

Executive Summary – Enforcement Matter – Case No. 57830
Maiko Hessel Bouma dba Bouma Dairy Farm
RN102334539
Docket No. 2019-0814-AGR-E

Order Type:

1660 Agreed Order

Findings Order Justification:

N/A

Media:

AGR

Small Business:

Yes

Location(s) Where Violation(s) Occurred:

Bouma Dairy Farm, 4252 County Road 2408, Winnsboro, Hopkins County

Type of Operation:

Concentrated animal feeding operation

Other Significant Matters:

Additional Pending Enforcement Actions: No

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: None

Texas Register Publication Date: October 29, 2021

Comments Received: No

Penalty Information

Total Penalty Assessed: \$65,424

Amount Deferred for Financial Inability to Pay: \$44,144

Confidential information, which may include financial or medical information, has been provided to the Commission for their consideration.

Total Paid to General Revenue: \$595

Total Due to General Revenue: \$20,685

Payment Plan: 35 payments of \$591 each

Compliance History Classifications:

Person/CN - High

Site/RN - High

Major Source: No

Statutory Limit Adjustment: N/A

Applicable Penalty Policy: April 2014

Investigation Information

Complaint Date(s): N/A

Complaint Information: N/A

Date(s) of Investigation: March 25, 2019 to April 8, 2019

Date(s) of NOE(s): May 31, 2019

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Violation Information

1. Failed to prevent the unauthorized discharge of agricultural waste into or adjacent to any water in the state, and failed to properly store manure and sludge within the drainage area of the retention control structure ("RCS") or stored in a manner that otherwise prevents contaminated stormwater runoff from the storage area. Specifically, contaminated runoff from the manure and sludge piles stored on the north, south, and west sides of RCS No. 1 was not bermed or protected to prevent stormwater runoff and was entering a tributary to Big Sandy Creek. Grab sample test results indicated elevated levels of ammonia nitrogen, total phosphorus, and biochemical oxygen demand (5-day) [30 TEX. ADMIN. CODE §§ 305.125(1) and (4), 321.37(d), and 321.39(e), TEX. WATER CODE § 26.121(a)(1), and Texas Pollutant Discharge Elimination System ("TPDES") General Permit No. TXG920057, Part III.A.5(a)(2) and Part III.A.9(b)].
2. Failed to prevent the unauthorized discharge of agricultural waste into or adjacent to any water in the state, and failed to properly dispose of animal carcasses within three days of death. Specifically, animal carcasses in the mortality management area were not properly buried or composted, were not roofed or covered with impermeable material, were not protected from external rainfall, were not bermed to contain runoff, and were not within the drainage area of an RCS. Additionally, a missing portion of the gutter on the south side of the freestall barn allowed additional water to flow in and around the mortality management area and contributed to contaminated runoff that entered a tributary to Big Sandy Creek [30 TEX. ADMIN. CODE §§ 305.125(1) and (4), 321.37(d), 321.39(f) and (g)(3), TEX. WATER CODE § 26.121(a)(1), and TPDES General Permit No. TXG920057, Part III.A.5(a)(2) and Part III.A.11(c)].
3. Failed to prevent the accumulation of sludge in a RCS from encroaching on the volumes reserved for minimum treatment, if necessary, and the design rainfall event, and failed to maintain a minimum of two vertical feet of freeboard in a RCS. Specifically, records for the annual sludge cleanout were not available for RCS No. 1, and weekly pond marker records indicate that RCS No. 1 has not been maintained with the required two vertical feet of freeboard between the top of the embankment and the required storage capacity [30 TEX. ADMIN. CODE §§ 305.125(1), 321.39(b) and (c)(1), 321.38(g)(1)(F), and TPDES General Permit No. TXG920057, Part III.A.6(f)(6), Part III.A.10(a)(1) and (2), and Part III.A.10(e)].
4. Failed to design and construct an RCS in accordance with the technical standard approved by the Executive Director. Specifically, the Facility's permit indicates that RCS No. 1 should have a required capacity of 77.4 acre-feet and RCS No. 2 should have a required capacity of 12.49 acre-feet; but the certified capacity of RCS No. 1 is 5.56 acre-feet and RCS No. 2 was never constructed [30 TEX. ADMIN. CODE §§ 305.125(1), 321.38(e)(3) and (e)(7)(A), and TPDES General Permit No. TXG920057, Part III.A.6(d)(1)(ii) and (iii)].

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5. Failed to maintain a minimum buffer zone of 150 feet between a control facility of an animal feeding operation and a drinking water well used for private water supply. Specifically, the area directly around Water Well No. 3 was denuded from cattle access [30 TEX. ADMIN. CODE §§ 305.125(1) and 321.38(b) and TPDES General Permit No. TXG920057, Part III.A.4(c)].

6. Failed to design, construct, operate, and maintain RCSs to contain all wastewater from the production area, including the runoff and direct precipitation from open lots. Specifically, runoff from a portion of the open lot located to the north of the freestall barn did not drain to an approved RCS. A portion of the open lot drains to the ditch along County Road 2408, and another portion of the open lot drains through the field located to the west of the open lot [30 TEX. ADMIN. CODE §§ 305.125(1) and (4), 321.37(d), and TPDES General Permit No. TXG920057, Part III.A.5(a)(2)].

