

REQUEST FOR REMISSION OF CIVIL PENALTY ASSESSMENT

DWR Case Number: PC-2015-0026

Region: Raleigh

County: Edgecombe

Assessed Entity: Granville Farms, Inc.

Permit No.: WQ0035595

Case Background and Assessment

- 12/28/2012 Granville Farms, Inc. was issued a permit (WQ0035595) for the land application of Class B Residual Solids (503) on December 28, 2011, as amended on July 23, 2014, effective upon issuance, with an expiration date of November 30, 2016.
- 03/26/2015 DWR Raleigh Regional Office conducted compliance inspections of fields included in permit WQ0035595 on March 26, 2015 and on April 15, 2015.
- 04/28/2015 On April 28, 2015, the Division issued a Notice of Violation/ Notice of Intent to Enforce (NOV/NOI) NOV-2015-PC-0082 to Granville Farms, Inc. This Notice was sent by Certified Mail, Return Receipt Requested and was received on May 1, 2015. DWR received a written response on May 28, 2015.
- 06/11/2015 On June 11, 2015, the Division issued an additional information request letter to Granville Farms Inc. sent by Certified Mail, Return Receipt Requested and was received on June 16, 2015. On June 30, 2015 DWR received a response to the additional information request.
- 08/24/2015 On August 24, 2015, the Division issued a Notice of Violation/ Notice of Intent to Enforce (NOV/NOI) NOV-2015-PC-0218 to Granville Farms, Inc. On September 28, 2015, DWR received a written response to NOV.
- 10/12/2015 DWR issued a Civil Penalty Assessments (PC-2015-0026) that totaling (\$15,000 + \$2,467.48) = \$17,467.48 for the following violations:

\$ 3,000.00 for violation Title 15A North Carolina Administrative Code 02T .1108 (b) by the failure to effectively maintain setbacks from groundwater lowering ditches as observed on March 26, 2015 and by the failure to effectively maintain setbacks for land application sites from surface waters and wells as observed on April 15, 2015

\$ 2,000.00 for violation of Part II Performance Standards, Condition 9 of the non-discharge Permit WQ0035595 by the failure to clearly mark land application areas on each site prior to and during a land application of residuals events.

\$ 3,000.00 for violation of Part III Operation and Maintenance Requirements, Condition 5 of the non-discharge Permit WQ0035595 by the failure to designate and employ a certified operator in responsible charge (ORC) and one or more certified operators as back-up ORCs in accordance with 15A NCAC 08G .0201.

\$ 2,000.00 for violation of Part III Operation and Maintenance Requirements, Condition 8 of the non-discharge Permit WQ0035595 on March 26, 2015 and April 15, 2015, by storing residuals on a land application site without requesting and receiving written approval from the Division of Water Resources.

\$ 1,000.00 for two (2) violations of Part III Operation and Maintenance Requirements, Condition 10 of the non-discharge Permit WQ0035595 on March 26, 2015 and April 15, 2015, by the application of residuals onto land application sites without suitable vegetative cover.

\$ 2,000.00 for violation of Part III Operation and Maintenance Requirements, Condition 11 of the non-discharge Permit WQ0035595 by applying residuals where the land failed to assimilate the bulk residuals, applying residuals within 24 hours following a rainfall event of 0.5 inches or greater in a 24-hour period as noted during the April 15, 2015 inspection, and applying residuals when the soil pH is not maintained at 6.0 or greater as noted in the 2014 Annual Report.

\$ 1,000.00 for violation of Part III Operation and Maintenance Requirements, Condition 12 of the non-discharge Permit WQ0035595 by failure to restrict public access to land application sites for 30 days after a land application event.

\$ 1,000.00 for violation of Part III Operation and Maintenance Requirements, Condition 13 of the non-discharge Permit WQ0035595 on March 26, 2015 and April 15, 2015 by the failures to post the proper signage with a minimum area of 3 square feet (e.g., 1.5' x 2') indicating the activities conducted at each site, permit number, and name and contact information, including the Permittee or applicator's telephone number as required.

\$ 0 for violation of Part IV Monitoring and Reporting Requirements, Conditions 7 and 8 of the non-discharge Permit WQ0035595 by failure to report land application of all residual sources, animal waste or other nutrient sources in the annual report.

- 10/19/2015 Certified Mail delivery date of the assessment document (7014 1200 0000 8628 8528)

Remission Request

- 11/03/2015 Remission Request received from Granville Farms, Inc. The request included a "Justification for Remission Request" and a "Waiver of Right to an Administrative Hearing and Stipulation of Facts."
- 04/05/2016 The WQPS Chief considered the information contained in the remission request and did not find grounds to modify the civil penalty assessment.
- 04/13/2016 Granville Farms, Inc. received notification of the remission decision.

Granville Farms, Inc. requested an oral presentation before the Environmental Management Commission's Committee on Civil Penalty Remissions.

Enforcement History:

- Granville Farms has been issued five (5) Civil Penalty Assessments as follows:
 - PC-2009-0105: Penalty of \$699.36 for failure to maintain and operate the land application program in accordance with permit requirements resulting in an illegal discharge of waste.
 - PC-2010-0130: Penalty of \$15,689.24 for violations of G.S. 143-215.1 and permit no. WQ0000838 by land applying residuals that exceeded pollutant ceiling concentrations for lead, and by land applying residuals during seven months that failed to meet vector attraction reduction criteria.
 - PC-2012-0006: Penalty of \$6,402.20 for violations of G.S. 143-215.1 by failing to obtain a permit prior to the land application of an estimated 1,100,000 gallons of domestic wastewater from Sharron Harris Nuclear Power Plant facility.

STATE OF NORTH CAROLINA

ENVIRONMENTAL MANAGEMENT
COMMISSIONCOUNTY OF EDGECOMBE
IN THE MATTER OF ASSESSMENT
OF CIVIL PENALTIES AGAINST:

DWR Case Number PC-2015-0026

REQUEST FOR ORAL PRESENTATION

Granville Farms, Inc.

Land Application of Residuals Solids (503) Permit WQ0035595

I hereby request to make an oral presentation before the Environmental Management Commission's Committee On Civil Penalty Remissions in the matter of the case noted above. In making this request, I assert that I understand all of the following statements:

- This request will be reviewed by the Chairman of the Environmental Management Commission and may be either granted or denied.
- Making a presentation will require the presence of myself and/or my representative during a Committee meeting held in Raleigh, North Carolina.
- My presentation will be limited to discussion of issues and information submitted in my original remission request, and because no factual issues are in dispute, my presentation will be limited to five (5) minutes in length.

The North Carolina State Bar's Authorized Practice of Law Committee has ruled that the appearance in a representative capacity at quasi-judicial hearings or proceedings is limited to lawyers who are active members of the bar. Proceedings before the Committee on Remissions are quasi-judicial. You should consider how you intend to present your case to the Committee in light of the State Bar's opinion and whether anyone will be speaking in a representative capacity for you or a business or governmental entity. If you or your representative would like to speak before the Committee, you must complete and return this form within thirty (30) days of receipt of this letter.

Depending on your status as an individual, corporation, partnership or municipality, the State Bar's Opinion affects how you may proceed with your oral presentation. See www.ncbar.com/ethics, Authorized Practice Advisory Opinion 2006-1 and 2007 Formal Ethics Opinion 3.

- If you are an individual or business owner and are granted an opportunity to make an oral presentation before the Committee, then you do not need legal representation before the Committee; however, if you intend on having another individual speak on your behalf regarding the factual situations, such as an expert, engineer or consultant, then you must also be present at the meeting in order to avoid violating the State Bar's Opinion on the unauthorized practice of law.
- If you are a corporation, partnership or municipality and are granted an opportunity to make an oral presentation before the Committee, then your representative must consider the recent State Bar's Opinion and could be considered practicing law without a license if he or she is not a licensed attorney. Presentation of facts by non-lawyers is permissible.

If you choose to request an oral presentation, please make sure that signatures on the previously submitted Remission Request form and this Oral Presentation Request form are: 1) for individuals and business owners, your own signature and 2) for corporations, partnerships and municipalities, signed by individuals who would not violate the State Bar's Opinion on the unauthorized practice of law.

Also, be advised that the Committee on Civil Penalty Remissions may choose not to proceed with hearing your case if the Committee is informed that a potential violation of the statute concerning the authorized practice of law has occurred.

This the 6th day of May, 20 16.

SIGNATURE

Vice President

TITLE (President, Owner, etc.)

ADDRESS

PO Box 1396 (Hwy 96)Oxford N.C.27565

TELEPHONE

252 903 5367

RECEIVED/NCDEQ/DWR

MAY - 9 2016

Non-Discharge
Permitting Unit

3 of 55



PAT MCCRORY

Governor

DONALD R. VAN DER VAART

Secretary

S. JAY ZIMMERMAN

Director

April 7, 2016

Certified Mail 9590 9401 0023 5071 0349 78
Return Receipt Requested

Jason Smith, Vice President
Granville Farms, Inc.
PO Box 1396
Oxford, NC 27565-9199

Subject: Permit: WQ0003595
Remission Case: PC-2015-0026
Granville Farms Land Application
Edgecombe County

Dear Dr. Mr. Smith:

In accordance with North Carolina General Statute (N.C.G.S.) § 143-215.6A(f) and delegations by the Director of Water Resources, the Water Quality Permitting Section Chief has considered the information submitted in support of your request for remission and found no grounds to modify the civil penalty assessment in the amount of \$17,467.48. A copy of the decision is attached.

If you choose to pay the penalty, remit payment to:

NC DEQ – Division of Water Resources
1617 Mail Service Center
Raleigh, NC 27699-1617
Attn: Non-Discharge Permitting Branch

Please reference case PC-2015-0026 on your check or money order.

If payment is not received within thirty (30) days of receipt of this letter, in accordance with N.C.G.S. § 143-215.6A(f), your request for remission of the civil penalty (with supporting documents) and the Division's recommendation to deny the request (with supporting documentation) will be delivered to the North Carolina Environmental Management Commission's (EMC) Committee On Civil Penalty Remissions (Committee) for a final agency decision.

If you desire to make an oral presentation to the Committee on why your request for remission meets one or more of the five statutory factors you were asked to address, you must complete and return the attached form within thirty (30) days of receipt of this letter. Please mail the completed form to my attention at the following address:

NC DEQ – Division of Water Resources
1617 Mail Service Center
Raleigh, NC 27699-1617
Attn: Non-Discharge Permitting Branch

Your request for an oral presentation and the documents in this matter will be reviewed by the Chair of the Commission and, if it is determined that there is a compelling reason to require an oral presentation from you, you will be notified by certified mail of the date, time, and place that your oral presentation can be made. Otherwise, the final decision on your request for remission will be made by the Committee based on the written record.

Thank you for your cooperation in this matter. If you have any questions about this letter, please contact me by phoning (919) 807-6310 or emailing kipp.glazier@ncdenr.gov.

