

Executive Summary – Enforcement Matter – Case No. 48780
HAPPY HEN EGG FARMS, INC.
RN105976088
Docket No. 2014-0783-MLM-E

Order Type:

1660 Agreed Order

Findings Order Justification:

N/A

Media:

MLM - AGR, WQ

Small Business:

Yes

Location(s) Where Violation(s) Occurred:

HAPPY HEN FARM HARWOOD, 1974 County Road 283, Harwood, Gonzales County

Type of Operation:

Chicken farm

Other Significant Matters:

Additional Pending Enforcement Actions: No

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: The complainant has expressed an interest in this matter but does not wish to speak at Agenda.

Texas Register Publication Date: February 27, 2015

Comments Received: No

Penalty Information

Total Penalty Assessed: \$22,889

Amount Deferred for Expedited Settlement: \$4,577

Amount Deferred for Financial Inability to Pay: \$0

Total Paid to General Revenue: \$18,312

Total Due to General Revenue: \$0

Payment Plan: N/A

SEP Conditional Offset: \$0

Name of SEP: N/A

Compliance History Classifications:

Person/CN - High

Site/RN - High

Major Source: No

Statutory Limit Adjustment: N/A

Applicable Penalty Policy: April 2014

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Docket No. 2014-0783-MLM-E

Investigation Information

Complaint Date(s): March 3, 2014 and March 31, 2014

Complaint Information: Alleged odors from the facility were reported by the complainants.

Date(s) of Investigation: March 20, 2014

Date(s) of NOE(s): May 14, 2014

Violation Information

1. Failed to develop and implement a pollution prevention plan (“PPP”) for the Facility [30 TEX. ADMIN. CODE § 321.46(a)(1) and Texas Pollutant Discharge Elimination System (“TPDES”) General Permit No. TXG921219, Part III.A(1)(a)].
2. Failed to develop and implement a Nutrient Management Plan (“NMP”) [30 TEX. ADMIN. CODE § 321.36(d)(1) and TPDES General Permit No. TXG921219, Part III.A(11)(a)].
3. Failed to prevent the unauthorized discharge of agricultural wastewater from a concentrated animal feeding operation. Specifically, an employee was using a high pressure washer to clean a manure spreader. The water generated during the cleaning process ran directly to a fresh water pond located adjacent to the parking lot. Also, discolored water was pooled adjacent to the manure storage building [TEX. WATER CODE § 26.121(a)(1), 30 TEX. ADMIN. CODE § 321.31(a), and TPDES General Permit No. TXG921219, Part II.A and Part III.A(5)(a)(1)].
4. Failed to maintain a rain gauge capable of measuring the design rainfall event at the Facility [30 TEX. ADMIN. CODE § 321.39(b)(4) and TPDES General Permit No. TXG921219, Part III.A(9)(d)].
5. Failed to install and maintain a permanent pond marker in the Retention Control Structure (“RCS”). Specifically, the RCS did not have any type of pond marker to delineate rainfall storage volumes [30 TEX. ADMIN. CODE § 321.36(k) and TPDES General Permit No. TXG921219, Part III.A(9)(c)].
6. Failed to maintain authorization to discharge storm water associated with construction activities. Specifically, TPDES Permit No. TXR15QV50 expired on June 3, 2013, and the Respondent did not renew the permit [30 TEX. ADMIN. CODE § 281.25(a)(4) and 40 CODE OF FEDERAL REGULATIONS § 122.26(c)].
7. Failed to submit a Notice of Change letter or form within 14 days following the time when relevant facts in the Notice of Intent (“NOI”) become known. Specifically, litter generated by the Facility was being land applied on land owned by the Facility; however, the NOI states all litter generated by the Facility would be transferred to other persons

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[30 TEX. ADMIN. CODE § 321.36(a) and TPDES General Permit No. TXG921219, Part II.C(8)(a)].

8. Failed to provide equipment capable of dewatering the RCS [30 TEX. ADMIN. CODE § 321.38(f) and TPDES General Permit No. TXG921219, Part III.A(6)(e)].

9. Failed to timely submit an annual report for calendar years 2012 and 2013 [30 TEX. ADMIN. CODE §§ 321.36(j) and 321.46(e)(1) and TPDES General Permit No. TXG921219, Part IV.B(1)].

10. Failed to timely provide records to show the RCS has adequate capacity for the number of acres in the drainage area and for the number of hens [30 TEX. ADMIN. CODE §§ 321.36(b) and 321.38(e)(7)(B)(i), and TPDES General Permit No. TXG921219, Part III.A(6)(d)(5)].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

The Respondent has implemented the following corrective measures:

- a. By March 26, 2014, developed a PPP.
- b. By March 30, 2014, installed a rain gauge capable of measuring the design rainfall event.
- c. By April 17, 2014, obtained authorization to discharge storm water associated with construction activities.
- d. By July 14, 2014, submitted the 2013 annual report.
- e. By October 7, 2014:
 - i. Submitted documentation describing improved operations and/or maintenance practices to prevent the recurrence of wastewater discharges from the Facility;
 - ii. Submitted documentation stating how manure and wastewater generated at the Facility will be land applied;
 - iii. Submitted calculations demonstrating that the permanent pond marker was installed correctly; and
 - iv. Submitted certification signed and sealed by a licensed Texas professional engineer, demonstrating that the design, liner, and capacity of the RCS can adequately retain process generated wastewater and contaminated runoff from the Facility.
- f. By October 10, 2014, submitted the 2012 annual report to the TCEQ.