7. Failed to notify the TCEQ Regional Office within 24 hours of becoming aware of a discharge into water in the state. Specifically, verbal notification of an unauthorized discharge was not provided by March 26, 2019 [30 TEX. ADMIN. CODE §§ 305.125(1) and 321.44(a), and TPDES General Permit No. TXG920057, Part IV.B.5].

8. Failed to attend at least eight hours of continuing education in animal waste management or its equivalent for each two-year period [30 TEX. ADMIN. CODE §§ 305.125(1) and 321.45(b) and TPDES General Permit No. TXG920057, Part III.C.2].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

N/A

Technical Requirements:

The Order will require the Respondent to:

a. Within 30 days:

i. Cease the unauthorized discharges at the Facility;

ii. Properly store manure or sludge within the drainage area of RCS No. 1 or store manure and sludge in a manner that otherwise prevents contaminated stormwater runoff from the storage area;

iii. Properly dispose of animal carcasses or compost in a manner that prevents contaminated stormwater runoff;

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RN102334539
Docket No. 2019-0814-AGR-E

iv. Direct runoff from the open lot located north of the freestall barn to an approved RCS; and

v. Repair the damaged gutter on the south side of the freestall barn.

b. Within 60 days:

i. Remove excess sludge accumulations from RCS No. 1 and maintain the required two vertical feet of freeboard in RCS No. 1; and

ii. Properly implement a minimum well buffer zone of 150 feet for water well No. 3.

c. Within 90 days, attend eight hours of continuing education in animal waste management or its equivalent.

d. Within 180 days:

i. Expand RCS No. 1 to meet the permitted capacity, design and construct RCS No. 2 to meet permitted capacity, and provide certification of the capacity of both RCSs by a licensed Texas Professional Engineer;

ii. Notify the Tyler Regional Office at least 48 hours prior to placing a modified or new RCS into service; and

iii. Submit a Notice of Change within 14 days of modification of RCS No. 1 and construction of RCS No. 2.

e. Within 195 days, submit written certification to demonstrate compliance with a. through d.

Contact Information

TCEQ Attorney: N/A

TCEQ Enforcement Coordinator: Aaron Vincent, Enforcement Division, Enforcement Team 2, MC 219, (512) 239-0855; Michael Parrish, Enforcement Division, MC 219, (512) 239-2548

Respondent: Maiko Bouma, Owner, Bouma Dairy Farm, 4252 County Road 2408, Winnsboro, Texas 75494

Respondent's Attorney: N/A



Penalty Calculation Worksheet (PCW)

Policy Revision 4 (April 2014)

PCW Revision March 26, 2014

TCEQ

DATES	Assigned	3-Jun-2019			
	PCW	10-Jun-2019	Screening	7-Jun-2019	EPA Due

RESPONDENT/FACILITY INFORMATION

Respondent	Maiko Hessel Bouma dba Bouma Dairy Farm				
Reg. Ent. Ref. No.	RN102334539				
Facility/Site Region	5-Tyler	Major/Minor Source	Minor		

CASE INFORMATION

Enf./Case ID No.	57830	No. of Violations	8
Docket No.	2019-0814-AGR-E	Order Type	1660
Media Program(s)	Water Quality	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Aaron Vincent
		EC's Team	Enforcement Team 2
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$25,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties) **Subtotal 1** **\$70,750**

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%** Adjustment **Subtotals 2, 3, & 7** **-\$7,075**

Notes	Reduction for High Performer classification.
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Culpability **No** **0.0%** Enhancement **Subtotal 4** **\$0**

Notes	The Respondent does not meet the culpability criteria.
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Good Faith Effort to Comply Total Adjustments **Subtotal 5** **\$0**

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

Total EB Amounts	\$10,765	*Capped at the Total EB \$ Amount
Estimated Cost of Compliance	\$75,205	

SUM OF SUBTOTALS 1-7 **Final Subtotal** **\$63,675**

OTHER FACTORS AS JUSTICE MAY REQUIRE **2.7%** Adjustment **\$1,749**

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes	An enhancement is recommended to capture the avoided costs of compliance associated with Violation Nos. 7 and 8.
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Final Penalty Amount **\$65,424**

STATUTORY LIMIT ADJUSTMENT **Final Assessed Penalty** **\$65,424**

DEFERRAL **20.0%** Reduction Adjustment **-\$13,084**

Reduces the Final Assessed Penalty by the indicated percentage.

Notes	Deferral offered for expedited settlement.
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PAYABLE PENALTY **\$52,340**

Screening Date 7-Jun-2019

Docket No. 2019-0814-AGR-E

PCW

Respondent Maiko Hessel Bouma dba Bouma Dairy Farm

Policy Revision 4 (April 2014)

Case ID No. 57830

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN102334539

Media Water Quality

Enf. Coordinator Aaron Vincent

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Number	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%
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) 0%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

High Performer

Adjustment Percentage (Subtotal 7) -10%

>> Compliance History Summary

Compliance History Notes

Reduction for High Performer classification.

Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7) -10%

>> Final Compliance History Adjustment

Final Adjustment Percentage *capped at 100% -10%

Screening Date 7-Jun-2019 **Docket No.** 2019-0814-AGR-E **PCW**
Respondent Maiko Hessel Bouma dba Bouma Dairy Farm *Policy Revision 4 (April 2014)*
Case ID No. 57830 *PCW Revision March 26, 2014*
Reg. Ent. Reference No. RN102334539
Media Water Quality
Enf. Coordinator Aaron Vincent

Violation Number 1
Rule Cite(s) 30 Tex. Admin. Code §§ 305.125(1) and (4), 321.37(d), and 321.39(e), Tex. Water Code § 26.121(a)(1), and Texas Pollutant Discharge Elimination System ("TPDES") General Permit No. TXG920057, Part III.A.5(a)(2) and Part III.A.9(b)
Violation Description Failed to prevent the unauthorized discharge of agricultural waste into or adjacent to any water in the state, and failed to properly store manure and sludge within the drainage area of the retention control structure ("RCS") or stored in a manner that otherwise prevents contaminated stormwater runoff from the storage area. Specifically, contaminated runoff from the manure and sludge piles stored on the north, south, and west sides of RCS No. 1 was not bermed or protected to prevent stormwater runoff and was entering a tributary to Big Sandy Creek. Grab sample test results indicated elevated levels of ammonia nitrogen, total phosphorus, and biochemical oxygen demand (5-day).
Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

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

>> Programmatic Matrix

	Falsification	Major	Moderate	Minor	Percent
					0.0%

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

Adjustment \$21,250
 \$3,750

Violation Events

Number of Violation Events Number of violation days

daily	
weekly	
monthly	x
quarterly	
semiannual	
annual	
single event	

Violation Base Penalty \$11,250

Three monthly events are recommended from the March 25, 2019 investigation date to the June 7, 2019 screening date.

Good Faith Efforts to Comply Reduction \$0

	Before NOE/NOV	NOE/NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary		
N/A	x	
Notes	The Respondent does not meet the good faith criteria for this violation.	

Violation Subtotal \$11,250

Economic Benefit (EB) for this violation **Statutory Limit Test**
Violation Final Penalty Total \$10,403
This violation Final Assessed Penalty (adjusted for limits) \$10,403

Economic Benefit Worksheet

Respondent Maiko Hessel Bouma dba Bouma Dairy Farm
Case ID No. 57830
Reg. Ent. Reference No. RN102334539
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	Costs Saved	EB Amount
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Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/Construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal	\$5,000	31-Mar-2016	2-May-2020	4.09	\$1,023	n/a	\$1,023
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to cease the unauthorized discharge at the Facility and properly store manure or sludge within the drainage area of RCS No. 1 or stored in a manner that otherwise prevents contaminated stormwater runoff from the storage area. The Date Required is the investigation date when the violation was initially documented and the Final Date is the anticipated compliance date

Avoided Costs

ANNUALIZE 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				0.00	\$0	\$0	\$0
ONE-TIME avoided costs				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$5,000

TOTAL

\$1,023

Screening Date 7-Jun-2019

Docket No. 2019-0814-AGR-E

PCW

Respondent Maiko Hessel Bouma dba Bouma Dairy Farm

Policy Revision 4 (April 2014)

Case ID No. 57830

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN102334539

Media Water Quality

Enf. Coordinator Aaron Vincent

Violation Number 2

Rule Cite(s) 30 Tex. Admin. Code §§ 305.125(1) and (4), 321.37(d), 321.39(f) and (g)(3), Tex. Water Code § 26.121(a)(1), and TPDES General Permit No. TXG920057, Part III.A.5(a)(2) and Part III.A.11(c)

Violation Description Failed to prevent the unauthorized discharge of agricultural waste into or adjacent to any water in the state, and failed to properly dispose of animal carcasses within three days of death. Specifically, animal carcasses in the mortality management area were not properly buried or composted, were not roofed or covered with impermeable material, were not protected from external rainfall, were not bermed to contain runoff, and were not within the drainage area of an RCS. Additionally, a missing portion of the gutter on the south side of the freestall barn allowed additional water to flow in and around the mortality management area and contributed to contaminated runoff that entered a tributary to Big Sandy Creek.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

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

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
				0.0%

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

Adjustment \$21,250

\$3,750

Violation Events

Number of Violation Events 3 Number of violation days 74

daily	
weekly	
monthly	x
quarterly	
semiannual	
annual	
single event	

Violation Base Penalty \$11,250

Three monthly events are recommended from the March 25, 2019 investigation date to the June 7, 2019 screening date.