Sincerely,

Kipp Glazier

Kipp Glazier, Environmental Sr. Specialist
Division of Water Resources

Attachments

cc: Raleigh Regional Office, Water Quality Regional Operations Section (Electronic Copy)
Permit File WQ0003595

Remission Request Summary and Recommendation

To: Jeff Poupart, WQPS Chief
From: Danny Smith
Reviewed by: Kipp Glazier
Date: March 4, 2016
Region: RRO
Date: April 4, 2016
Assessed Party: Granville Farms, Inc.
Case No.: PC-2015-0026
County: Edgecombe County
Permit No.: WQ0035595

Case Background and Assessment

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08/24/2015	On August 24, 2015, the Division issued a Notice of Violation/ Notice of Intent to Enforce (NOV/NOI) NOV-2015-PC-0218 to Granville Farms, Inc. On September 28, 2015, DWR received a written response to NOV.
10/12/2015	<p>DWR issued a Civil Penalty Assessments (PC-2015-0026) that totaling (\$15,000 + \$2,467.48) = <u>\$17,467.48</u> for the following violations:</p> <p><u>\$ 3,000.00</u> for violation Title 15A North Carolina Administrative Code 02T .1108 (b) by the failure to effectively maintain setbacks from groundwater lowering ditches as observed on March 26, 2015 and by the failure to effectively maintain setbacks for land application sites from surface waters and wells as observed on April 15, 2015</p> <p><u>\$ 2,000.00</u> for violation of Part II Performance Standards, Condition 9 of the non-discharge Permit WQ0035595 by the failure to clearly mark land application areas on each site prior to and during a land application of residuals events.</p> <p><u>\$ 3,000.00</u> for violation of Part III Operation and Maintenance Requirements, Condition 5 of the non-discharge Permit WQ0035595 by the failure to designate and employ a certified operator in responsible charge (ORC) and one or more certified operators as back-up ORCs in accordance with 15A NCAC 08G .0201.</p> <p><u>\$ 2,000.00</u> for violation of Part III Operation and Maintenance Requirements, Condition 8 of the non-discharge Permit WQ0035595 on March 26, 2015 and April 15, 2015, by storing residuals on a land application site without requesting and receiving written approval from the Division of Water Resources.</p>

\$ 1,000.00 for two (2) violations of Part III Operation and Maintenance Requirements, Condition 10 of the non-discharge Permit WQ0035595 on March 26, 2015 and April 15, 2015, by the application of residuals onto land application sites without suitable vegetative cover.

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\$ 0 for violation of Part IV Monitoring and Reporting Requirements, Conditions 7 and 8 of the non-discharge Permit WQ0035595 by failure to report land application of all residual sources, animal waste or other nutrient sources in the annual report.

10/19/2015

Certified Mail delivery date of the assessment document (7014 1200 0000 8628 8528)

Remission Request (Summary)

11/02/2015

Granville Farms LLC requested remissions for PC-2015-0026. This request was received on November 3, 2015, and signed November 2, 2015.

Granville Farms LLC cited four remission factors: (a) violation were wrongly applied, (b) violator promptly abated, (c) inadvertent, and (e) payment will prevent remedial actions.

(a) violation were wrongly applied

- Failure to designate and employee certified operator – GFI submitted ORC documentation September 19th, 2011, March 5, 2012, May 17, 2013, and April 28, 2014. (this was provided with permit application and subsequent permit modifications)
- Storing residuals on site without approval from DWRs: GFI explains residuals stored on site were either Class A or compost it was not a class B sources. Explained residuals with vegetation was from ground storm debris.
- Failure to restrict public access – GFI site was restricted via a pipe gate at entrance and No trespassing signs.
- Failure to post proper signage – GFI understood this requirement was to restrict access on sites that did not have gates or fences.. Also GFI feels this duplicative of above.
- Failure to report land application of all residual sources animal waste or other nutrients in annual report- GFI explained that it does track this information on database system and on nutrient management plans as previously presented to NCDENR.

- GFI states that buffer violations and storage issue were not related to Class B Land Application and thus should not have been considered in this investigation. [Schedule Vi. General Conditions (3) "This permit is effective only with respect to the nature and volume of residuals described in the permit application and other supporting documentation."

(b) violator promptly abated.

- Response NOV illustrates efforts to abate,
- Failure to maintain setbacks – GFI planted setbacks in grass to affect clear application boundary
- Application onto land without suitable vegetative cover. – GFI explained that applications of residuals were incorporated along with the winter cover

(c) inadvertent.

- Application of residuals without suitable vegetative cover. – GFI explained that winter cover was incorporated into the soil to help supply additional nutrients; none of the activities was with intent harm environment, mislead or financial gain;

(e) payment will prevent remedial actions.

- In-lieu of full payment proposed to use a portion of penalty enhance equipment and management practices/systems
- Applying residuals land failed to assimilate bulk residuals, applying with 24 hr following rain, apply residuals when soil pH is not maintained at 6 or greater: GFI proposed a reduce penalty so that they may buy equipment to help monitor soil and weather conditions.

Other information provided by FGI also provided the following:

- Failure to clearly mark setbacks – GFI provide better training to field operators
- Given the Gravity of the violations- GFI expected to be notified immediately after March 26, 2016.

Enforcement History:

- Annually Granville Farms currently manages 24,988 dry tons of residuals from 71 sources (municipalities, subdivisions, and businesses) under Class B permits WQ000838 and WQ0035595 and one Class A permit WQ0033587.
- Granville Farms operates 2,758 acres of permitted land app fields, of which approximately 837 acres are owned by GF.
- Granville Farms also serves as operator or land applier for a number of other residual programs regionally (Ahoskie, CORPUD, Tarboro, Mallinckrodt, Plymouth, etc).
- Granville Farms has been issued one (1) Notice of Deficiency, eight (8) Notices of Violation, and five (5) Civil Penalty Assessments as follows:
 - PC-2007-0038: Penalty of \$3,636.95 for 17 permit condition violations as a result a review of the 2006 residuals annual report for WQ0000383.
 - PC-2009-0093: Penalty of \$3,699.36 for three years of three violations of G.S. 143-215.1 and permit no. WQ0000838 by failing to maintain a 400-foot buffer between three residences and residuals application area.
 - PC-2009-0105: Penalty of \$699.36 for failure to maintain and operate the land application program in accordance with permit requirements resulting in an illegal discharge of waste.
 - PC-2010-0130: Penalty of \$15,689.24 for violations of G.S. 143-215.1 and permit no. WQ0000838 by land applying residuals that exceeded pollutant ceiling concentrations for lead, and by land applying residuals during seven months that failed to meet vector

attraction reduction criteria.

- PC-2012-0006: Penalty of \$6,402.20 for violations of G.S. 143-215.1 by failing to obtain a permit prior to the land application of an estimated 1,100,000 gallons of domestic wastewater from Sharron Harris Nuclear Power Plant facility..

Remission Recommendation from Regional Office and Central Office

Failure to maintain setbacks

- On March 26, 2015, DWR staff observed Class B liquid sludge had been applied within 25 feet of a surface water ditch (Photo 1). In a response letter dated May 27, 2015, Granville Farms explained that “due to equipment malfunction and operator error, over-application of Class B material (approximately 1000-2000 gallons) occurred within a fairly small area of Field 11”.
- On April 15, 2015, Class A cake sludge was observed by DWR staff to have been applied within 100 feet of a water supply well and within 25 feet of surface waters, (Photos 2 and 3) In a response letter dated May 27, 2015, Granville Farms explained that they did discover Class A residuals were applied within 100 foot setback to water supply wells (two different wells).

Failure to clearly mark setbacks.

- A land application event was occurring at the site on Field #19 during the April 15, 2015 site inspection and the application area and setbacks to ditches, groundwater lowering ditches, and wells were not marked. In the May 27, 2015 letter to Danny Smith of the DWRs, Mr. Jason Smith of Granville Farms, Inc. explained that one truck load of Class B material had been applied on Fields 11 and 17 without those fields being fully flagged and 10,000 pin flags had since been ordered for use in the required demarcation of application areas.

Failure to Designate Certified Operator

- A DWR file review confirmed the Water Pollution Operators Certification Commission has not received the required Operator Designation Form for Permit WQ0035595. In a response letter dated May 27, 2015, Granville Farms explained that “we will be submitting a completed Water Pollution Control System Operator Designation Form in the near future”.
- GFI explained that they submitted ORC documentation September 19th. 2011, March 5, 2012, May 17, 2013, and April 28, 2014. No such designation form was found in RRO files.

Storing residuals on site without approval from DWRs:

- Bulk residuals were observed to have been stockpiled on the site during the March 26, 2015 inspection, and these stockpiles were again observed and photographed during the April 15, 2015 inspection (Photos 4 and 5).

Application onto land without suitable vegetative cover

- Land application onto areas without suitable vegetative cover was observed during the March 26, 2015 inspection, and it was observed again and during the April 15, 2015 inspection.

Applying residuals to lands that failed to assimilate bulk residuals, applying with 24 hr following rain, apply residuals when soil pH is not maintained at 6 or greater

- On April 15, 2015 portions of the application fields were ponded and bulk residuals were observed to have been applied to portions of the ponded areas (Photo 9).
- Rain gauge data retrieved from the State Climate Office of North Carolina CRONOS Database indicate a rainfall event exceeding 0.5 inches during the period of April 14 to April 15, 2015 (Appendix A), and land application was observed to be occurring on the site by DWR staff during the April 15, 2015 inspection.
- Soil sample analyses included in the 2014 Annual Report indicates soil pH has not been maintained at value greater than 6 in the land application fields.

Failure to restrict public access

- Land application of residuals had occurred within 30 days of the site inspections dated March 26, 2015 and April 15, 2015 as detailed in the additional information provided to RRO by Granville Farms.
- Land application had been conducted prior to the March 26, 2015 site inspection, however, no method of restricting public access was in place when WQROS staff arrived and proceeded onto the site. Entrance gates were open, unlocked, and no signage was present identifying the site as active land application fields.

Failure to post proper signage

- In a letter dated May 27, 2015, Granville Farms explained that they "neglected to repost this signage prior to the most recent application event". The required signage was not observed by DWR staff during the March 26, 2015 or at the start of the April 15, 2015 site inspections. On April 15th, an *ad hoc* sign was erected at the site after DWR staff mentioned the violation to Granville Farms, Inc. staff who were on-site at the time.

Failure to report land application of all residual sources animal waste or other nutrients in annual report

- 2014 Annual Report failed to include or report land application of all residual sources, animal waste or other nutrient sources. The report addressed Class B residuals and did not depict/address Class A applications.