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Technical Requirements:

The Order will require the Respondent to:

- a. Within 30 days:
 - ii. Equip the RCS with irrigation or liquid removal systems capable of dewatering the RCS whenever needed to restore the operating capacity; and
 - iii. Update operational guidance and conduct employee training to ensure that annual reports are submitted to the TCEQ in a timely manner.
- b. Within 45 days, submit written certification of compliance with a.
- c. Within 60 days, develop and implement a NMP for the Facility and submit a copy of the NMP.
- d. Within 75 days, submit written certification of compliance with c.

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

Contact Information

TCEQ Attorney: N/A
TCEQ Enforcement Coordinator: Ronica Rodriguez, Enforcement Division, Enforcement Team 1, MC-169, (512) 239-2601; Melissa Cordell, Enforcement Division, MC 219, (512) 239-2483
TCEQ SEP Coordinator: N/A
Respondent: Delbert Brod, Jr., President, HAPPY HEN EGG FARMS, INC., 5021 County Road 121, Wharton, Texas 77488
Respondent's Attorney: N/A



Penalty Calculation Worksheet (PCW)

Policy Revision 4 (April 2014)

PCW Revision March 26, 2014

TCEQ				
DATES	Assigned	19-May-2014	Screening	20-May-2014
	PCW	25-Feb-2016	EPA Due	

RESPONDENT/FACILITY INFORMATION	
Respondent	HAPPY HEN EGG FARMS, INC.
Reg. Ent. Ref. No.	RN105976088
Facility/Site Region	14-Corpus Christi
Major/Minor Source	Minor

CASE INFORMATION			
Enf./Case ID No.	48780	No. of Violations	10
Docket No.	2014-0783-MLM-E	Order Type	1660
Media Program(s)	Water Quality	Government/Non-Profit	No
Multi-Media	Agriculture	Enf. Coordinator	Ronica Rodriguez
		EC's Team	Enforcement Team 1
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$25,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties) **Subtotal 1** **\$30,500**

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History **-10.0%** Enhancement **Subtotals 2, 3, & 7** **-\$3,050**

Notes: Reduction for high 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** **-\$4,561**

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

Total EB Amounts: \$636
 Approx. Cost of Compliance: \$13,100
 *Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7 **Final Subtotal** **\$22,889**

OTHER FACTORS AS JUSTICE MAY REQUIRE **0.0%** **Adjustment** **\$0**

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

Final Penalty Amount **\$22,889**

STATUTORY LIMIT ADJUSTMENT **Final Assessed Penalty** **\$22,889**

DEFERRAL **20.0%** Reduction **Adjustment** **-\$4,577**

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

Notes:

Deferral offered for expedited settlement.

PAYABLE PENALTY **\$18,312**

Screening Date 20-May-2014

Docket No. 2014-0783-MLM-E

PCW

Respondent HAPPY HEN EGG FARMS, INC.

Policy Revision 4 (April 2014)

Case ID No. 48780

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN105976088

Media [Statute] Water Quality

Enf. Coordinator Ronica Rodriguez

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	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 judgments 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)

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

Adjustment Percentage (Subtotal 3)

>> **Compliance History Person Classification (Subtotal 7)**

Adjustment Percentage (Subtotal 7)

>> **Compliance History Summary**

Compliance History Notes

Reduction for high performer classification.

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

>> **Final Compliance History Adjustment**

Final Adjustment Percentage *capped at 100%

Screening Date 20-May-2014
Respondent HAPPY HEN EGG FARMS, INC.
Case ID No. 48780
Reg. Ent. Reference No. RN105976088
Media [Statute] Water Quality
Enf. Coordinator Ronica Rodriguez

Docket No. 2014-0783-MLM-E

PCW

Policy Revision 4 (April 2014)
 PCW Revision March 26, 2014

Violation Number 1

Rule Cite(s)

30 Tex. Admin. Code § 321.46(a)(1) and Texas Pollutant Discharge Elimination System ("TPDES") General Permit No. TXG921219, Part III.A(1)(a)

Violation Description

Failed to develop and implement a Pollution Prevention Plan ("PPP") for the Facility, as documented during an investigation conducted on March 20, 2014.

Base Penalty \$25,000

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

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual				15.0%
	Potential	x			

>> **Programmatic Matrix**

	Falsification	Major	Moderate	Minor	Percent
					0.0%

Matrix Notes

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

Adjustment \$21,250

\$3,750

Violation Events

Number of Violation Events 1 Number of violation days 6

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

Violation Base Penalty \$3,750

One monthly event is recommended from the investigation date (March 20, 2014) to the compliance date (March 26, 2014).

Good Faith Efforts to Comply

25.0% Reduction

\$937

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

Notes: The Respondent achieved compliance on March 26, 2014.