Good Faith Efforts to Comply

0.0%

Reduction \$0

	Before NOE/NOV	NOE/NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary		
N/A	x	

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

Violation Subtotal \$11,250

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$1,023

Violation Final Penalty Total \$10,403

This violation Final Assessed Penalty (adjusted for limits) \$10,403

Economic Benefit Worksheet

Respondent Maiko Hessel Bouma dba Bouma Dairy Farm
Case ID No. 57830
Reg. Ent. Reference No. RN102334539
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	Costs Saved	EB Amount
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Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/Construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal	\$5,000	31-Mar-2016	2-May-2020	4.09	\$1,023	n/a	\$1,023
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to cease the unauthorized discharge at the Facility, repair the damaged gutter on the south side of the freestall barn, and properly dispose of the animal carcasses or compost in a manner that prevents contaminated stormwater runoff. The Date Required is the investigation date when the violation was initially documented and the Final Date is the anticipated compliance date.

Avoided Costs

ANNUALIZE 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				0.00	\$0	\$0	\$0
ONE-TIME avoided costs				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$5,000

TOTAL

\$1,023

Screening Date 7-Jun-2019 **Docket No.** 2019-0814-AGR-E **PCW**
Respondent Maiko Hessel Bouma dba Bouma Dairy Farm *Policy Revision 4 (April 2014)*
Case ID No. 57830 *PCW Revision March 26, 2014*
Reg. Ent. Reference No. RN102334539
Media Water Quality
Enf. Coordinator Aaron Vincent

Violation Number 3

Rule Cite(s) 30 Tex. Admin. Code §§ 305.125(1), 321.39(b) and (c)(1), 321.38(g)(1)(F), and TPDES General Permit No. TXG920057, Part III.A.6(f)(6), Part III.A.10(a)(1) and (2), and Part III.A.10(e)

Violation Description Failed to prevent the accumulation of sludge in a RCS from encroaching on the volumes reserved for minimum treatment, if necessary, and the design rainfall event, and failed to maintain a minimum of two vertical feet of freeboard in a RCS. Specifically, records for the annual sludge cleanout were not available for RCS No. 1, and weekly pond marker records indicate that RCS No. 1 has not been maintained with the required two vertical feet of freeboard between the top of the embankment and the required storage capacity.

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 3 74 Number of violation days

daily	
weekly	
monthly	x
quarterly	
semiannual	
annual	
single event	

Violation Base Penalty \$11,250

Three monthly events are recommended from the March 25, 2019 investigation date to the June 7, 2019 screening date.

Good Faith Efforts to Comply 0.0% Reduction \$0

	Before NOE/NOV	NOE/NOV to EDRP/Settlement Offer
Extraordinary		
Ordinary		
N/A	x	

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

Violation Subtotal \$11,250

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

Estimated EB Amount \$119 **Violation Final Penalty Total** \$10,403

This violation Final Assessed Penalty (adjusted for limits) \$10,403

Economic Benefit Worksheet

Respondent Maiko Hessel Bouma dba Bouma Dairy Farm
Case ID No. 57830
Reg. Ent. Reference No. RN102334539
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	Costs Saved	EB Amount
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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	\$2,000	25-Mar-2019	1-Jun-2020	1.19	\$119	n/a	\$119
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to remove excess sludge from RCS No. 1 and to maintain the required two vertical feet of freeboard in RCS No. 1. The Date Required is the investigation date and the Final Date is the anticipated compliance date.

Avoided Costs

ANNUALIZE 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				0.00	\$0	\$0	\$0
ONE-TIME avoided costs				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$2,000

TOTAL

\$119

Screening Date 7-Jun-2019

Docket No. 2019-0814-AGR-E

PCW

Respondent Maiko Hessel Bouma dba Bouma Dairy Farm

Policy Revision 4 (April 2014)

Case ID No. 57830

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN102334539

Media Water Quality

Enf. Coordinator Aaron Vincent

Violation Number 4

Rule Cite(s) 30 Tex. Admin. Code §§ 305.125(1), 321.38(e)(3) and (e)(7)(A), and TPDES General Permit No. TXG920057, Part III.A.6(d)(1)(ii) and (iii)

Violation Description

Failed to design and construct an RCS in accordance with the technical standard approved by the Executive Director. Specifically, the Facility's permit indicates that RCS No. 1 should have a required capacity of 77.4 acre-feet and RCS No. 2 should have a required capacity of 12.49 acre-feet; but the certified capacity of RCS No. 1 is 5.56 acre-feet and RCS No. 2 was never constructed.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential	x		

Percent 15.0%

>> 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 6

73 Number of violation days

daily	
weekly	
monthly	x
quarterly	
semiannual	
annual	
single event	

Violation Base Penalty \$22,500

Six monthly events are recommended (three monthly events per RCS) from the March 25, 2019 investigation date to the June 7, 2019 screening date.

Good Faith Efforts to Comply

0.0%

Reduction \$0

	Before NOE/NOV	NOE/NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary		
N/A	x	

Notes

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

Violation Subtotal \$22,500

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$5,312

Violation Final Penalty Total \$20,806

This violation Final Assessed Penalty (adjusted for limits) \$20,806

Economic Benefit Worksheet

Respondent Maiko Hessel Bouma dba Bouma Dairy Farm
Case ID No. 57830
Reg. Ent. Reference No. RN102334539
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	Costs Saved	EB Amount
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Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/Construction	\$50,000	25-Mar-2019	29-Sep-2020	1.52	\$253	\$5,059	\$5,312
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 expand RCS No. 1 to meet the permitted capacity, design and construct RCS No. 2 to meet permitted capacity, and provide certification of the capacity of both RCSs by a Texas Licensed Professional Engineer. The Date Required is the investigation date and the Final Date is the anticipated compliance date.