• DWQ Raleigh Regional Office Recommendation (Check One)
Request Denied ☐
Full Remission ☐ Retain Enforcement Costs? Yes ☐ No ☐
Partial Remission 15.4% (enter amount)
Comment: reduce by 20% pay 12,680 plus costs 2,467.48 = \$15,147.48

15A NCAC 02T .1108- reduce by \$1000
Permit Condition II.9. - reduce by \$660
Permit Condition III.12. - reduce by \$330
Permit Condition III.13. - reduce \$330

$$15,000 - 2,320 = 12,680 + 2,467.48 = 15,147.48$$

DECISION (Check One)

Request Denied ☒
Full Remission ☐ Retain Enforcement Cost? Yes ☐ No ☐
Partial Remission ☐ \$ _____ (Enter Amount)

 4/5/16
Date

GRANVILLE FARMS, INC

Specializing in Land Application Management

RECEIVED/DENR/DWR

NOV 03 2015

Water Quality
Permitting Section

Ed Hardee

Non-Discharge Permitting Unit
Division of Water Resources
1636 Mail Service Center
Raleigh, North Carolina 27699-1636

SUBJECT:

Request for Remission of Civil Penalty
Permit No. WQ0035595
Edgecombe County
Enforcement File PC-2015-0026

November 2, 2015

GRANVILLE FARMS, INC

Specializing in Land Application Management

P.O. Box 1396
Oxford, NC 27565
919-690-8000

November 2, 2015

Ed Hardee
Non-Discharge Permitting Unit
Division of Water Resources
1636 Mail Service Center
Raleigh, North Carolina 27699-1636

SUBJECT: Request for Remission of Civil Penalty
Permit No. WQ0035595
Edgecombe County
Enforcement File PC-2015-0026

Dear Mr. Hardee:

Granville Farms, Inc. (GFI) received the civil penalty assessment dated October 12, 2015 for the above referenced permit. This remission is to request a justification for the amount of the penalties, identify areas of redundancy, and provide remedial actions in-lieu of penalties. GFI has agreed to waive the right to an administrative hearing, but based upon our findings our remission of this Penalty Assessment is based upon the following in summarized:

- Whether one or more of the civil penalty assessment factors in NCGS 143B-282.1(b) were wrongfully applied to the detriment of the violator
 - Several ORC forms had been previous submitted to NCDENR
 - Storage of Residuals was done in accordance with their respective permits; all cake residuals stored on-site were either Class A or Compost
 - Access was restricted via a pipe gate at the entrance of the farm and several No Trespassing were posted throughout the property
 - According to Schedule V. 3. Of this permit "Any duly authorized Division representative may, upon presentation of credentials, enter and inspect any property, premises or place on or related to the land application site or facilities...". At no time did any NCDENR present their credentials prior to entry the property on March 26, 2015. GFI was not notified prior to either visit.
- Whether the violator promptly abated continuing environmental damage resulting from the violation
 - Please see attachment A – "Initial Response to NOV" which provided dated pictures showing timeline of how quickly issues were resolved.
 - Class A and Class B Residuals were incorporated into the ground to provide additional safeguards for the environment

- Winter Cover was incorporated into the soil to help supply additional nutrients that were previously bound
- Whether the violation was inadvertent or a result of an accident
 - None of these actions were done with the intent to harm our environment, mislead any NCDENR Staff, and/or for a financial gain
- Whether payment of the civil penalty will prevent payment for the remaining necessary remedial actions
 - GFI was excluded from a scheduled hauling event on a separate permit due to the method of notification of this NOV by NCDENR Staff; see attachment B – “City of Raleigh letter”
 - In-Lieu of payment of full penalty, GFI has proposed to use a portion of the payment and apply it towards equipment and farm management practices to strength our management system.

Many of the activities that were referenced in this NOV and Civil Penalty Assessment (i.e. buffer violation of Class A residuals, storage of residuals, etc.) are not related to this Class B Land Application permit and thus should have not been considered in this investigation.

- Schedule VI General Conditions (3) “This permit is effective only with respect to the nature and volume of residuals described in the permit application and other supporting documentation”

GFI has taken the following into account to justify the reduction in this Civil Penalty:

- GFI is confused on the degree and extent of harm to the natural resources of the State, to the public health, or to private property resulting from the violation given that GFI was not notified until after April 15, 2015. Given the gravity in which NCDEQ has placed on this violation GFI would have expected to be notified immediately after the discovery of the violations on March 26, 2015.
- The incidents cited in this NOV and Penalty assessment were not conducted for financial gain

GFI has included with this response the following attachments as our findings of fact and as a representation of the amount of time, energy and financial commitment that has been dedicated to this NOV.

- A. GFI Initial NOV response (May 27, 2015)
- B. City of Raleigh Letter (May 6, 2015)
- C. GFI Additional information (June 30, 2015)
- D. GFI NOV Response Letter (September 28, 2015)

GFI looks forward to working NCDEQ to finalize this process and in hopes that better communication between the two entities will improve future understanding of permit policies and procedures.

Respectfully,



Jason Smith,
VP Granville Farms

JUSTIFICATION FOR REMISSION REQUEST

DWR Case Number: PC-2015-0026
Assessed Party: Granville Farms, Inc
Permit No.: WQ0035595

County: Edgecombe

Amount Assessed: \$ 17,467.48

Please use this form when requesting remission of this civil penalty. You must also complete the "Request For Remission, Waiver of Right to an Administrative Hearing, and Stipulation of Facts" form to request remission of this civil penalty. You should attach any documents that you believe support your request and are necessary for the Director to consider in evaluating your request for remission. Please be aware that a request for remission is limited to consideration of the five factors listed below as they may relate to the reasonableness of the amount of the civil penalty assessed. Requesting remission is not the proper procedure for contesting whether the violation(s) occurred or the accuracy of any of the factual statements contained in the civil penalty assessment document. Pursuant to N.C.G.S. § 143B-282.1(c), remission of a civil penalty may be granted only when one or more of the following five factors applies. Please check each factor that you believe applies to your case and provide a detailed explanation, including copies of supporting documents, as to why the factor applies (attach additional pages as needed).

- ☒ (a) one or more of the civil penalty assessment factors in N.C.G.S. 143B-282.1(b) were wrongfully applied to the detriment of the petitioner (*the assessment factors are listed in the civil penalty assessment document*);
- ☒ (b) the violator promptly abated continuing environmental damage resulting from the violation (*i.e., explain the steps that you took to correct the violation and prevent future occurrences*);
- ☒ (c) the violation was inadvertent or a result of an accident (*i.e., explain why the violation was unavoidable or something you could not prevent or prepare for*);
- ☐ (d) the violator had not been assessed civil penalties for any previous violations;
- ☒ (e) payment of the civil penalty will prevent payment for the remaining necessary remedial actions (*i.e., explain how payment of the civil penalty will prevent you from performing the activities necessary to achieve compliance*).

EXPLANATION:

The information has been summarized below using the same information already provided to NCDENR.

NCDENR ASSESSMENT	DESCRIPTION	GFI ASSESSMENT	REMEDIAL ACTION
\$3,000.00	Failure to maintain setbacks from groundwater lowering ditches as observed on March 25, 2015 and by failure to effectively maintain setbacks from land application sites from surface waters and wells as observed on April 15, 2015	\$500	Plant setback for Groundwater Ditches in grass (100 Feet). This will provide a clear boundary along with providing additional retention of sediments reaching the ditch.
\$2000.00	Failure to clearly mark land application area on each site prior to and during a land application of residuals events	\$1,500.00	Provide better training efforts and documents to GFI field operators so that they have a better operational understanding of the land application programs
\$3000.00	Failure to designate and employ a certified operator in responsible charge and one or more certified operators as back-up ORCs	\$0.00	GFI submitted ORC documentation in the initial permit application dated September 19, 2011; then again on permit modifications dated March 5, 2012, May 17, 2013, and April 28, 2014
\$2000.00	Storing residuals on a land application site without requesting and receiving written approval from the Division of Water Resources	\$0.00	Residuals stored on site where either Class A or Compost and were not generated by Sources listed on our current Class B or by any other Class B generating facilities. Stored Residuals were in compliance with their respective permits. The Bulk Residuals referenced in the Case Findings were from ground storm debris. This was the only pile that had vegetative growth
\$1,000.00	Application of residuals onto land application sites without suitable vegetative cover	\$0.00	Application of residuals were incorporated along with the winter cover (i.e. green manure) to reuse nutrients for the primary crop as specified in our Nutrient Plan that was designed around USDA-NRCS criteria
\$2,000.00	Applying Residuals where the land failed to assimilated the bulk residuals, applying residuals within a 24-hour period as noted during the April 15, 2015 inspection, and applying residuals when the soil pH is not maintained at 6.0 or greater as noted in the 2014 Annual Report	\$500.00	In-lieu of a penalty GFI requests that this assessment be reduced so that we may purchase equipment to help monitor soil and weather conditions for field staff. GFI has already identified equipment for this assessment.
\$1,000.00	Failure to restrict public access to land application sites for 30 days after a land application event	\$0.00	The site has gates to restrict unauthorized entry. Also "No Trespassing" Signs are posted around the property.
\$1,000.00	Failure to post the proper signage with a minimum area of 3 square	\$0.00	GFI understood through previous meetings with NCDENR officials that signage was

	feet (e.g. 1.5' x 2') indicating the activities conducted at each site, permit number and name and contact information, including the Permittee or applicator's telephone number as required.		intended to be used on sites where access could not be restricted by gates and/or fences. This site currently has gates to restrict public access. Also "No Trespassing" Signs are posted around the property. GFI feels that this assessment is a duplicate to the previous one listed directly above
\$0.00	Failure to report land application of all residual sources, animal waste, or other nutrient sources in the annual report	\$0.00	GFI does track this information in our database system and on nutrient management plans as previously presented to NCDENR
\$15,000.00		\$2,500.00	

ATTACHMENT A
GFI INITIAL RESPONSE (MAY 27, 2015)

GRANVILLE FARMS INC.

POST OFFICE BOX 1396
OXFORD, NORTH CAROLINA 27565
919-690-8000

May 27, 2015

Via email and Hand Delivery

NCDENR
Division of Water Resources
1628 Mail Service Center
Raleigh, NC 27699

Attention: Mr. Danny Smith

Reference: Notice of Violation and 10-Day Notice of Intent to Enforce
NOV-2015-PC-0082
Permit No. WQ0035595
Land Application of Class B Residual Solids (503) Program
Edgecombe County

Dear Mr. Smith:

Granville Farms, Inc. is in receipt of your Notice of Violation (NOV) dated April 28, 2015, with respect to the above-referenced permit (Permit). Thank you for taking the time to meet with us on May 20, 2015, and for providing us an additional week to respond in writing to the NOV. We sincerely regret the permit violations that occurred at our Edgecombe County site (Site) and, as discussed herein, have taken significant steps to rectify the issues identified in the NOV and to ensure that such infractions do not occur in the future at any of our facilities. Specifically, with the assistance of Dr. Bob Rubin, NCSU Professor Emeritus of Biological and Agricultural Engineering, we have committed to developing an environmental management system (EMS) to establish standard protocols, procedures, and best practices that will be implemented at all of our operations. Among other things, the EMS will include a formal training program to assure that employees are knowledgeable about proper site management practices. We expect to be able to share a draft of that EMS with DWR in the next sixty (60) days and would welcome your input. In the interim, we will ensure that all measures described in this letter are rigidly adhered to.

In response to your request at our May 20 meeting, we are enclosing documentation of Site operations and ORC inspections compiled from contemporaneously maintained record. (See Exhibit A.)