Violation Subtotal \$2,813

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$2

Violation Final Penalty Total \$2,438

This violation Final Assessed Penalty (adjusted for limits) \$2,438

Economic Benefit Worksheet

Respondent HAPPY HEN EGG FARMS, INC.
Case ID No. 48780
Reg. Ent. Reference No. RN105976088
Media Water Quality
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/Construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$2,000	20-Mar-2014	26-Mar-2014	0.02	\$2	n/a	\$2

Notes for DELAYED costs

Estimated cost to develop and implement a PPP. Date required is the investigation date and final date is the date of compliance.

Avoided Costs

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

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

Notes for AVOIDED costs

Approx. Cost of Compliance

\$2,000

TOTAL

\$2

Screening Date 20-May-2014

Docket No. 2014-0783-MLM-E

PCW

Respondent HAPPY HEN EGG FARMS, INC.

Policy Revision 4 (April 2014)

Case ID No. 48780

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN105976088

Media [Statute] Water Quality

Enf. Coordinator Ronica Rodriguez

Violation Number 2

Rule Cite(s) 30 Tex. Admin. Code § 321.36(d)(1) and TPDES General Permit No. TXG921219, Part III.A(11)(a)

Violation Description Failed to develop and implement a Nutrient Management Plan ("NMP"), as documented during an investigation conducted on March 20, 2014.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual				15.0%
	Potential	x			

>> Programmatic Matrix

OR	Falsification	Harm			Percent
		Major	Moderate	Minor	
					0.0%

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

Adjustment \$21,250

\$3,750

Violation Events

Number of Violation Events 2 61 Number of violation days

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

Violation Base Penalty \$7,500

Two monthly events are recommended from the investigation date (March 20, 2014) to the screening date (May 20, 2014).

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 \$7,500

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$99

Violation Final Penalty Total \$6,750

This violation Final Assessed Penalty (adjusted for limits) \$6,750

Economic Benefit Worksheet

Respondent HAPPY HEN EGG FARMS, INC.
Case ID No. 48780
Reg. Ent. Reference No. RN105976088
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)	\$2,000	20-Mar-2014	15-Mar-2015	0.99	\$99	n/a	\$99

Notes for DELAYED costs

Estimated cost to develop and implement a NMP. Date required is the investigation date and 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

\$99

Screening Date 20-May-2014

Docket No. 2014-0783-MLM-E

PCW

Respondent HAPPY HEN EGG FARMS, INC.

Policy Revision 4 (April 2014)

Case ID No. 48780

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN105976088

Media [Statute] Water Quality

Enf. Coordinator Ronica Rodriguez

Violation Number 3

Rule Cite(s)

Tex. Water Code § 26.121(a)(1), 30 Tex. Admin. Code § 321.31(a), and TPDES General Permit No. TXG921219, Part II.A and Part III.A(5)(a)(1)

Violation Description

Failed to prevent the unauthorized discharge of agricultural wastewater from a concentrated animal feeding operation, as documented during an investigation conducted on March 20, 2014. Specifically, an employee was using a high pressure washer to clean a manure spreader. The water generated during the cleaning process ran directly to a fresh water pond located adjacent to the parking lot. Also, discolored water was pooled adjacent to the manure storage building.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			X
Potential			

Percent 5.0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0.0%

Matrix Notes

Human health or the environment has been exposed to insignificant amounts of pollutants as a result of the violation.

Adjustment \$23,750

\$1,250

Violation Events

Number of Violation Events 1

61 Number of violation days

daily	
weekly	
monthly	
quarterly	X
semiannual	
annual	
single event	

mark only one with an x

Violation Base Penalty \$1,250

One quarterly event is recommended from the investigation date (March 20, 2014) to the screening date (May 20, 2014).

Good Faith Efforts to Comply

0.0% Reduction

\$0

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

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

Violation Subtotal \$1,250

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$33

Violation Final Penalty Total \$1,125

This violation Final Assessed Penalty (adjusted for limits) \$1,125

Economic Benefit Worksheet

Respondent HAPPY HEN EGG FARMS, INC.
Case ID No. 48780
Reg. Ent. Reference No. RN105976088
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)	\$1,200	20-Mar-2014	7-Oct-2014	0.55	\$33	n/a	\$33

Notes for DELAYED costs

Estimated cost to develop and improve operations and/or maintenance practices to prevent the recurrence of wastewater discharges from the Facility. Date required is the investigation date. Final date is the date of compliance.

Avoided Costs

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

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

Notes for AVOIDED costs

Approx. Cost of Compliance	\$1,200	TOTAL	\$33
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Screening Date 20-May-2014
Respondent HAPPY HEN EGG FARMS, INC.
Case ID No. 48780
Reg. Ent. Reference No. RN105976088
Media [Statute] Water Quality
Enf. Coordinator Ronica Rodriguez

Docket No. 2014-0783-MLM-E

PCW

Policy Revision 4 (April 2014)
 PCW Revision March 26, 2014

Violation Number 4

Rule Cite(s) 30 Tex. Admin. Code § 321.39(b)(4) and TPDES General Permit No. TXG921219, Part III.A(9)(d)

Violation Description Failed to maintain a rain gauge capable of measuring the design rainfall event at the Facility, as documented during an investigation conducted on March 20, 2014.