Avoided Costs

ANNUALIZE 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				0.00	\$0	\$0	\$0
ONE-TIME avoided costs				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance \$50,000

TOTAL \$5,312

Screening Date 7-Jun-2019

Docket No. 2019-0814-AGR-E

PCW

Respondent Maiko Hessel Bouma dba Bouma Dairy Farm

Policy Revision 4 (April 2014)

Case ID No. 57830

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN102334539

Media Water Quality

Enf. Coordinator Aaron Vincent

Violation Number 5

Rule Cite(s) 30 Tex. Admin. Code §§ 305.125(1) and 321.38(b) and TPDES General Permit No. TXG920057, Part III.A.4(c)

Violation Description Failed to maintain a minimum buffer zone of 150 feet between a control facility of an animal feeding operation ("AFO") and a drinking water well used for private water supply. Specifically, the area directly around Water Well No. 3 was denuded from cattle access.

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 3 74 Number of violation days

daily	
weekly	
monthly	x
quarterly	
semiannual	
annual	
single event	

Violation Base Penalty \$11,250

Three monthly events are recommended from the March 25, 2019 investigation date to the June 7, 2019 screening date.

Good Faith Efforts to Comply

0.0%

Reduction \$0

Before NOE/NOV NOE/NOV to EDPRP/Settlement Offer

Extraordinary		
Ordinary		
N/A	x	

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

Violation Subtotal \$11,250

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$416

Violation Final Penalty Total \$10,403

This violation Final Assessed Penalty (adjusted for limits) \$10,403

Economic Benefit Worksheet

Respondent Maiko Hessel Bouma dba Bouma Dairy Farm
Case ID No. 57830
Reg. Ent. Reference No. RN102334539
Media Violation No. Water Quality
 5

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Costs Saved	EB Amount
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Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/Construction	\$5,000	25-Mar-2019	1-Jun-2020	1.19	\$20	\$396	\$416
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 Engineering/Construction cost to ensure a minimum well buffer zone of 150 feet between an AFO pen and a drinking water well used for private water supply. The Date Required is the investigation date and the Final Date is the anticipated compliance date.

Avoided Costs

ANNUALIZE 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				0.00	\$0	\$0	\$0
ONE-TIME avoided costs				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$5,000

TOTAL

\$416

Screening Date 7-Jun-2019

Docket No. 2019-0814-AGR-E

PCW

Respondent Maiko Hessel Bouma dba Bouma Dairy Farm

Policy Revision 4 (April 2014)

Case ID No. 57830

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN102334539

Media Water Quality

Enf. Coordinator Aaron Vincent

Violation Number 6

Rule Cite(s) 30 Tex. Admin. Code §§ 305.125(1) and (4), 321.37(d), and TPDES General Permit No. TXG920057, Part III.A.5(a)(2)

Violation Description Failed to design, construct, operate, and maintain RCSs to contain all wastewater from the production area, including the runoff and direct precipitation from open lots. Specifically, runoff from a portion of the open lot located to the north of the freestall barn did not drain to an approved RCS. A portion of the open lot drains to the ditch along County Road 2408, and another portion of the open lot drains through the field located to the west of the open lot.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual				3.0%
	Potential			x	

>> Programmatic Matrix

	Falsification	Major	Moderate	Minor	Percent
					0.0%

Matrix Notes Human health or the environment will or could be exposed to 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 Number of violation days 74

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 NOE/NOV	NOE/NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary		
N/A	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 \$1,023

Violation Final Penalty Total \$694

This violation Final Assessed Penalty (adjusted for limits) \$694

Economic Benefit Worksheet

Respondent Maiko Hessel Bouma dba Bouma Dairy Farm
Case ID No. 57830
Reg. Ent. Reference No. RN102334539
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	Costs Saved	EB Amount
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Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/Construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal	\$5,000	31-Mar-2016	2-May-2020	4.09	\$1,023	n/a	\$1,023
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to direct runoff from the open lot located to the north of the freestall barn to an approved RCS. The Date Required is the investigation date when the violation was initially documented, and the Final Date is the anticipated compliance date.

Avoided Costs

ANNUALIZE 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				0.00	\$0	\$0	\$0
ONE-TIME avoided costs				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$5,000

TOTAL

\$1,023

Screening Date 7-Jun-2019

Docket No. 2019-0814-AGR-E

PCW

Respondent Maiko Hessel Bouma dba Bouma Dairy Farm

Policy Revision 4 (April 2014)

Case ID No. 57830

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN102334539

Media Water Quality

Enf. Coordinator Aaron Vincent

Violation Number 7

Rule Cite(s) 30 Tex. Admin. Code §§ 305.125(1) and 321.44(a), and TPDES General Permit No. TXG920057, Part IV.B.5

Violation Description Failed to notify the TCEQ Regional Office within 24 hours of becoming aware of a discharge into water in the state. Specifically, verbal notification of an unauthorized discharge was not provided by March 26, 2019.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual				0.0%
	Potential				

>> Programmatic Matrix

	Falsification	Major	Moderate	Minor	Percent
		x			5.0%

Matrix Notes 100% of the rule requirements were not met.