Our responses to the specific items contained in the NOV are as follows:

I. SCHEDULES

1. Condition 1: *"The permittee shall be in full compliance with the signage requirements established in Condition III.13. within 180 days of permit issuance."*

The permit for land application at the this site was originally issued on December 28, 2011 and required posting of signs to serve as public access controls to the site, within 180 days. No signage was observed during either visit until WQROS staff instructed land application personnel to post a sign at the entrance complying with permit Condition III.13 on April 15, 2015.

Response: The required signage was in place within 180 days following permit issuance, but had been taken down thirty days after the last application event, as allowed by the Permit. We inadvertently neglected to repost the signage prior to the most recent application event. Although the Permit does not require permanent signage, we have now installed permanent signs complying with the Permit requirements at each Site entrance. The sign post at the main entrance has a dry box with the Site permits inside. (See Exhibit B). We will post permanent signage at all company-owned land application sites and ensure that appropriate temporary signage is in place at all other sites prior to and for thirty days following any land application events.

II. PERFORMANCE STANDARDS

2. Condition 1: *"The subject residuals management program shall be effectively maintained and operated at all times so there is no discharge to surface waters, nor any contravention of groundwater or surface water standards..."*

Application of residuals within setback distances to surface waters and groundwater lowering ditches appears to have resulted in discharges of waste to surface waters over extended portions of the land application site including Fields 11, 17, 19, 21, and 22. See Figure 1 below and attached map for specific locations and reference photos.

Response: Class B residuals were not applied within the setbacks and were not discharged to surface waters. As we explained during our May 20 meeting, due to equipment malfunction and operator error, over-application of Class B material (approximately 1,000-2,000 gallons) occurred within a fairly small area of Field 11. (See Exhibit C, which shows rutting in the field, outside of the buffer, where the equipment became stuck and the over-application occurred.) Some of that material migrated into the adjacent buffer but did not reach surface waters. (The adjacent surface waterbody is separated from the farthest point of residuals migration by a 6-12 inch berm and thick vegetation.) This incident was not reported by the operator to Granville Farms management, which did not learn of the situation until it was discovered by DWR. We promptly remediated the area by removing the material to the extent possible and seeding, relieved the operator of his land-application duties, and have communicated to other operators that such over-application is unacceptable. Our EMS will make clear that it is absolutely prohibited to over-apply residuals even in emergency situations where equipment is stuck in a field and

will address operator training. In addition, we plan to develop and implement a more formal system of monitoring land application events.

To the best of our knowledge, all other material observed by DWR within buffer areas was Class A biosolids that, with two small exceptions noted below in response to Item 3, were properly applied in those locations. We will be sure to rigorously account for the application of all nitrogen sources to our fields to ensure compliance with our certified Nutrient Management Plan.

3. Condition 8: "Setbacks for land application sites shall be as follows:

Setback Description	Setback by application type (feet)		
	Vehicular Surface Application	Irrigation Surface Application	Injection / Incorporation
Private or public water supply	100	100	100
Surface waters (streams — intermittent and perennial, perennial waterbodies, and wetlands)	100	100	50
Surface water diversions (ephemeral streams, waterways, ditches)	25	100	25
Groundwater lowering ditches (where the bottom of the ditch intersects the SHWT)	25	100	25
Subsurface groundwater lowering system	0	100	0
Wells with exception to monitoring wells	100	100	10

Application of residuals was observed within setbacks/buffers to surface waters (100 ft), surface water diversion and groundwater lowering ditches (25 ft), water supply wells (100 ft). Setback distance to surface waters may be reduced to 50 ft if the residual is injected or incorporated within 24 hours of application, however, even this buffer distance was observed to be in violation. See the enclosed reference map for specific locations and photos.

Response: As previously noted, no Class B residuals were applied within the setbacks. With the exception noted above, all of the residuals observed by DWR within setback areas were Class A materials. Class A residuals have no set back to ephemeral ditches and only a 25 setback to perennial water bodies. To the best of our knowledge these setback restrictions were not violated. We did, however, discover that some Class A residuals were applied within the 100 foot setback to water supply

wells (Green and White Houses). Our EMS will include strict protocols for compliance with all Class A and Class B setback requirements.

4. Condition 9: "Land application areas shall be clearly marked on each site prior to and during any residuals application event."

Land application was being conducted as WQROS staff arrived on April 15, 2015, however, buffers were not flagged prior to application or otherwise marked until staff instructed land application personnel to cease activities until fields could be flagged. Flags were not available onsite immediately and were later brought to the site. Only a few flags from previous application events were observed as staff walked the majority of the fields. In some cases, residuals were applied within flagged buffers or flags were placed following application activities. The permittee must clearly mark land application field areas suitable for residuals application prior to and during application events.

Response: When DWR representatives arrived on the Site on April 15, 2015, Class B application was occurring in Field #19. Field #19 was not completely buffered because the field crew had run out of flags and had gone to the local hardware store for additional flags. In addition, one truckload of Class B material had been applied on Fields 11 and 17 without those fields being fully flagged. Flagging was completed once additional flags arrived on site. To our knowledge, none of that material was applied within the setback areas. (Other residuals application that may have been observed by DWR involved Class A material, which requires different setbacks and does not require flagging, though we plan to flag Class A buffers in the future to ensure no nutrient enters surface waters or critical tributaries.) We have adopted and will include in our EMS a "zero-tolerance" policy with respect to flagging. Our operators will be under strict instruction that no land application may occur under any circumstances without all applicable buffers having been flagged in advance. We have also ordered 10,000 flags and distributed them a substantial inventory of flags to all land application sites, and will maintain an adequate inventory of flags at all sites in the future. These flags will be pink and labeled "GFI" to ensure that they are not confused with other flags.

III. OPERATION AND MAINTENANCE REQUIREMENTS

5. Condition 1: "The residuals management program shall be properly maintained and operated at all times. The program shall be effectively maintained and operated as a non-discharge system to prevent any contravention of surface water or groundwater standards."

Visual observations of onsite ditches and surface waters including the presence of filamentous algae, turbidity and chlorophyll-induced color indicate that the land application program is not being effectively managed to prevent waste discharges and exceedences of groundwater and surface water standards. Field sampling results indicated that surface waters and associated ditches have been impacted by residuals application and contain water quality parameters consistent with wastewater characteristics.

WQROS also observed improper storage and apparent disposal of hay bales along field edges in Fields 17 and 22 (see photos). Decaying bales return harvested nutrients back to the soil, and does not constitute good crop management practice as it effectively reduces realistic yield nitrogen rates for crops, and concentrates nutrients in the soil with the potential to impact

surface water and groundwater. Harvested crops must be removed from all land application sites for their intended purpose within a reasonable timeframe following harvest.

Additionally fields north of Shiloh Farm Road were found to be heavily rutted and compacted (see photos) by vehicle traffic and are unsuitable for land application in their existing state.

Response: The conditions observed by DWR in adjacent surface water bodies are common throughout Edgecombe County and not necessarily the result of the migration of residuals from the Site into surface water. Other possible causes include upstream contamination, historical contamination of surface water and/or groundwater, or naturally occurring causes. We are not aware of any discharges of residuals that have occurred at the Site or of any significant over-application of residuals. In fact, we have consistently applied residuals at the Site well within our agronomic limits. OUR EMS will formalize these practices to minimize the chance of any future problem. We are also considering maintaining permanent vegetative buffers on all waterbodies.

AS DWR has acknowledged, hay storage along field edges is a common agricultural practice in North Carolina and does not violate any permit condition as long as the hay is removed in a reasonable period of time, which is not precisely defined by regulation or the Permit. The hay observed on the Site was baled in the summer 2014 and was being used as needed for feed throughout the past Winter and early Spring. Unfortunately, some of this hay was stored in a location that was inaccessible through much of the winter due to field conditions. In the future we will pick locations for storage that will allow easier access for a more prompt removal of the hay during adverse weather (and will address this issue in our EMS). All hay observed by DWR has now been removed and used for animal feed. (See Exhibits D1 and D2).

The impacts of equipment traffic in Field 1–7 and 13 were the result of crop harvesting this past winter. Those activities do not constitute the violation of any permit condition. Prior to land application, these fields will be cultivated to eliminate adverse conditions and ensure that they are suitable for land application or they will not be utilized. Our EMS will address best management practices for minimizing adverse impacts to land application sites from farm activities, communication of those BMPs to farmers, and steps to ensure that all land application sites are suitable for their intended use.

6. *Condition 5: "Upon the Water Pollution Control System Operators Certification Commission's (WPCSOCC) classification of the facility, the Permittee shall designate and employ a certified operator in responsible charge (ORC) and one or more certified operators as back-up ORCs in accordance with 15A NCAC 08G .0201..."*

To date, an ORC has not been designated for this facility according to Division records. See the enclosed Water Pollution Control System Operator Designation Form and return a completed form prior to conducting further land application activities.

Response: We understood that the identification of Jason Smith as the ORC in the initial application for the Permit was sufficient. However, we will be submitting a completed Water Pollution Control System Operator Designation Form in the near future. In addition, as recommended by DWR, will make arrangements as soon as possible to get at least two additional employees certified as land application operators.

7. Condition 8: "Residuals shall not be stored at any land application site, unless written approval has been requested and received from the Division."

Mr. Jason B. [sic] Smith NOV-2015-PC-0082 April 28, 2015 Page 4 of 6 WQROS staff observed multiple product storage piles in fields 18 and 20 of various age and type including pelletized solids, lime stabilized solids, and cake residuals. Two piles were overgrown with vegetation and appeared to have been onsite during multiple growing seasons. The permit prohibits storage of residuals onsite without written Division approval, and does not allow long-term storage or disposal of stockpiles onsite.

Response: No Class B residuals were stored on the Site. The observed material was either Class A, lime-stabilized pellets and cake residuals or ground up storm debris/mulch from a local municipality. (The mulch was being used to help build up organic matter in some of the sandier places on the Site.) It is not clear that the storage of this material violates any permit condition and, as a practical matter, it is necessary to accumulate Class A material on-site until we have sufficient quantity for a land application event. Our EMS will propose protocols for the storage and management of these materials in the future. To help better identify Class A products being stored on Class B permitted sites, we propose to use temporary signage at each stockpile along with a box containing the permit for that product. Also, procedures will be implemented to prevent simultaneous application of Class A and Class B residuals, which should simplify operations. The utilization of the Class A material will not result in over-application of nutrients, and this will be addressed in the EMS.

All of the stockpiled material observed by DWR has been spread and the stockpile areas have been planted or seeded with grass. (See Exhibit E).

8. Condition 9: "When the Permittee land applies bulk residuals, adequate measures shall be taken to prevent wind erosion and surface runoff from conveying residuals from the land application sites onto adjacent properties or into surface waters."

Residuals appeared to have been conveyed by surface runoff into groundwater lowering ditches hydraulically connected to surface waters, most notably in fields 11 and 17 at the time of inspection (see photos).