Base Penalty \$25,000

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

OR	Harm			Percent	
	Release	Major	Moderate		Minor
	Actual				
Potential			x		

>> **Programmatic Matrix**

Falsification	Major	Moderate	Minor	Percent
				0.0%

Matrix Notes

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

Adjustment \$24,250

\$750

Violation Events

Number of Violation Events 1 1 Number of violation days

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

Violation Base Penalty \$750

One single event is recommended.

Good Faith Efforts to Comply

25.0% Reduction

\$187

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

Notes The Respondent achieved compliance on March 30, 2014.

Violation Subtotal \$563

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$0

Violation Final Penalty Total \$488

This violation Final Assessed Penalty (adjusted for limits) \$488

Economic Benefit Worksheet

Respondent HAPPY HEN EGG FARMS, INC.
Case ID No. 48780
Reg. Ent. Reference No. RN105976088
Media Water Quality
Violation No. 4

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Equipment	\$50	20-Mar-2014	30-Mar-2014	0.03	\$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

Estimated cost to install a rain gauge. Date required is the investigation date and final date is the date of compliance.

Avoided Costs

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

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/Equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$50

TOTAL

\$0

Screening Date 20-May-2014
Respondent HAPPY HEN EGG FARMS, INC.
Case ID No. 48780
Reg. Ent. Reference No. RN105976088
Media [Statute] Water Quality
Enf. Coordinator Ronica Rodriguez

Docket No. 2014-0783-MLM-E

PCW

Policy Revision 4 (April 2014)
 PCW Revision March 26, 2014

Violation Number

Rule Cite(s) 30 Tex. Admin. Code § 321.36(k) and TPDES General Permit No. TXG921219, Part III.A(9)(c)

Violation Description

Failed to install and maintain a permanent pond marker in the Retention Control Structure ("RCS"), as documented during an investigation conducted on March 20, 2014. Specifically, the RCS did not have any type of pond marker to delineate rainfall storage volumes.

Base Penalty

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>
Potential	<input type="text"/>	<input type="text"/>	<input checked="" type="checkbox"/>

Percent

>> Programmatic Matrix

Falsification	Major	Moderate	Minor
<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>

Percent

Matrix Notes

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

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="checkbox"/>

Violation Base Penalty

One single event is recommended.

Good Faith Efforts to Comply

Reduction

Before NOV NOV to EDRP/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

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

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 HAPPY HEN EGG FARMS, INC.
Case ID No. 48780
Reg. Ent. Reference No. RN105976088
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	\$100	20-Mar-2014	7-Oct-2014	0.55	\$0	\$4	\$4
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

Estimated cost to properly install and maintain a permanent pond marker in the RCS. Date required is the investigation date and final date is the date of compliance.

Avoided Costs

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

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

Notes for AVOIDED costs

Approx. Cost of Compliance \$100

TOTAL \$4

Screening Date 20-May-2014

Docket No. 2014-0783-MLM-E

PCW

Respondent HAPPY HEN EGG FARMS, INC.

Policy Revision 4 (April 2014)

Case ID No. 48780

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN105976088

Media [Statute] Water Quality

Enf. Coordinator Ronica Rodriguez

Violation Number 6

Rule Cite(s) 30 Tex. Admin. Code § 281.25(a)(4) and 40 Code of Federal Regulations § 122.26(c)

Violation Description Failed to maintain authorization to discharge storm water associated with construction activities, as documented during a record review conducted on March 20, 2014. Specifically, TPDES Permit No. TXR15QV50 expired on June 3, 2013, and the Respondent did not renew the permit.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential			

Percent 0.0%

>> Programmatic Matrix

Falsification	Harm		
	Major	Moderate	Minor
	X		

Percent 5.0%

Matrix Notes

100% of the rule requirements were not met.

Adjustment \$23,750

\$1,250

Violation Events

Number of Violation Events 11

318 Number of violation days

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

Violation Base Penalty \$13,750

Eleven monthly events are recommended from the permit expiration date (June 3, 2013) to the compliance date (April 17, 2014).

Good Faith Efforts to Comply

25.0% Reduction

\$3,437

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

Notes The Respondent achieved compliance on April 17, 2014.

Violation Subtotal \$10,313

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$136

Violation Final Penalty Total \$8,938

This violation Final Assessed Penalty (adjusted for limits) \$8,938

Economic Benefit Worksheet

Respondent HAPPY HEN EGG FARMS, INC.
Case ID No. 48780
Reg. Ent. Reference No. RN105976088
Media Water Quality
Violation No. 6

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/Construction	\$2,000	3-Jun-2013	17-Apr-2014	0.87	\$6	\$116	\$122
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	\$325	3-Jun-2013	17-Apr-2014	0.87	\$14	n/a	\$14
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated costs to obtain authorization to discharge storm water, including developing and implementing a storm water pollution prevention plan. Date required is the date coverage under the previous permit ended and final date is the date authorization was obtained.

