all notice and procedural rights.

It is further understood and agreed that this Agreed Order represents the complete and fully-integrated agreement 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 Respondent.

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

FINDINGS OF FACT

1. Respondent owns and operates a dairy farm located at 1572 County Road 202, at the intersection of County Road 199 and County Road 202 in Iredell, Erath County, Texas (the "Facility"). The Facility adjoins, is contiguous with, surrounds, or is near or adjacent to state water as defined in TEX. WATER CODE § 26.001(5).
2. During an investigation conducted April 9, 2012, a TCEQ Dallas/Fort Worth Regional Office investigator documented that Respondent:
 - a. Failed to develop and implement procedures to ensure that all records are maintained at the Facility. Specifically, the pollution prevention plan at the Facility did not include irrigation records, complete pond marker readings, inspection records, manure logs, or manure and wastewater laboratory reports;
 - b. Failed to prevent a discharge of wastewater from a concentrated animal feeding operation ("CAFO") by not maintaining a margin of safety in a retention control structure ("RCS") to contain the volume of runoff and direct precipitation from the 25-year /10-day rainfall event. Specifically, Respondent did not maintain the required rainfall capacity in RCS No. 2, and failed to irrigate to prevent the unauthorized discharge from RCS No. 2. Approximately 22,320 gallons were discharged from RCS No. 2 in a one-hour period during a rainfall event on March 20, 2012;

- c. Failed to submit a complete and accurate annual report for calendar year 2011. Specifically, the soil monitoring reports were not completed by using the most recent soil sampling analysis, and the application records did not include the amount of nutrients applied, the weather conditions, and the manure and wastewater samples; and
 - d. Failed to pay outstanding consolidated water quality fees and associated late fees for TCEQ Account No. 23001407 for fiscal year 2012, and the administrative penalty and associated late fees for TCEQ Account No. 23606124.
3. Respondent received notice of the violations on or about June 5, 2012.
 4. The Executive Director recognizes that on April 8, 2012, Respondent repaired and reinstalled pond markers and achieved the proper margin of safety in RCS No. 2 sufficient to contain runoff and precipitation from the 25-year/10-day rainfall event.

CONCLUSIONS OF LAW

1. As evidenced by Finding of Fact No. 1, Respondent is subject to the jurisdiction of the TCEQ pursuant to of TEX. WATER CODE chs. 5 and 26 and the rules of the Commission.
2. As evidenced by Finding of Fact No. 2.a., Respondent failed to develop and implement procedures to ensure that all records are maintained at the Facility, in violation of 30 TEX. ADMIN. CODE § 321.46(d); Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0003290000, Section VIII.A., Recordkeeping, Reporting, Notification Requirements; and TCEQ Agreed Order Docket No. 2010-0986-AGR-E, Ordering Provision No. 2.a.ii.
3. As evidenced by Finding of Fact No. 2.b., Respondent failed to prevent a discharge of wastewater from a CAFO by not maintaining a margin of safety in an RCS to contain the volume of runoff and direct precipitation from the 25-year /10-day rainfall event, in violation of TEX. WATER CODE § 26.121(a); 30 TEX. ADMIN. CODE §§ 321.39(b) and 321.42(b); and TPDES Permit No. WQ0003290000, Section VII.A.5.(a)(1), Operation and Maintenance of RCS, Sections IX.E. and IX.S., Standard Permit Conditions.
4. As evidenced by Finding of Fact No. 2.c., Respondent failed to submit a complete and accurate annual report for calendar year 2011, in violation of 30 TEX. ADMIN. CODE §§ 321.36(j) and 321.46(e)(2); and TPDES Permit No. WQ0003290000, Section X.C., Special Provisions.
5. As evidenced by Finding of Fact No. 2.d, Respondent failed to pay outstanding consolidated water quality fees and associated late fees for TCEQ Account No. 23001407 for fiscal year 2012, and the administrative penalty and associated late fees for TCEQ Account No. 23606124, in violation of 30 TEX. ADMIN. CODE § 21.4, TEX. WATER CODE § 5.702, and TCEQ Agreed Order Docket No. 2010-0986-AGR-E, Ordering Provision No. 1.
6. Pursuant to TEX. WATER CODE § 11.0842(b), the Commission has the authority to assess an administrative penalty against Respondent for violations of state statutes within the Commission's jurisdiction, for violations of rules adopted under such statutes, or for violations of orders or permits issued under such statutes.
7. An administrative penalty in the amount of eight thousand five hundred forty-six dollars (\$8,546.00) is justified by the facts recited in this Agreed Order, and considered in light of the factors set forth in TEX. WATER CODE § 11.0842(b). Respondent paid two hundred seventy-six dollars (\$276.00) of the administrative penalty. The remaining amount of eight thousand two hundred seventy dollars (\$8,270.00) of the administrative penalty shall be payable in thirty-four (34) monthly payments of two hundred thirty-seven dollars (\$237.00) each, followed by one payment of two hundred twelve dollars (\$212.00). The first monthly payment shall be paid within 30 days after the effective date of this Agreed