Response: As stated in response to Item 2, no residuals were discharged or conveyed to surface waters. In addition to compliance with setback requirements at most locations, the great majority of applied material was promptly disked into the soil, which would have minimized the chance for migration to surface waters.

9. Condition 10: "When the Permittee land applies bulk residuals, a suitable vegetative cover shall be maintained on land application sites onto which residuals are applied..."

Extensive portions of active land application areas were either un-vegetated or weed covered, conflicting with cover crops reported in the 2014 residuals annual summary report for the site. A July 2013 inspection by Division staff also noted lack of cover crop on application fields. Residuals shall not be applied to any fields without a suitable and maintained cover crop.

Response: All our land application sites are managed in accordance with certified Nutrient Management Plans. Those Plans provide for the application and disking of residuals on our sites in advance of planting. Both our Class A and Class B residuals permits allow for incorporation within 24 hours of application on land that does not have an established vegetative cover. All of our fields to which residuals have been applied, including those observed by DWR, have been planted in a timely fashion in accordance with the Nutrient Management Plans. (See Exhibit F). Records providing application dates and seeding information will be maintained in accordance with the EMS.

10. Condition 11: "Bulk residuals shall not be land applied under the following conditions...
- c. If the land fails to assimilate the bulk residuals...
 - f...within 24 hours following a rainfall event of 0.5 inches or greater in a 24-hour period.
 - h. If the soil pH is not maintained at 6.0 or greater...
 - j. If the vertical separation between the seasonal high water table and the depth of residuals application is less than one foot."

11.c violations were noted in areas of excessive application as shown on the enclosed map and in photos. All fields that were land applied on during the April 15, 2015 visit were in violation of 11.f as 0.72 inches and 0.83 inches of rainfall were recorded at nearby weather stations on April 14, 2015. Numerous portions of fields with residuals application did not meet vertical separation to groundwater requirements under Condition 11.j (see map). Finally, soil reports from the 2014 residuals annual summary also indicated that fields 1-12, 14, 17-21, 26, 32 did not have soil pH of 6.0 or greater, as required by Condition 11.h and NCDA&CS recommended lime application to each field. Many of the fields have been land applied on since those results were available in violation of Condition 11.h. These fields shall not receive further residuals application if soil pH is below 6.0 unless the residual is lime stabilized product.

Response: With the exception of the incident that occurred in Field 11, as discussed in our response to Item 2 above, we are not aware of any over-application of Class B residuals that occurred at the Site. Most of the areas depicted in DWR's photos were applied with Class A biosolids. We have been very conservative with respect to quantities of residuals applied and will address this issue formally in our EMS.

Our on-farm rain gauge recorded less than 0.5 inches from April 14 to April 15. This gauge is located in the back of the farm and close to a structure and a tree. To rule out any chance of inaccurate readings, we have placed a new rain gauge on the pole at the main entrance of the farm.

We do not believe land application events occurred when the separation to the seasonal high water table was less than one foot. In fact, application would be difficult under such conditions because the ground would be unable to support the weight of the equipment. Significant rainfall occurred after our land application events resulting in ponding in some of our fields. Our EMS will include measures to ensure that this condition is not violated in the future.

Given that pH can be expected to fall every year at these sites due to normal land application and agricultural practices, we routinely apply lime each year to raise the pH above 6.0 as required by the permit. It may not be practical to apply the lime and wait several months for the pH to rise before land

applying residuals. However, the simultaneous or close application of lime and residuals, as was done in this case, should be sufficient to ensure the necessary nutrient uptake. We may therefore need to revisit this permit condition with DWR and will also address this issue in our EMS. We will not apply additional residuals to fields with a pH below 6.0 until we have resolved this issue with DWR. In addition, in the future we will measure pH in the early Spring in order to get the most up-to-date snapshot of field conditions.

Application occurred as weather permitted, including the seasonal high water table.

11. Condition 12: "The following public access restrictions apply to residual land application sites...
b. Public access to non-public contact sites shall be restricted for 30 days after a residuals land application event."

Land application had been conducted prior to the March 26, 2015 visit, however, no method of restricting public access was in place when WQROS staff arrived and proceeded onto the site. Entrance gates were open and unlocked and no signage was present identifying the site as active land application fields. The permittee shall lock gates when not onsite or conducting land application activities and for 30 days following application events in accordance with Condition 12.

Response: During and for thirty days after land application events, the gates to our farm sites are locked except during the work day when our vehicles and personnel are regularly entering and leaving the sites. In the future, we will ensure that all gates are locked any time the site is unattended and will post "no trespassing signs."

12. Condition 13: "Public access controls shall include the posting of signs with a minimum area of 3 square feet (e.g., 1.5' x 2'). Each sign shall indicate the activities conducted at each site, permit number, and name and contact information, including the Permittee or applicator's telephone number. Signs shall be posted in a clearly visible and conspicuous manner at the entrance to each land application site during a land application event, and for as long as the public access restrictions required under 111.12 apply."

As noted in the first violation above, the Permittee failed to comply with signage requirements at the time of inspection until a makeshift sign could set up at the site entrance (see attached photo). A permanent sign shall be installed at each site entrance prior to conducting further land application activities.

Response: See response to Item 1 above.

In conclusion, as discussed above, we acknowledge that several permit violations did occur, which we regret. In all cases, we have taken immediate action to remedy the situation and to ensure that it doesn't happen again. We do not believe that in any of these cases any adverse impact to public health or the environment occurred. In other cases, we disagree with the facts alleged in the NOV and contend that permit conditions were not violated as alleged by DWR. We hope that the explanations provided, including our remedial actions, and our commitment to ensuring that similar violations do not occur in

Mr. Danny Smith
May 27, 2015
Page 9

the future resolve these issues. Thank you for your consideration of these responses and let us know if you have any questions or require anything further.

Respectfully,

A handwritten signature in cursive script, appearing to read "Jason Smith", written in dark ink.

Jason Smith
Granville Farms, Inc.

Enclosures

cc: Steve Levitas
Bob Rubin

January 2014

Sun	Mon	Tues	Wed	Thu	Fri	Sat
			1 New Year Day	2	3	4
5	6	7	8 Field Placed and Applied F#11 Soil - moist Crop weye	9 Field Placed Applied F#11 Soil - moist Crop weye	10 Field Placed Applied F#11 Soil - moist Crop weye	11
12	13 Field Placed Applied F#11 Soil - moist Crop weye	14	15	16	17 Inspect - Tison Smith	18
19	20 M L King Day	21	22	23	24	25
26	27	28	29	30	31	

North Carolina Department of Environmental Quality

MAILED

10/14/15
Donald R. van der Vaart
Secretary

Pat McCrory
Governor

October 12, 2015

CERTIFIED MAIL # 7014 1200 0000 8628 8528
RETURN RECEIPT REQUESTED

JASON B. SMITH – VICE PRESIDENT
GRANVILLE FARMS, INC.
P. O. BOX 1396
OXFORD, NORTH CAROLINA 27565

*Certified mail
Delivered
10/13
Jason Smith*

SUBJECT: Assessment of Civil Penalties for Violation(s) of
Permit No. WQ0035595
Edgecombe County
Enforcement File PC-2015-0026

Dear Mr. Smith:

This letter transmits notice of a civil penalty assessed against Granville Farms, Inc. in the amount of \$15,000.00 and \$2,467.48 in investigative costs, for a total of \$17,467.48. Attached is a copy of the assessment document explaining this penalty.

This action was taken under the authority vested in me by delegation provided by the Secretary of the Department of Environmental Quality and the Director of the Division of Water Resources. Any continuing violation(s) may be the subject of a new enforcement action, including an additional penalty.

Within **thirty days** of receipt of this notice, you must do **one** of the following:

1. Submit payment of the penalty:

Payment should be made directly to the order of the Department of Environmental Quality (do not include waiver form). Payment of the penalty will not foreclose further enforcement action for any continuing or new violation(s). Please submit payment to the attention of:

Ed Hardee
Non-Discharge Permitting Unit
Division of Water Resources
1636 Mail Service Center
Raleigh, North Carolina 27699-1636

OR

2. Submit a written request for remission including a detailed justification for such request:

Please be aware that a request for remission is limited to consideration of the five factors listed below, as they may relate to the reasonableness of the amount of the civil penalty assessed. Requesting

Division of Water Resources, Raleigh Regional Office, Water Quality Operations Section <http://portal.ncdenr.org/web/wq/aps>
1628 Mail Service Center, Raleigh, NC 27699-1628 Phone: (919) 791-4200
Location: 3800 Barrett Drive, Raleigh, NC 27609 Fax: (919) 788-7159

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remission is not the proper procedure for contesting whether the violation(s) occurred or the accuracy of any of the factual statements contained in the civil penalty assessment document. Because a remission request forecloses the option of an administrative hearing, such a request must be accompanied by a waiver of your right to an administrative hearing and a stipulation and agreement that no factual or legal issues are in dispute. Please prepare a detailed statement that establishes why you believe the civil penalty should be remitted, and submit it to the Division of Water Resources at the address listed below. In determining whether a remission request will be approved, the following factors shall be considered:

- (1) whether one or more of the civil penalty assessment factors in NCGS 143B-282.1(b) were wrongfully applied to the detriment of the violator;
- (2) whether the violator promptly abated continuing environmental damage resulting from the violation;
- (3) whether the violation was inadvertent or a result of an accident;
- (4) whether the violator has been assessed civil penalties for any previous violations; or
- (5) whether payment of the civil penalty will prevent payment for the remaining necessary remedial actions.

Please note that all evidence presented in support of your request for remission must be submitted in writing. The Director of the Division of Water Resources will review your evidence and inform you of their decision in the matter of your remission request. The response will provide details regarding the case status, directions for payment, and provision for further appeal of the penalty to the Environmental Management Commission's Committee on Civil Penalty Remissions (Committee). Please be advised that the Committee cannot consider information that was not part of the original remission request considered by the Director. Therefore, it is very important that you prepare a complete and thorough statement in support of your request for remission.