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	\$2,325	TOTAL	\$136
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Screening Date 20-May-2014

Docket No. 2014-0783-MLM-E

PCW

Respondent HAPPY HEN EGG FARMS, INC.

Policy Revision 4 (April 2014)

Case ID No. 48780

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN105976088

Media [Statute] Water Quality

Enf. Coordinator Ronica Rodriguez

Violation Number 7

Rule Cite(s) 30 Tex. Admin. Code § 321.36(a) and TPDES General Permit No. TXG921219, Part II.C(8)(a)

Violation Description

Failed to submit a Notice of Change ("NOC") letter or form within 14 days following the time when relevant facts in the Notice of Intent ("NOI") become known, as documented during an investigation conducted on March 20, 2014. Specifically, litter generated by the Facility was being land applied on land owned by the Facility; however, the NOI states that all litter generated by the Facility would be transferred to other persons.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential			

Percent 0.0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor
	X		

Percent 5.0%

Matrix Notes

100% of the rule requirement was not met.

Adjustment \$23,750

\$1,250

Violation Events

Number of Violation Events 1

61 Number of violation days

mark only one with an x

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	X

Violation Base Penalty \$1,250

One single event is recommended.

Good Faith Efforts to Comply

0.0% Reduction

\$0

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

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

Violation Subtotal \$1,250

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$1

Violation Final Penalty Total \$1,125

This violation Final Assessed Penalty (adjusted for limits) \$1,125

Economic Benefit Worksheet

Respondent HAPPY HEN EGG FARMS, INC.
Case ID No. 48780
Reg. Ent. Reference No. RN105976088
Media Water Quality
Violation No. 7

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Overtime Costs	EB Amount
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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)	\$50	20-Mar-2014	7-Oct-2014	0.55	\$1	n/a	\$1

Notes for DELAYED costs

Estimated cost to submit a NOC letter stating how manure and wastewater generated at the Facility will be land applied. Date required is the investigation date and final date is the date of compliance.

Avoided Costs

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

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

Notes for AVOIDED costs

Approx. Cost of Compliance \$50

TOTAL \$1

Screening Date 20-May-2014
Respondent HAPPY HEN EGG FARMS, INC.
Case ID No. 48780
Reg. Ent. Reference No. RN105976088
Media [Statute] Water Quality
Enf. Coordinator Ronica Rodriguez

Docket No. 2014-0783-MLM-E

PCW

Policy Revision 4 (April 2014)
 PCW Revision March 26, 2014

Violation Number 8
Rule Cite(s) 30 Tex. Admin. Code § 321.38(f) and TPDES General Permit No. TXG921219, Part III.A(6)(e)
Violation Description Failed to provide equipment capable of dewatering the RCS, as documented during an investigation conducted on March 20, 2014.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

Release	Harm			Percent
	Major	Moderate	Minor	
Actual				3.0%
Potential			x	

>> Programmatic Matrix

Matrix Notes	Falsification			Percent
	Major	Moderate	Minor	
Human health or the environment will or could be exposed to insignificant amounts of pollutants that would not exceed levels that are protective of human health or environmental receptors as a result of the violation.				0.0%

Adjustment \$24,250

\$750

Violation Events

Number of Violation Events 1 Number of violation days 61

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

Violation Base Penalty \$750

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 \$750

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$331

Violation Final Penalty Total \$675

This violation Final Assessed Penalty (adjusted for limits) \$675

Economic Benefit Worksheet

Respondent HAPPY HEN EGG FARMS, INC.
Case ID No. 48780
Req. Ent. Reference No. RN105976088
Media Water Quality
Violation No. 8

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Equipment	\$5,000	20-Mar-2014	28-Feb-2015	0.95	\$16	\$315	\$331
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

Estimated cost to install equipment capable of dewatering the RCS. Date required is the investigation date and final date is the expected date of compliance.

Avoided Costs

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

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/Equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$5,000

TOTAL

\$331

Screening Date 20-May-2014

Docket No. 2014-0783-MLM-E

PCW

Respondent HAPPY HEN EGG FARMS, INC.

Policy Revision 4 (April 2014)

Case ID No. 48780

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN105976088

Media [Statute] Water Quality

Enf. Coordinator Ronica Rodriguez

Violation Number 9

Rule Cite(s) 30 Tex. Admin. Code §§ 321.36(j) and 321.46(e)(1) and TPDES General Permit No. TXG921219, Part IV.B(1)

Violation Description Failed to timely submit an annual report for calendar years 2012 and 2013, as documented during an investigation conducted on March 20, 2014.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential			

Percent 0.0%

>> Programmatic Matrix

Falsification	Harm		
	Major	Moderate	Minor
			x

Percent 1.0%

Matrix Notes

At least 70% of the rule requirements were met.

Adjustment \$24,750

\$250

Violation Events

Number of Violation Events 2

61 Number of violation days

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

Violation Base Penalty \$500

Two single events are recommended, one for each report.