Adjustment \$23,750

\$1,250

Violation Events

Number of Violation Events 1 Number of violation days 1

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 NOE/NOV	NOE/NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary		
N/A	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 \$5

Violation Final Penalty Total \$1,156

This violation Final Assessed Penalty (adjusted for limits) \$1,156

Economic Benefit Worksheet

Respondent Maiko Hessel Bouma dba Bouma Dairy Farm
Case ID No. 57830
Reg. Ent. Reference No. RN102334539
Media Violation No. Water Quality
 7

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Costs Saved	EB Amount
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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

Avoided Costs

ANNUALIZE 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				0.00	\$0	\$0	\$0
ONE-TIME avoided costs	\$5	26-Mar-2019	7-Jun-2019	0.20	\$0	\$5	\$5
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Estimated avoided cost (\$5) to provide 24-hour verbal notification to the TCEQ within 24 hours after becoming aware of the unauthorized discharge. The Date Required is the date the notification was due, and the Final Date is the screening date.

Approx. Cost of Compliance \$5

TOTAL \$5

Screening Date 7-Jun-2019

Docket No. 2019-0814-AGR-E

PCW

Respondent Maiko Hessel Bouma dba Bouma Dairy Farm

Policy Revision 4 (April 2014)

Case ID No. 57830

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN102334539

Media Water Quality

Enf. Coordinator Aaron Vincent

Violation Number 8

Rule Cite(s) 30 Tex. Admin. Code §§ 305.125(1) and 321.45(b) and TPDES General Permit No. TXG920057, Part III.C.2

Violation Description Failed to attend at least eight hours of continuing education in animal waste management or its equivalent for each two-year period.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual				0.0%
	Potential				

>> Programmatic Matrix

	Falsification	Major	Moderate	Minor	Percent
		x			5.0%

Matrix Notes 100% of the rule requirements were not met.

Adjustment \$23,750

\$1,250

Violation Events

Number of Violation Events 1 644 Number of violation days

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 NOE/NOV	NOE/NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary		
N/A	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 \$1,844

Violation Final Penalty Total \$1,156

This violation Final Assessed Penalty (adjusted for limits) \$1,156

Economic Benefit Worksheet

Respondent Maiko Hessel Bouma dba Bouma Dairy Farm
Case ID No. 57830
Reg. Ent. Reference No. RN102334539
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	Costs Saved	EB Amount
------------------	-----------	---------------	------------	-----	----------------	-------------	-----------

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	\$1,600	4-Apr-2019	1-Jul-2020	1.24	\$100	n/a	\$100
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 (\$200 per hour) to attend eight hours of continuing education in animal waste management or its equivalent. The Date Required is the record review date and the Final Date is the estimated date of compliance.

Avoided Costs

ANNUALIZE 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				0.00	\$0	\$0	\$0
ONE-TIME avoided costs	\$1,600	1-Sep-2017	7-Jun-2019	1.76	\$144	\$1,600	\$1,744
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Estimated avoided cost (\$200 per hour) to attend eight hours of continuing education in animal waste management or its equivalent for a two-year period. The Date Required is the last date of the previous biennium in which eight hours of continuing education were to be completed and the Final Date is the screening date.

Approx. Cost of Compliance \$3,200

TOTAL \$1,844

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.



TCEQ Compliance History Report

Compliance History Report for CN601231814, RN102334539, Rating Year 2019 which includes Compliance History (CH) components from September 1, 2014, through August 31, 2019.

Customer, Respondent, or Owner/Operator: CN601231814, Bouma, Maiko Hessel **Classification:** HIGH **Rating:** 0.00
Regulated Entity: RN102334539, Bouma Dairy Farm **Classification:** HIGH **Rating:** 0.00
Complexity Points: 1 **Repeat Violator:** NO
CH Group: 12 - Agriculture, Forestry, Fishing, and Hunting
Location: 4252 County Road 2408 in Winnsboro, Hopkins County, Texas
TCEQ Region: REGION 05 - TYLER

ID Number(s): WASTEWATER AGRICULTURE PERMIT TXG920057

Compliance History Period: September 01, 2014 to August 31, 2019 **Rating Year:** 2019 **Rating Date:** 09/01/2019

Date Compliance History Report Prepared: October 29, 2019

Agency Decision Requiring Compliance History: Enforcement

Component Period Selected: October 29, 2014 to October 29, 2019

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

Name: Aaron Vincent

Phone: (512) 239-0855

Site and Owner/Operator History:

- 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

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 (CCEDS Inv. Track. No.):

N/A

E. Written notices of violations (NOV) (CCEDS 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
MAIKO HESSEL BOUMA DBA
BOUMA DAIRY FARM
RN102334539**

**§
§
§
§
§
§**

**BEFORE THE

TEXAS COMMISSION ON

ENVIRONMENTAL QUALITY**

**AGREED ORDER
DOCKET NO. 2019-0814-AGR-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 Maiko Hessel Bouma dba Bouma Dairy Farm (the "Respondent") under the authority of TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent together stipulate that:

1. The Respondent owns and operates a concentrated animal feeding operation ("CAFO") located at 4252 County Road 2408 in Winnsboro, Hopkins County, Texas (the "Facility"). The Facility is near or adjacent to water in the state as defined in TEX. WATER CODE § 26.001(5).
2. The Executive Director and the Respondent agree that the TCEQ has jurisdiction to enter this Order pursuant to TEX. WATER CODE §§ 7.002, 7.051, and 7.073, and that the Respondent is subject to TCEQ's jurisdiction. The TCEQ has jurisdiction in this matter pursuant to TEX. WATER CODE § 5.013 because it alleges violations of TEX. WATER CODE ch. 26 and the rules of the TCEQ.
3. The occurrence of any violation is in dispute and the entry of this Order shall not constitute an admission by the Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
4. An administrative penalty in the amount of \$65,424 is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Revenue Operations Section of TCEQ's Financial Administration Division reviewed financial documentation submitted by the Respondent and determined that the Respondent is unable to pay all or part of the penalty. Therefore, \$44,144 of the penalty is deferred contingent upon the Respondent's compliance with all the terms of this Order and shall be waived only upon full compliance with this Order. If the Respondent fails to comply with any requirement of this Order, including any payment schedule, the Executive Director may require the Respondent to pay all or part of the deferred penalty.

The Respondent paid \$595 of the undeferred penalty. The remaining amount of \$20,685 of the undeferred penalty shall be paid in 35 monthly payments of \$591 each. The first monthly payment shall be paid within 30 days after the effective date of this Order. The subsequent payments shall each be paid not later than 30 days following the due date of the previous payment until the penalty is paid in full. If the Respondent fails to comply with the payment requirements of this Order, including the payment schedule, the Executive Director may accelerate the maturity of the remaining installments, in which event the unpaid balance shall become immediately due and payable without demand or notice. The Respondent's failure to meet the payment schedule of this Order and/or the acceleration of any remaining balance constitutes the failure by the Respondent to timely and satisfactorily comply with all the terms of this Order and the Executive Director may demand payment of all or part of the deferred penalty.

5. 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). 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.
6. 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 Order.
7. This Order represents the complete and fully-integrated agreement of the parties. The provisions of this Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Order unenforceable, the remaining provisions shall be valid and enforceable.
8. This Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Order, whichever is later.

II. ALLEGATIONS

During an investigation conducted from March 25, 2019 to April 8, 2019, an investigator documented that the Respondent:

1. Failed to prevent the unauthorized discharge of agricultural waste into or adjacent to any water in the state, and failed to properly store manure and sludge within the drainage area of the retention control structure ("RCS") or stored in a manner that otherwise prevents contaminated stormwater runoff from the storage area, in violation of 30 TEX. ADMIN. CODE §§ 305.125(1) and (4), 321.37(d), and 321.39(e), TEX. WATER CODE § 26.121(a)(1), and Texas Pollutant Discharge Elimination System ("TPDES") General Permit No. TXG920057, Part III.A.5(a)(2) and Part III.A.9(b). Specifically, contaminated runoff from the manure and sludge piles stored on the north, south, and west sides of RCS No. 1 was not bermed or protected to prevent stormwater runoff and was entering a tributary to Big Sandy Creek. Grab sample test results indicated elevated levels of ammonia nitrogen, total phosphorus, and biochemical oxygen demand (5-day).