In order to request remission, you must complete and submit the enclosed "Request for Remission of Civil Penalties, Waiver of Right to an Administrative Hearing, and Stipulation of Facts" form within thirty (30) days of receipt of this notice. The Division of Water Resources also requests that you complete and submit the enclosed "Justification for Remission Request." Both forms should be submitted to the following address:

Ed Hardee
Non-Discharge Permitting Unit
Division of Water Resources
1636 Mail Service Center
Raleigh, North Carolina 27699-1636

OR

3. File a petition for an administrative hearing with the Office of Administrative Hearings:

If you wish to contest any statement in the attached assessment document you must file a petition for an administrative hearing. You may obtain the petition form from the Office of Administrative Hearings. You must file the petition with the Office of Administrative Hearings within thirty (30) days of receipt of this notice. A petition is considered filed when it is received in the Office of Administrative

Hearings during normal office hours. The Office of Administrative Hearings accepts filings Monday through Friday between the hours of 8:00 a.m. and 5:00 p.m., except for official state holidays. The petition may be filed by facsimile (fax) or electronic mail by an attached file (with restrictions) - provided the signed original, one (1) copy and a filing fee (if a filing fee is required by NCGS §150B-23.2) is received in the Office of Administrative Hearings within seven (7) business days following the faxed or electronic transmission. You should contact the Office of Administrative Hearings with all questions regarding the filing fee and/or the details of the filing process. The mailing address and telephone and fax numbers for the Office of Administrative Hearings are as follows:

Office of Administrative Hearings
6714 Mail Service Center
Raleigh, NC 27699-6714
Tel: (919) 431-3000
Fax: (919) 431-3100

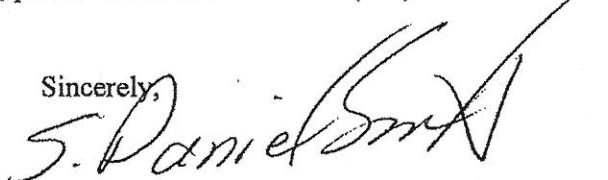
One (1) copy of the petition must also be served on DENR as follows:

Sam Hayes, General Counsel
NCDENR
1601 Mail Service Center
Raleigh, NC 27699-1601

Failure to exercise one of the options above within thirty (30) days of receipt of this notice, as evidenced by an internal date/time received stamp (**not a postmark**), will result in this matter being referred to the Attorney General's Office for collection of the penalty through a civil action.

Please be advised that additional penalties may be assessed for violations that occur after the review period of this assessment. If you have any questions, please contact Ed Hardee at (919) 807-6319.

Sincerely,



S. Daniel Smith, Supervisor
Raleigh Regional Office
Division of Water Resources

Enclosures

cc: Raleigh Regional Office Enforcement File
WQ0035595 Permit Files -
Edgecombe County Health Department
Enforcement File PC-2015-0026 - Ed Hardee

JUSTIFICATION FOR REMISSION REQUEST

DWR Case Number: PC-2015-0026
Assessed Party: Granville Farms, Inc
Permit No.: WQ0035595

County: Edgecombe

Amount Assessed: \$ 17,467.48

Please use this form when requesting remission of this civil penalty. You must also complete the "Request For Remission, Waiver of Right to an Administrative Hearing, and Stipulation of Facts" form to request remission of this civil penalty. You should attach any documents that you believe support your request and are necessary for the Director to consider in evaluating your request for remission. Please be aware that a request for remission is limited to consideration of the five factors listed below as they may relate to the reasonableness of the amount of the civil penalty assessed. Requesting remission is not the proper procedure for contesting whether the violation(s) occurred or the accuracy of any of the factual statements contained in the civil penalty assessment document. Pursuant to N.C.G.S. § 143B-282.1(c), remission of a civil penalty may be granted only when one or more of the following five factors applies. Please check each factor that you believe applies to your case and provide a detailed explanation, including copies of supporting documents, as to why the factor applies (attach additional pages as needed).

- ☐ (a) one or more of the civil penalty assessment factors in N.C.G.S. 143B-282.1(b) were wrongfully applied to the detriment of the petitioner (*the assessment factors are listed in the civil penalty assessment document*);
- ☐ (b) the violator promptly abated continuing environmental damage resulting from the violation (*i.e., explain the steps that you took to correct the violation and prevent future occurrences*);
- ☐ (c) the violation was inadvertent or a result of an accident (*i.e., explain why the violation was unavoidable or something you could not prevent or prepare for*);
- ☐ (d) the violator had not been assessed civil penalties for any previous violations;
- ☐ (e) payment of the civil penalty will prevent payment for the remaining necessary remedial actions (*i.e., explain how payment of the civil penalty will prevent you from performing the activities necessary to achieve compliance*).

EXPLANATION:

STATE OF NORTH CAROLINA

DEPARTMENT OF
ENVIRONMENTAL QUALITY

COUNTY OF EDGECOMBE

IN THE MATTER OF ASSESSMENT
OF CIVIL PENALTIES AGAINST
GRANVILLE FARMS, INC

WAIVER OF RIGHT TO AN ADMINISTRATIVE HEARING

STIPULATION OF FACTS

PERMIT NO. WQ0035595

FILE NO. PC-2015-0026

Having been assessed civil penalties totaling \$17,467.48 for violation(s) as set forth in the assessment document of the Division of Water Resources—Water Quality Programs dated October 12, 2015, the undersigned, desiring to seek remission of the civil penalty, does hereby waive the right to an administrative hearing in the above-stated matter and does stipulate that the facts are as alleged in the assessment document. The undersigned further understands that all evidence presented in support of remission of this civil penalty must be submitted to the director of the Division of Water Resources within thirty (30) days of receipt of the notice of assessment. No new evidence in support of a remission request will be allowed after (30) days from the receipt of the notice of assessment.

This the _____ day of _____, 20____

SIGNATURE

ADDRESS

TELEPHONE

STATE OF NORTH CAROLINA
COUNTY OF EDGEcombe

DEPARTMENT OF ENVIRONMENTAL
QUALITY

IN THE MATTER OF
GRANVILLE FARMS, INC.

CASE NO. PC-2015-0026

FINDINGS AND DECISION
AND ASSESSMENT OF
CIVIL PENALTIES

FOR VIOLATIONS OF:
PERMIT NO. WQ0035595

Acting pursuant to delegation provided by the Secretary of the Department of Environmental Quality and the Director of the Division of Water Resources, I, Danny Smith, Supervisor for the Division of Water Resources (DWR), Water Quality Regional Operations Section's Raleigh Regional office, make the following:

I. FINDINGS OF FACT:

- A. Granville Farms, Inc. is a corporation organized and existing under the laws of the State of North Carolina.
- B. Granville Farms, Inc. was issued permit number WQ0035595 for the land application of Class B Residual Solids (503) on December 28, 2011, as amended on July 23, 2014, effective upon issuance, with an expiration date of November 30, 2016.
- C. On March 9, 2015, DWR received a request to modify permit WQ0035595 by transferring fields JBS-11 and JBS-15 from Permit No. WQ0000838 (also issued to Granville Farms, Inc.) to Permit No. WQ0035595. As a result of this permit modification request, staff from the NCDENR DWR Raleigh Regional Office conducted a compliance inspection on the fields included in permit WQ0035595 on March 26, 2015. The compliance inspection could not be completed on March 26, 2015, so DWR staff re-entered the site to finish the compliance inspection on April 15, 2015.
- D. Title 15A North Carolina Administrative Code 02T . 1108 (b) (1) requires the following:
 - (b) For land onto which bulk residuals are applied or stockpiled, the following minimum setbacks (i.e. in feet) shall be adhered to:
 - (1) If the bulk residuals meet the requirements of rules .115(c), .1106(b) and .1107 of this Section:

	Liquid Residuals	Cake Residuals
Surface waters (streams- intermittent and perennial, perennial waterbodies, and wetlands)	100	25

Surface water diversions (ephemeral streams, Waterways, ditches)	25	0
Groundwater lowering ditches (where the bottom of the ditch intersects the SHWT)	25	0
Wells with the exception to monitoring wells	100	100

- E. Granville Farm Inc.'s non-discharge land application permit (Permit No.WQ0035595) authorizes the disposal of Class B residuals on property owned by Granville Farms, Inc. and contains the following relevant conditions, Part II Performance Standards, Condition 8 and 9:

II. PERFORMANCE STANDARDS

Condition 9: "Land application areas shall be clearly marked on each site prior to and during any residuals application event."

- F. The DWR's site inspections on March 26, 2015 and April 15, 2015 and subsequent file review provided the following observations and findings:
- On March 26, 2015, DWR staff observed Class B liquid sludge had been applied within 25 feet of a surface water and groundwater lowering ditch (Photo 1). In a response letter dated May 27, 2015, Granville Farms explained that "due to equipment malfunction and operator error, over-application of Class B material (approximately 1000-2000 gallons) occurred within a fairly small area of Field 11".
 - On April 15, 2015, Class A cake sludge was observed by DWR staff to have been applied within 100 feet of a water supply well and within 25 feet of surface waters, (Photo 2 and Photo 3). In a response letter dated May 27, 2015, Granville Farms explained that they did discover Class A residuals were applied within 100 foot setback to water supply wells (two different wells).
 - A land application event was occurring at the site on Field #19 during the April 15, 2015 site inspection and the application area and setbacks to ditches, groundwater lowering ditches, and wells were not marked. In the May 27, 2015 letter to Danny Smith of the DWRs, Mr. Jason Smith of Granville Farms, Inc. explained that one truck load of Class B material had been applied on Fields 11 and 17 without those fields being fully flagged and 10,000 pin flags had since been ordered for use in the required demarcation of application areas.
- G. Granville Farm Inc.'s non-discharge land application permit (Permit No.WQ0035595) authorizes the disposal of Class B residuals on property owned by Granville Farms, Inc. and contains the following relevant conditions, Part III Operation and Maintenance Requirements, Conditions 5, 8, 10, 11, 12, and 13.

III. OPERATION AND MAINTENANCE REQUIREMENTS

Condition 5. "Upon the Water Pollution Control System Operators Certification Commission's (WPCSOCC) classification of the facility, the Permittee shall designate and employ a certified operator in responsible charge (ORC) and one or more certified operators as back-up ORCs in accordance with 15A NCAC 08G .0201. The ORC or their back-up shall visit the facilities in accordance with 15A NCAC 08G/ 0204. Or as specified in the most recently approved O&M plan, and shall comply with all other conditions of 15A NCAC 08G. 0204.

Condition 8. "Residuals shall not be stored at any land application site, unless written approval has been requested and received from the Division."

Condition 10. "When the Permittee land applies bulk residuals, a suitable vegetative cover shall be maintained on land application sites onto which residuals are applied..."

Condition 11. "Bulk residuals shall not be land applied under the following conditions..."

c. If the land fails to assimilate the bulk residuals...

f....within 24 hours following a rainfall event of 0.5 inches or greater in a 24-hour period.

h. If the soil pH is not maintained at 6.0 or greater..."

Condition 12. "The following public access restrictions apply to residual land application sites..."

b. Public access to non-public contact sites shall be restricted for 30 days after a residuals land application event."

Condition 13. "Public access controls shall include the posting of signs with a minimum area of 3 square feet (e.g., 1.5' x 2'). Each sign shall indicate the activities conducted at each site, permit number, and name and contact information, including the Permittee or applicator's telephone number. Signs shall be posted in a clearly visible and conspicuous manner at the entrance to each land application site during a land application event, and for as long as the public access restrictions required under III.12 apply."