Good Faith Efforts to Comply

0.0% Reduction

\$0

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

Notes

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

Violation Subtotal \$500

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$28

Violation Final Penalty Total \$450

This violation Final Assessed Penalty (adjusted for limits) \$450

Economic Benefit Worksheet

Respondent HAPPY HEN EGG FARMS, INC.
Case ID No. 48780
Reg. Ent. Reference No. RN105976088
Media Water Quality
Violation No. 9

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	\$250	15-Feb-2013	28-Feb-2015	2.04	\$25	n/a	\$25
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$25	15-Feb-2013	10-Oct-2014	1.65	\$2	n/a	\$2

Notes for DELAYED costs

Estimated cost to update operational guidance and conduct employee training to ensure that the annual report is submitted in a timely manner and to submit the 2012 and 2013 annual reports to the TCEQ. Date required is the date the first report was due and final dates are the expected date of compliance and the date the annual reports were submitted to the TCEQ.

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

\$275

TOTAL

\$28

Screening Date 20-May-2014

Docket No. 2014-0783-MLM-E

PCW

Respondent HAPPY HEN EGG FARMS, INC.

Policy Revision 4 (April 2014)

Case ID No. 48780

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN105976088

Media [Statute] Water Quality

Enf. Coordinator Ronica Rodriguez

Violation Number 10

Rule Cite(s) 30 Tex. Admin. Code §§ 321.36(b) and 321.38(e)(7)(B)(i), and TPDES General Permit No. TXG921219, Part III.A(6)(d)(5)

Violation Description Failed to timely provide records to show the RCS has adequate capacity for the number of acres in the drainage area and for the number of hens.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

Table with columns: Release (Actual, Potential), Harm (Major, Moderate, Minor), and Percent (0.0%).

>> Programmatic Matrix

Table with columns: Falsification, Major, Moderate, Minor, and Percent (1.0%).

Matrix Notes At least 70% of the rule requirements were met.

Adjustment \$24,750

\$250

Violation Events

Number of Violation Events 1 Number of violation days 61

Table for frequency selection: daily, weekly, monthly, quarterly, semiannual, annual, single event (marked with x).

Violation Base Penalty \$250

One single event is recommended.

Good Faith Efforts to Comply

0.0% Reduction

\$0

Table for Good Faith Efforts: Extraordinary, Ordinary, N/A (marked with x).

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

Violation Subtotal \$250

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$3

Violation Final Penalty Total \$225

This violation Final Assessed Penalty (adjusted for limits) \$225

Economic Benefit Worksheet

Respondent HAPPY HEN EGG FARMS, INC.
Case ID No. 48780
Reg. Ent. Reference No. RN105976088
Media Water Quality
Violation No. 10

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

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)	\$100	20-Mar-2014	7-Oct-2014	0.55	\$3	n/a	\$3

Notes for DELAYED costs

Estimated cost to provide records showing that the RCS has adequate capacity for the number of acres in the drainage area and for the number of hens. Date required is the investigation date and final date is the date of compliance.

Avoided Costs

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

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

Notes for AVOIDED costs

Approx. Cost of Compliance

\$100

TOTAL

\$3

The TCEQ is committed to accessibility.
To request a more accessible version of this report, please contact the TCEQ Help Desk at (512) 239-4357.



Compliance History Report

PUBLISHED Compliance History Report for CN603663428, RN105976088, Rating Year 2013 which includes Compliance History (CH) components from September 1, 2008, through August 31, 2013.

Customer, Respondent, or Owner/Operator:	CN603663428, HAPPY HEN EGG FARMS, INC.	Classification: HIGH	Rating: 0.00
Regulated Entity:	RN105976088, HAPPY HEN FARM HARWOOD	Classification: HIGH	Rating: 0.00
Complexity Points:	6	Repeat Violator: NO	
CH Group:	09 - Construction		
Location:	1974 COUNTY ROAD 283, HARWOOD, GONZALES COUNTY, TEXAS		
TCEQ Region:	REGION 14 - CORPUS CHRISTI		
ID Number(s):	AIR NEW SOURCE PERMITS REGISTRATION 93440 STORMWATER PERMIT TXR15ZX06 WASTEWATER AGRICULTURE PERMIT TXG921219		

Compliance History Period: September 01, 2008 to August 31, 2013 **Rating Year:** 2013 **Rating Date:** 09/01/2013

Date Compliance History Report Prepared: August 18, 2014

Agency Decision Requiring Compliance History: Enforcement

Component Period Selected: August 18, 2009 to August 18, 2014

TCEQ Staff Member to Contact for Additional Information Regarding This Compliance History.

Name: Heather Brister

Phone: (817) 588-5825

Site and Owner/Operator History:

- | | |
|--|-----|
| 1) Has the site been in existence and/or operation for the full five year compliance period? | NO |
| 2) Has there been a (known) change in ownership/operator of the site during the compliance period? | NO |
| 3) If YES for #2, who is the current owner/operator? | N/A |
| 4) If YES for #2, 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 |

Components (Multimedia) for the Site Are Listed in Sections A - J

A. Final Orders, court judgments, and consent decrees:

N/A

B. Criminal convictions:

N/A

C. Chronic excessive emissions events:

N/A

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

N/A

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

A notice of violation represents a written allegation of a violation of a specific regulatory requirement from the commission to a regulated entity. A notice of violation is not a final enforcement action, nor proof that a violation has actually occurred.