2. Failed to prevent the unauthorized discharge of agricultural waste into or adjacent to any water in the state, and failed to properly dispose of animal carcasses within three days of death, in violation of 30 TEX. ADMIN. CODE §§ 305.125(1) and (4), 321.37(d), 321.39(f) and (g)(3), TEX. WATER CODE § 26.121(a)(1), and TPDES General Permit No. TXG920057, Part III.A.5(a)(2) and Part III.A.11(c). Specifically, animal carcasses in the mortality management area were not properly buried or composted, were not roofed or covered with impermeable material, were not protected from external rainfall, were not bermed to contain runoff, and were not within the drainage area of an RCS. Additionally, a missing portion of the gutter on the south side of the freestall barn allowed additional water to flow in and around the mortality management area and contributed to contaminated runoff that entered a tributary to Big Sandy Creek.
3. Failed to prevent the accumulation of sludge in a RCS from encroaching on the volumes reserved for minimum treatment, if necessary, and the design rainfall event, and failed to maintain a minimum of two vertical feet of freeboard in a RCS, in violation of 30 TEX. ADMIN. CODE §§ 305.125(1), 321.39(b) and (c)(1), 321.38(g)(1)(F), and TPDES General Permit No. TXG920057, Part III.A.6(f)(6), Part III.A.10(a)(1) and (2), and Part III.A.10(e). Specifically, records for the annual sludge cleanout were not available for RCS No. 1, and weekly pond marker records indicate that RCS No. 1 has not been maintained with the required two vertical feet of freeboard between the top of the embankment and the required storage capacity.
4. Failed to design and construct an RCS in accordance with the technical standard approved by the Executive Director, in violation of 30 TEX. ADMIN. CODE §§ 305.125(1), 321.38(e)(3) and (e)(7)(A), and TPDES General Permit No. TXG920057, Part III.A.6(d)(1)(ii) and (iii). Specifically, the Facility's permit indicates that RCS No. 1 should have a required capacity of 77.4 acre-feet and RCS No. 2 should have a required capacity of 12.49 acre-feet; but the certified capacity of RCS No. 1 is 5.56 acre-feet and RCS No. 2 was never constructed.
5. Failed to maintain a minimum buffer zone of 150 feet between a control facility of an animal feeding operation and a drinking water well used for private water supply, in violation of 30 TEX. ADMIN. CODE §§ 305.125(1) and 321.38(b) and TPDES General Permit No. TXG920057, Part III.A.4(c). Specifically, the area directly around Water Well No. 3 was denuded from cattle access.
6. Failed to design, construct, operate, and maintain RCSs to contain all wastewater from the production area, including the runoff and direct precipitation from open lots, in violation of 30 TEX. ADMIN. CODE §§ 305.125(1) and (4), 321.37(d), and TPDES General Permit No. TXG920057, Part III.A.5(a)(2). Specifically, runoff from a portion of the open lot located to the north of the freestall barn did not drain to an approved RCS. A portion of the open lot drains to the ditch along County Road 2408, and another portion of the open lot drains through the field located to the west of the open lot.
7. Failed to notify the TCEQ Regional Office within 24 hours of becoming aware of a discharge into water in the state, in violation of 30 TEX. ADMIN. CODE §§ 305.125(1) and 321.44(a), and TPDES General Permit No. TXG920057, Part IV.B.5. Specifically, verbal notification of an unauthorized discharge was not provided by March 26, 2019.

8. Failed to attend at least eight hours of continuing education in animal waste management or its equivalent for each two-year period, in violation of 30 TEX. ADMIN. CODE §§ 305.125(1) and 321.45(b) and TPDES General Permit No. TXG920057, Part III.C.2.

III. DENIALS

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

IV. ORDERING PROVISIONS

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

1. The Respondent is assessed a penalty as set forth in Section I, Paragraph No. 4. The payment of this penalty and the Respondent's compliance with all of the requirements set forth in this 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. Penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: Maiko Hessel Bouma dba Bouma Dairy Farm, Docket No. 2019-0814-AGR-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. The Respondent shall undertake the following technical requirements:
 - a. Within 30 days after the effective date of this Order:
 - i. Cease the unauthorized discharges at the Facility;
 - ii. Properly store manure or sludge within the drainage area of RCS No. 1 or store manure and sludge in a manner that otherwise prevents contaminated stormwater runoff from the storage area;
 - iii. Properly dispose of animal carcasses or compost in a manner that prevents contaminated stormwater runoff;
 - iv. Direct runoff from the open lot located north of the freestall barn to an approved RCS; and
 - v. Repair the damaged gutter on the south side of the freestall barn.
 - b. Within 60 days after the effective date of this Order:
 - i. Remove excess sludge accumulations from RCS No. 1 and maintain the required two vertical feet of freeboard in RCS No. 1; and

- ii. Properly implement a minimum well buffer zone of 150 feet for water well No. 3.
- c. Within 90 days after the effective date of this Order, attend eight hours of continuing education in animal waste management or its equivalent.
- d. Within 180 days after the effective date of this Order:
 - i. Expand RCS No. 1 to meet the permitted capacity, design and construct RCS No. 2 to meet permitted capacity, and provide certification of the capacity of both RCSs by a licensed Texas Professional Engineer to the addresses listed in Ordering Provision No. 2.e;
 - ii. Notify the Tyler Regional Office at least 48 hours prior to placing a modified or new RCS into service; and
 - iii. Submit a Notice of Change within 14 days of modification of RCS No. 1 and construction of RCS No. 2 to:

Water Quality Assessment Section
Water Quality Division, MC 150
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087
- e. Within 195 days after the effective date of this Order, submit written certification, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision Nos. 2.a through 2.d. The certification shall be signed by the Respondent 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 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
Tyler Regional Office
Texas Commission on Environmental Quality
2916 Teague Drive
Tyler, Texas 75701-3734

3. All relief not expressly granted in this Order is denied.
4. The duties and provisions imposed by this Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of this Order to personnel who maintain day-to-day control over the Facility operations referenced in this Order.
5. If the Respondent fails to comply with any of the Ordering Provisions in this 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 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.
6. The Executive Director may grant an extension of any deadline in this Order or in any plan, report, or other document submitted pursuant to this 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. Extension requests shall be sent to the Order Compliance Team at the address listed above.
7. This 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 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.
8. This Order may be executed in separate and multiple counterparts, which together shall constitute a single instrument. Any page of this 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 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.

9. 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



For the Executive Director

3/2/2022

Date

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

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

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

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



Signature

10-06-21

Date

Maiko Bouma

Name (Printed or typed)

Title

Authorized Representative of
Maiko Hessel Bouma dba Bouma Dairy Farm

If mailing address has changed, please check this box and provide the new address below:

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