H. The DWR's site inspections on March 26, 2015 and April 15, 2015 and subsequent file review provided the following observations and findings:

- Permit WQ0035595 was originally issued on December 28, 2011, and the required signage did not exist on the March 26, 2015 inspection, nor did it exist when staff arrived for the April 15, 2015 inspection. In a letter dated May 27, 2015, Granville Farms explained that they "neglected to repost this signage prior to the most recent application event".
- A DWR file review on July 21, 2015, confirmed the Water Pollution Operators Certification Commission has not received the required Operator Designation Form for Permit WQ0035595. In a response letter dated May 27, 2015, Granville Farms explained that "we will be submitting a completed Water Pollution Control System Operator Designation Form in the near future".
- Bulk residuals were observed to have been stockpiled on the site during the March 26, 2015 inspection, and these stockpiles were again observed and photographed during the April

- 15, 2015 inspection (Photo 4 and Photo 5). The growth of the vegetation, on top of the stock pile, demonstrated that it been store on-site during the previous growing season.
- Land application onto areas without suitable vegetative cover was observed during the March 26, 2015 inspection, and it was observed again during the April 15, 2015 inspection (Photo 6, Photo 7, and Photo 8). These photos (4, 5, 6 and 8) also depict lands that are not assimilating bulk residuals.
 - On April 15, 2015 portions of the application fields were ponded and bulk residuals were observed to have been applied to portions of the ponded areas (Photo 9).
 - Rain gauge data retrieved from the State Climate Office of North Carolina CRONOS Database indicate a rainfall event exceeding 0.5 inches during the period of April 14 to April 15, 2015 (Appendix A), and land application was observed to be occurring on the site by DWR staff during the April 15, 2015 inspection.
 - Soil sample analyses included in the 2014 Annual Report indicates soil pH has not been maintained at value greater than 6 in the land application fields.
 - 2014 Annual Report failed to include or report land application of all residual sources, animal waste or other nutrient sources. The report addressed Class B residuals and did depict/address Class A applications.
 - Land application of residuals had occurred within 30 days of the site inspections dated March 26, 2015 and April 15, 2015 as detailed in the additional information provided to RRO by Granville Farms.
 - Land application had been conducted prior to the March 26, 2015 site inspection, however, no method of restricting public access was in place when WQROS staff arrived and proceeded onto the site. Entrance gates were open, unlocked, and no signage was present identifying the site as active land application fields.
 - The required signage was not observed by DWR staff during the March 26, 2015 or at the start of the April 15, 2015 site inspections. An *ad hoc* sign was erected at the site after DWR staff mentioned the violation to Granville Farms, Inc. staff who were on-site at the time (Photo 10 and Photo 11).

- I. Granville Farm Inc.'s non-discharge land application permit (Permit No.WQ0035595) authorizes the disposal of Class B residuals on property owned by Granville Farms, Inc. and contains the following Part IV Monitoring and Reporting Requirements, Condition 7 and 8:

IV. MONITORING AND REPORTING REQUIREMENTS

Condition 7. a.- n. The permittee shall maintain records tracking all residual land application events. At a minimum, these records shall include the following:

- a.Source of residuals;
- b.Date of land application;
- c.Location of land application (i.e. site, field, or zone number as listed in Attachment B);
- d.Approximate area applied to (acres);
- e.Method of land application ;
- f. Weather conditions (e.g. sunny, cloudy, raining, etc.);
- g.Predominant Soil Mapping Unit (e.g. CBB2);
- h.Soil conditions (e.g. dry, wet frozen);
- i. Type of crop or crop to be grown on field;

- j. Nitrogen Application Rate based on RYEs (if using data obtained from the North Carolina State University Department of Soil Science Website, the printout page shall be kept on file and reprinted every five years.);
- k. Volume of residuals land applied in gallons per acre, cubic yards per acre, dry tons per acre, or wet ton per acre;
- l. Volume of animal waste or other nutrient sources applied in gallons per acre, dry ton per acre, or wet tons per acre;
- m. Volume of soil amendments (e.g. lime, gypsum, etc.) applied in gallons per acre, dry ton per acre, or wet tons per acre; and
- n. Annual and cumulative totals in dry tons per acre of residuals as well as animal waste and other sources of nutrients(e.g. if applicable), annual and cumulative pounds per acre of each heavy metal (e.g. shall include but shall not be limited to arsenic, cadmium, copper, lead, mercury, molybdenum, nickel, selenium, and zinc), annual pounds per acre or PAN, and annual pounds per acre of phosphorus applied to each field.

Condition 8. "Three copies of an annual report shall be submitted on or before March 1st. The annual report shall meet the requirements described in the Instructions for Residuals Application Annual Reporting Forms. Instructions for reporting and annual report forms are available at <http://portal.ncdenr.org/web/wq/aps/lau/reporting>, or can be obtained by contacting the Land Application Unit directly. The annual report shall be submitted to the following address: Division of Water Quality Information Processing Unit 1617 Mail Service Center Raleigh, North Carolina 27699-1617."

These instructions contain the following:

"FORM FSF (Required for programs applying Class B residuals to permitted fields):

The Annual Land Application Field Summary Form (FORM FSF) provides information on the amounts of Plant Available Nitrogen (PAN), and annual and cumulative metals applied to the field.

FORM FSF must be completed and submitted for every permitted field receiving residuals. If a permitted field does not receive residuals for an entire calendar year please note this in the narrative of the cover letter.

-This spreadsheet contains formulas in the light-green shaded cells that will automatically calculate the following information once the permit number, gallons or cubic yards applied per event, percent solids, forms of nitrogen, and all other information is entered into the spreadsheet.

- a. Volume Applied per acre (dry tons/acre)
- b. Annual dry tons applied
- c. PAN Applied (lbs/acre): once the name of the crop type is entered for either Crop 1 or Crop 2 column (only one should be entered) the corresponding PAN Applied column will be calculated.
- d. Total Volume of residuals applied
- e. Total PAN applied to each crop type.
- f. Current Cumulative Loading of metals"

- J. The DWR's site inspections on March 26, 2015 and April 15, 2015 and subsequent file review provided the following observations and findings:
The 2014 residuals annual report submitted from the Permittee failed to meet the requirements described in Permit WQ0035595, the Instructions for Residuals Application Annual Reporting Forms and by the ANNUAL LAND APPLICATION FIELD SUMMARY FORM by not reporting the application of Class A residuals to permitted fields. Granville Farms explained in the response dated September 28, 2015 that they applied Class A residuals but they failed to provide this detail in their annual report.
- K. Granville Farms, Inc. explained in a written response to an August 24, 2015 Notice of Violation and Notice of Intent to Enforce that they were made aware of the permit condition to submit the information and also explained that since that September 16, 2015 meeting with DWR, they have developed a procedure to report all land application events. (i.e. Class B Sources, Class A Sources Commercial Fertilizer, etc)
- L. On April 28, 2015, the Division issued a Notice of Violation/ Notice of Intent to Enforce (NOV/NOI) NOV-2015-PC-0082 to Granville Farms, Inc. This Notice was sent by Certified Mail, Return Receipt Requested and was received on May 1, 2015.
- M. On May 28, 2015, the Division received a response letter to the April 28, 2015 NOV/NOI signed by Jason B. Smith of Granville Farms, Inc. via hand delivery.
- N. On June 11, 2015, the Division issued an additional information request letter to Granville Farms Inc. sent by Certified Mail, Return Receipt Requested and was received on June 16, 2015.
- O. On June 30, 2015, the Division received additional information from Granville Farms that had been requested on June 11, 2015.
- P. On August 24, 2015, the Division issued a Notice of Violation/ Notice of Intent to Enforce (NOV/NOI) NOV-2015-PC-0218 to Granville Farms, Inc. DWR met with Granville Farms on September 16, 2015 in response to their request to discuss August 24, 2015 NOV/NOI. DWR's Raleigh Regional Office received a written response by email on September 28, 2015 from Granville Farms, Inc.
- Q. Unnamed tributary to Cromwell Canal is a Class C Nutrient Sensitive waters in the Tar-Pamlico River Basin.
- R. The cost to the State of the enforcement procedures in this matter totaled \$2,467.48.

Based upon the above Findings of Fact, I make the following:

II. CONCLUSIONS OF LAW:

- A. Granville Farms, Inc. is a "person" within the meaning of N.C.G.S. 143-215.6A pursuant to N.C.G.S. 143-212(4).
- B. A permit for the land application of Class B Residual Solids (503) is required by N.C.G.S. 143-215.1.

- C. Granville Farms, Inc. was issued Permit No. WQ0035595 on December 28, 2011, as amended on July 23, 2014, effective upon issuance, with an expiration date of November 30, 2016.
- D. Unnamed tributary to Cromwell Canal constitutes waters of the State within the meaning of G.S. 143-215.1 pursuant to G.S. 143-212(6).
- E. Granville Farms, Inc. violated Title 15A North Carolina Administrative Code 02T .1108 (b) (1) by the failure to effectively maintain setbacks for groundwater lowering ditches as observed on March 26, 2015 and by the failure to effectively maintain setbacks for land application sites from surface waters and wells on April 15, 2015 (dates of Compliance Inspections conducted by Division staff).
- F. Granville Farms, Inc. violated Part II Performance Standards, Condition 9 of the non-discharge Permit WQ0035595 by the failure to clearly mark land application areas on each site prior to and during any land application of residuals event as noted during the March 26, 2015 and April 15, 2015 Compliance Inspections conducted by Division staff.
- G. Granville Farms, Inc. violated Part III Operation and Maintenance Requirements, Condition 5 of the non-discharge Permit WQ0035595 by the failure to designate and employ a certified operator in responsible charge (ORC) and one or more certified operators as back-up ORCs in accordance with 15A NCAC 08G .0201.
- H. Granville Farms, Inc. violated Part III Operation and Maintenance Requirements, Condition 8 of the non-discharge Permit WQ0035595 by storing residuals on a land application site without requesting and receiving written approval from the Division of Water Resources prior to the March 26, 2015 and April 15, 2015 Compliance Inspections conducted by Division staff.
- I. Granville Farms, Inc. violated Part III Operation and Maintenance Requirements, Condition 10 of the non-discharge Permit WQ0035595 by application of residuals onto land application sites without a suitable vegetative cover, observed during the March 26, 2015 and on April 15, 2015 inspection by Division staff.
- J. Granville Farms, Inc. violated Part III Operation and Maintenance Requirements, Condition 11 of the non-discharge Permit WQ0035595 by applying residuals where the land failed to assimilate the bulk residuals prior to the March 26, 2015 inspection, applying residuals within 24 hours following a rainfall event of 0.5 inches or greater in a 24-hour period as noted during the April 15, 2015 inspection, and applying residuals when the soil pH is not maintained at 6.0 or greater as noted in the 2014 Annual Report.
- K. Granville Farms, Inc. violated Part III Operation and Maintenance Requirements, Condition 12 of the non-discharge Permit WQ0035595 by failure to restrict public access to land application sites for 30 days after a land application event, observed during the March 26, 2015 and April 15, 2015 inspections by Division staff.
- L. Granville Farms, Inc. violated Part III Operation and Maintenance Requirements, Condition 13 of the non-discharge Permit WQ0035595 on March 26, 2015 and April 15, 2015 by the failures to post the proper signage with a minimum area of 3 square feet

(e.g., 1.5' x 2') indicating the activities conducted at each site, permit number, and name and contact information, including the Permittee or applicator's telephone number.