N/A

F. Environmental audits:

N/A

G. Type of environmental management systems (EMSs):

N/A

H. Voluntary on-site compliance assessment dates:

N/A

I. Participation in a voluntary pollution reduction program:

N/A

J. Early compliance:

N/A

Sites Outside of Texas:

N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
HAPPY HEN EGG FARMS, INC.
RN105976088**

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

**AGREED ORDER
DOCKET NO. 2014-0783-MLM-E**

I. JURISDICTION AND STIPULATIONS

On _____, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding HAPPY HEN EGG FARMS, INC. ("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 together stipulate that:

1. The Respondent owns and operates a chicken farm located at 1974 County Road 283 in Harwood, Gonzales County, Texas (the "Facility").
2. The Respondent has discharged agricultural waste into or adjacent to any water in the state under TEX. WATER CODE ch. 26.
3. The Respondent has committed any other act or engaged in any other activity which in itself or in conjunction with any other discharge or activity causes, continues to cause, or will cause pollution of any water in the state under TEX. WATER CODE ch. 26.
4. The Executive Director and the Respondent agree that the Commission has jurisdiction to enter this Agreed Order, and that the Respondent is subject to the Commission's jurisdiction.
5. The Respondent received notice of the violations alleged in Section II ("Allegations") on or about May 19, 2014.
6. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by the Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.

7. An administrative penalty in the amount of Twenty-Two Thousand Eight Hundred Eighty-Nine Dollars (\$22,889) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid Eighteen Thousand Three Hundred Twelve Dollars (\$18,312) of the administrative penalty and Four Thousand Five Hundred Seventy-Seven Dollars (\$4,577) is deferred contingent upon the Respondent's timely and satisfactory compliance with all the terms of this Agreed Order. The deferred amount will be waived upon full compliance with the terms of this Agreed Order. If the Respondent fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require the Respondent to pay all or part of the deferred penalty.
8. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.
9. The Executive Director recognizes that the Respondent has implemented the following corrective measures at the Facility:
 - a. By March 26, 2014, developed a pollution prevention plan ("PPP").
 - b. By March 30, 2014, installed a rain gauge capable of measuring the design rainfall event.
 - c. By April 17, 2014, obtained authorization to discharge storm water associated with construction activities.
 - d. By July 14, 2014, submitted the 2013 annual report.
 - e. By October 7, 2014:
 - i. Submitted documentation describing improved operations and/or maintenance practices to prevent the recurrence of wastewater discharges from the Facility;
 - ii. Submitted documentation stating how manure and wastewater generated at the Facility will be land applied;
 - iii. Submitted calculations demonstrating that the permanent pond marker was installed correctly; and
 - iv. Submitted certification signed and sealed by a licensed Texas professional engineer, demonstrating that the design, liner, and capacity of the Retention Control Structure ("RCS") can adequately retain process generated wastewater and contaminated runoff from the Facility.
 - f. By October 10, 2014, submitted the 2012 annual report to the TCEQ.
10. The Executive Director and the Respondent agree on a settlement of the matters alleged in this enforcement action, subject to final approval in accordance with 30 TEX. ADMIN. CODE § 70.10(a).

11. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
12. 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.
13. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

II. ALLEGATIONS

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

1. Failed to develop and implement a PPP for the Facility, in violation of 30 TEX. ADMIN. CODE § 321.46(a)(1) and Texas Pollutant Discharge Elimination System ("TPDES") General Permit No. TXG921219, Part III.A(1)(a), as documented during an investigation conducted on March 20, 2014.
2. Failed to develop and implement a Nutrient Management Plan ("NMP"), in violation of 30 TEX. ADMIN. CODE § 321.36(d)(1) and TPDES General Permit No. TXG921219, Part III.A(11)(a), as documented during an investigation conducted on March 20, 2014.
3. Failed to prevent the unauthorized discharge of agricultural wastewater from a concentrated animal feeding operation, in violation of TEX. WATER CODE § 26.121(a)(1), 30 TEX. ADMIN. CODE § 321.31(a), and TPDES General Permit No. TXG921219, Part II.A and Part III.A(5)(a)(1), as documented during an investigation conducted on March 20, 2014. Specifically, an employee was using a high pressure washer to clean a manure spreader. The water generated during the cleaning process ran directly to a fresh water pond located adjacent to the parking lot. Also, discolored water was pooled adjacent to the manure storage building.
4. Failed to maintain a rain gauge capable of measuring the design rainfall event at the Facility, in violation of 30 TEX. ADMIN. CODE § 321.39(b)(4) and TPDES General Permit No. TXG921219, Part III.A(9)(d), as documented during an investigation conducted on March 20, 2014.
5. Failed to install and maintain a permanent pond marker in the RCS, in violation of 30 TEX. ADMIN. CODE § 321.36(k) and TPDES General Permit No. TXG921219, Part III.A(9)(c), as documented during an investigation conducted on March 20, 2014. Specifically, the RCS did not have any type of pond marker to delineate rainfall storage volumes.
6. Failed to maintain authorization to discharge storm water associated with construction activities, in violation of 30 TEX. ADMIN. CODE § 281.25(a)(4) and 40 CODE OF FEDERAL REGULATIONS § 122.26(c), as documented during a record review conducted on March

20, 2014. Specifically, TPDES Permit No. TXR15QV50 expired on June 3, 2013, and the Respondent did not renew the permit.