Order. The subsequent payments shall be paid not later than 30 days following the due date of the previous payment. If Respondent fails to timely and satisfactorily comply with the payment requirements of this Agreed Order, including the payment schedule, the Executive Director may, at his option, accelerate the maturity of the remaining installments, in which event the unpaid balance shall become immediately due and payable without demand or notice. In addition, Respondent's failure to meet the payment schedule of this Agreed Order constitutes the failure by Respondent to timely and satisfactorily comply with all of the terms of this Agreed Order.

ORDERING PROVISIONS

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

1. Respondent is assessed an administrative penalty as set forth in Conclusion of Law No. 7, above, for violations of state statutes and rules of the TCEQ. The payment of this administrative penalty and Respondent's compliance with all the terms and conditions set forth in this Agreed Order resolve only the matters set forth by this Agreed Order in this action. The Commission shall not be constrained in any manner from considering or requiring corrective actions or penalties for violations which are not raised here. Administrative penalty payments shall be made payable to "Texas Commission on Environmental Quality" and shall be sent with the notation "Re: Peter Wilfridus Deridder dba Deridder Dairy, Docket No. 2012-1169-AGR-E" to:

Financial Administration Division, Revenues Section
Texas Commission on Environmental Quality
Attention: Cashier's Office, MC 214
P.O. Box 13088
Austin, Texas 78711-3088

2. Respondent shall undertake the following technical requirements:
 - a. Within 60 days after the effective date of this Agreed Order, Respondent shall
 - i. Develop and implement procedures to ensure that all records, including irrigation records, complete pond marker readings, inspection records, manure logs, and manure and wastewater laboratory reports for the pollution prevention plan, and complete annual reports, are maintained at the Facility and submitted within five working days of a written request, in accordance with TPDES Permit No. WQ0003290000, Section VIII.A. Recordkeeping, Reporting, Notification Requirements, and Section X.C., Special Provisions; and
 - ii. Submit payment for outstanding consolidated water quality fees and associated late fees and interest for TCEQ Account 23001407, and for the administrative penalty and associated late fees and interest for TCEQ Account No. 23606124. The payment shall be made with the notation "Re: Peter Wilfridus Deridder DBA Deridder Dairy, TCEQ Account Nos. 23001407 and 23606124, and shall be sent 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
 - b. Within 75 days after the effective date of this Agreed Order, Respondent shall submit written certification to demonstrate compliance with Ordering Provisions Nos. 2.a.i. and 2.a.ii. The certification shall be accompanied by detailed supporting documentation, including photographs, receipts, and/or other records, shall be notarized by a State of Texas Notary Public, and shall 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."

Respondent shall submit the written certifications and supporting documentation necessary to demonstrate compliance with these Ordering Provisions to:

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

and:

Jeff Tate, Water Section Manager
Dallas/Fort Worth Regional Office
Texas Commission on Environmental Quality
2309 Gravel Drive
Fort Worth, Texas 76118-6951

3. All relief not expressly granted in this Agreed Order is denied.
4. The provisions of this Agreed Order shall apply to and be binding upon Respondent. Respondent is ordered to give notice of this Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
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 Respondent shall be made in writing to the Executive Director. Extensions are not effective until 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 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. 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 Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
8. 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.
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. Pursuant to 30 TEX. ADMIN. CODE § 70.10(b) and TEX. GOV'T CODE § 2001.142, the effective date of this Agreed Order is the date of hand delivery of this Agreed Order to Respondent, or three days after the date on which the Commission mails notice of this Agreed Order to 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

January 29, 2014
Date

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

I also understand that failure to comply with the Ordering Provisions in this Agreed Order and/or failure to timely pay the penalty amount may result in:

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

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



Signature - Peter Deridder, Owner
Peter Wilfridus Deridder DBA Deridder Dairy

10-1-13
Date

Docket No 2012-1169-AGR-E