7. Failed to submit a Notice of Change ("NOC") letter or form within 14 days following the time when relevant facts in the Notice of Intent ("NOI") become known, in violation of 30 TEX. ADMIN. CODE § 321.36(a) and TPDES General Permit No. TXG921219, Part II.C(8)(a), as documented during an investigation conducted on March 20, 2014. Specifically, litter generated by the Facility was being land applied on land owned by the Facility; however, the NOI states all litter generated by the Facility would be transferred to other persons.
8. Failed to provide equipment capable of dewatering the RCS, in violation of 30 TEX. ADMIN. CODE § 321.38(f) and TPDES General Permit No. TXG921219, Part III.A(6)(e), as documented during an investigation conducted on March 20, 2014.
9. Failed to timely submit an annual report for calendar years 2012 and 2013, in violation of 30 TEX. ADMIN. CODE §§ 321.36(j) and 321.46(e)(1) and TPDES General Permit No. TXG921219, Part IV.B(1), as documented during an investigation conducted on March 20, 2014.
10. Failed to timely provide records to show the RCS has adequate capacity for the number of acres in the drainage area and for the number of hens, in violation of 30 TEX. ADMIN. CODE §§ 321.36(b) and 321.38(e)(7)(B)(i), and TPDES General Permit No. TXG921219, Part III.A(6)(d)(5), as documented during an investigation conducted on March 20, 2014.

III. DENIALS

The Respondent generally denies each allegation in Section II ("Allegations").

IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that the Respondent pay an administrative penalty as set forth in Section I, Paragraph 7 above. The payment of this administrative penalty and the Respondent's compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective action or penalties for violations which are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: HAPPY HEN EGG FARMS, INC., Docket No. 2014-0783-MLM-E" to:

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

2. It is further ordered that the Respondent shall undertake the following technical requirements:
 - a. Within 30 days after the effective date of this Agreed Order:
 - i. Equip the RCS with irrigation or liquid removal systems capable of dewatering the RCS whenever needed to restore the operating capacity, in accordance with TPDES General Permit No. TXG921219, Part III.A.(6)(e); and
 - ii. Update operational guidance and conduct employee training to ensure that annual reports are submitted to the TCEQ in a timely manner, in accordance with TPDES General Permit No. TXG921219, Part IV.(B)(1).
 - b. Within 45 days after the effective date of this Agreed Order, submit written certification of compliance with Ordering Provisions Nos. 2.a.i and 2.ii, as described in Ordering Provision No. 2.e below.
 - c. Within 60 days after the effective date of this Agreed Order, develop and implement a NMP for the Facility and submit a copy of the NMP to the addresses listed in Ordering Provision No. 2.e below, in accordance with TPDES General Permit No. TXG921219, Part III.A(11)(a).
 - d. Within 75 days after the effective date of this Agreed Order, submit written certification of compliance with Ordering Provision No. 2.c, as described in Ordering Provision No. 2.e below.
 - e. The written certifications required by Ordering Provisions Nos. 2.b and 2.d shall be notarized by a State of Texas Notary Public, include detailed supporting documentation including photographs, receipts, and/or other records, and include the following certification language:

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fines and imprisonment for knowing violations."

The certification shall be submitted to:

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

with a copy to:

Water Section Manager
Corpus Christi Regional Office
Texas Commission on Environmental Quality
6300 Ocean Drive, Suite 1200
Corpus Christi, Texas 78412-5503

3. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
4. If the Respondent fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, the Respondent's failure to comply is not a violation of this Agreed Order. The Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The Respondent shall notify the Executive Director within seven days after the Respondent becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
5. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by the Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
6. This Agreed Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
7. This Agreed Order may be executed in separate and multiple counterparts, which together shall constitute a single instrument. Any page of this Agreed Order may be copied, scanned, digitized, converted to electronic portable document format ("pdf"), or otherwise reproduced and may be transmitted by digital or electronic transmission, including but not limited to facsimile transmission and electronic mail. Any signature affixed to this Agreed Order shall constitute an original signature for all purposes and may be used, filed, substituted, or issued for any purpose for which an original signature

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

8. The effective date of this Order is the date it is signed by the Commission. A copy of this fully executed Order shall be provided to each of the parties.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

Date

Pam Morris J
For the Executive Director

5/26/16
Date

I, the undersigned, have read and understand the attached Agreed Order. I am authorized to agree to the attached Agreed Order on behalf of the entity indicated below my signature, and I do agree to the terms and conditions specified therein. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I also understand that failure to comply with the Ordering Provisions, if any, in this order and/or failure to timely pay the penalty amount, may result in:

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

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

Delbert Brod Jr
Signature

4/23/16
Date

Delbert Brod, JR.
Name (Printed or typed)
Authorized Representative of
HAPPY HEN EGG FARMS, INC.

PRESIDENT
Title

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