- M. Granville Farms, Inc. violated Part IV Monitoring and Reporting Requirements, Condition 7 and 8 of the non-discharge Permit WQ0035595 by failure to track and report land application of all residual sources, animal waste or other nutrient sources.
- N. Granville Farms, Inc. may be assessed civil penalties in this matter pursuant to G.S. 143-215.6A (a)(2), which provides that a civil penalty of not more than twenty-five thousand dollars (\$25,000) may be assessed against a person who is required but fails to apply for or to secure a permit required by G.S. 143-215.1, or who violates or fails to act in accordance with the terms, conditions, or requirements of such permit or any other permit or certification issued pursuant to authority conferred by this Part.
- O. N.C.G.S. 143-215.6A (b) provides that if any failure to act as required by the rules is continuous, a civil penalty of not more than \$25,000.00 per violation may be assessed for each day the violation continues.
- P. The State's enforcement cost in this matter may be assessed against Granville Farms, Inc. pursuant to G.S. 143-215.3 (a)(9) and G.S. 143B-282.1 (b)(8).
- Q. Danny Smith of the Division of Water Resources, pursuant to delegation provided by the Secretary of the Department of Environmental Quality and the Director of the Division of Water Resources, has the authority to assess civil penalties in this matter.

Based upon the above Findings of Fact and Conclusions of Law, I make the following:

III. DECISION:

Accordingly, Granville Farms, Inc. is hereby assessed a civil penalty of:

\$ 3000

for violation Title 15A North Carolina Administrative Code 02T .1108 (b) by the failure to effectively maintain setbacks from groundwater lowering ditches as observed on March 26, 2015 and by the failure to effectively maintain setbacks for land application sites from surface waters and wells as observed on April 15, 2015

\$ 2000

for violation of Part II Performance Standards, Condition 9 of the non-discharge Permit WQ0035595 by the failure to clearly mark land application areas on each site prior to and during a land application of residuals events.

\$ 3000

for violation of Part III Operation and Maintenance Requirements, Condition 5 of the non-discharge Permit WQ0035595 by the failure to designate and employ a certified operator in responsible

charge (ORC) and one or more certified operators as back-up ORCs in accordance with 15A NCAC 08G .0201.

\$ 2000

for violation of Part III Operation and Maintenance Requirements, Condition 8 of the non-discharge Permit WQ0035595 on March 26, 2015 and April 15, 2015, by storing residuals on a land application site without requesting and receiving written approval from the Division of Water Resources.

\$ 1000

for two (2) violations of Part III Operation and Maintenance Requirements, Condition 10 of the non-discharge Permit WQ0035595 on March 26, 2015 and April 15, 2015, by the application of residuals onto land application sites without suitable vegetative cover.

\$ 2000

for violation of Part III Operation and Maintenance Requirements, Condition 11 of the non-discharge Permit WQ0035595 by applying residuals where the land failed to assimilate the bulk residuals, applying residuals within 24 hours following a rainfall event of 0.5 inches or greater in a 24-hour period as noted during the April 15, 2015 inspection, and applying residuals when the soil pH is not maintained at 6.0 or greater as noted in the 2014 Annual Report.

\$ 1000

for violation of Part III Operation and Maintenance Requirements, Condition 12 of the non-discharge Permit WQ0035595 by failure to restrict public access to land application sites for 30 days after a land application event.

\$ 1000

for violation of Part III Operation and Maintenance Requirements, Condition 13 of the non-discharge Permit WQ0035595 on March 26, 2015 and April 15, 2015 by the failures to post the proper signage with a minimum area of 3 square feet (e.g., 1.5' x 2') indicating the activities conducted at each site, permit number, and name and contact information, including the Permittee or applicator's telephone number as required.

\$ 0

for violation of Part IV Monitoring and Reporting Requirements, Conditions 7 and 8 of the non-discharge Permit WQ0035595 by failure to report land application of all residual sources, animal waste or other nutrient sources in the annual report.

\$ 15,000

TOTAL CIVIL PENALTY which is six (6) percent of the maximum penalty authorized by N.C.G.S. 143-215.6A.

\$ 2,467.48

Investigation costs

\$ 17,467.48

TOTAL AMOUNT DUE

Pursuant to N.C.G.S. 143-215.6A(c), in determining the amount of the penalty I have taken into account the Findings of Fact and Conclusions of Law and the factors set forth at G.S. 143B-282.1(b), which are:

- (1) The degree and extent of harm to the natural resources of the State, to the public health, or to private property resulting from the violation;
- (2) The duration and gravity of the violation;
- (3) The effect on ground or surface water quantity or quality or on air quality;
- (4) The cost of rectifying the damage;
- (5) The amount of money saved by noncompliance;
- (6) Whether the violation was committed willfully or intentionally;
- (7) The prior record of the violator in complying or failing to comply with programs over which the Environmental Management Commission has regulatory authority;
- (8) The cost to the State of the enforcement procedures.

IV. NOTICE:

I reserve the right to assess civil penalties and investigative costs for any continuing violations occurring after the assessment period indicated above. Each day of a continuing violation may be considered a separate violation subject to a maximum \$25,000.00 per day penalty. Civil penalties and investigative cost may be assessed for any other rules and statutes for which penalties have not yet been assessed.

V. TRANSMITTAL:

These Findings of Fact, Conclusions of Law and Decision shall be transmitted to Granville Farms, Inc. in accordance with N.C.G.S. 143-215.6(A)(d).

12 Oct 15
(Date)

Danny Smith
Danny Smith, Supervisor

Division of Water Resources, Water Quality Regional
Operations Section, Raleigh Regional Office

Assessment Factors – Division of Water Resources

Violator: Granville Farms, Inc.
County: Edgecombe
Region: Raleigh Regional Office
Case Number: Case No. PC-2015-0026
Non Discharge Permit No. WQ0035595
Granville Farms, Inc.

ASSESSMENT FACTORS

1) The degree and extent of harm to the natural resources of the State, to the public health, or to private property resulting from the violation;

No harm to groundwater could be documented because there are no groundwater quality monitoring wells installed in the water table aquifer at this site. Surface water quality appeared to be impacted by on-site activities based on the single round of surface water testing that was performed during the April 15, 2015 inspection, but more surface water quality testing would need to be performed in order to demonstrate the increases in nutrients and bacteria noted during the April 15, 2015 inspection to Granville Farms, Inc. waste disposal activities.

Significant permit condition violations were noted during the March 26, 2015 inspection and again during the April 15, 2015 inspection. Improperly applied wastewater residuals can add excessive nutrients, pathogens, and oxygen demanding wastes to groundwater and the receiving surface water. The pond, ditches and surface water were distinctly eutrophic.

The unnamed tributary to Cromwell Canal is a Class C waters in Tar-River Watershed, a nutrient sensitive waters. (Streams, ditches, and pond were observed to have notable accumulations of algae.)

2) The duration and gravity of the violation;

Significant permit condition violations were noted during the March 26, 2015 inspection and again during the April 15, 2015 inspection. DWR staff believe that these violations had been occurring for an unknown, but significant amount of time prior to these inspections. Residual disposal activities have been conducted on this site without the benefit of a designated ORC or ORC back-ups since the permit was originally issued in 2011. (See NOV/NOI dated April 28, 2015, request for additional information date June 11, 2015, and NOV/NOI dated August 24, 2015)

3) The effect on ground or surface water quantity or quality or on air quality;

Improperly applied wastewater residuals can add excessive nutrients, pathogens, and oxygen demanding wastes to groundwater and the receiving surface water. Detrimental impacts to aquatic biota can occur due to the discharge of domestic (human) wastewater via groundwater discharge into surface water. Human exposure to groundwater and surface water containing nutrients and bacteria can cause public health issues.

The unnamed tributary to Cromwell Canal is a Class C waters in Tar-River Watershed, a nutrient sensitive waters. Streams, ditches, and pond were observed to have notable accumulations of algae. (Photo 12, Photo 13 and Photo 14).

4) The cost of rectifying the damage;

The cost of properly operating and maintaining residuals application fields are costs that are expected of any such permitted facility. The cost of rectifying any ancillary damage caused by improper disposal of residuals (nutrients and pathogens) to groundwater and surface water is unknown.

5) The amount of money saved by noncompliance;

Money was saved by not employing and certifying an ORC and back-up ORC(s) since 2011. Money was saved by stockpiling residuals instead of properly applying them, not having required signage and access controls, not maintaining a suitable vegetative cover on land application areas, and not actively tracking and submitting the required records for Class A residuals applications in the Annual Report.

The amount of money saved is unknown, but is believed to be substantial. The total amount would be 4 years' worth of fees for an ORC and back-up(s), 4 years of registration fees for the ORC and back-ups, if the ORCs were employees, money saved by accepting residuals and storing them instead of land applying them for an indeterminate amount of time, money saved from not purchasing seed and costs to plant and maintain a suitable cover crop before residuals were applied, and money saved by not paying for a staff member or track and report application of all residual sources or other nutrient source applications in the Annual Reports.

6) Whether the violation was committed willfully or intentionally;

Granville Farms, Inc. is well aware of permit conditions and expectations as it relates to residuals applications. The permit conditions are clearly listed in the permit, which was issued to Granville Farms, Inc.

7) The prior record of the violator in complying or failing to comply with programs over which the Environmental Management Commission has regulatory authority; and

Since 2007, Granville Farms, Inc. has been issued 7 Notices of Violation, 1 Notice of Deficiencies, and has been assessed 5 civil penalties totaling \$27,127.11.

8) The cost to the State of the enforcement procedures.

Granville Farms, Inc. Enforcement Cost Summary - PC-2015-0026

<u>March 26, 2015 Inspection</u>	<u>Hours</u>	<u>Hourly Rate</u>	<u>Extended Cost</u>
Cory Larsen	8	\$35.53	\$284.24
William Miller	8	\$32.07	\$256.56

Mileage	148	\$0.50	\$74.00
			\$614.80

<u>April 15, 2015 Inspection</u>	<u>Hours</u>	<u>Hourly Rate</u>	<u>Extended Cost</u>
Danny Smith	8	\$52.63	\$421.04
Cory Larsen	8	\$35.53	\$284.24
William Miller	8	\$32.07	\$256.56
Erin Deck	8	\$25.35	\$202.80
Mileage	148	\$0.50	\$74.00
			\$1,238.64

<u>Lab Costs (4/15/15 inspection)</u>	<u>No. Samples</u>	<u>Unit Cost</u>	<u>Extended Cost</u>
Fecal Coliform	7	\$17.75	\$124.25
Chloride	7	\$11.25	\$78.75
Total Dissolved Solids	7	\$9.96	\$69.72
Ammonia	7	\$14.00	\$98.00
TKN	7	\$16.39	\$114.73
Nitrate/Nitrite	7	\$18.37	\$128.59
			\$614.04

Total = **\$2,467.48**

12 Oct 15
Date

Danny Smith
Danny Smith

Granville Farms, Inc. Enforcement Cost Summary - PC-2015-0026

<u>March 26, 2015 Inspection</u>	<u>Hours</u>	<u>Hourly Rate</u>	<u>Extended Cost</u>
Cory Larsen	8	\$35.53	\$284.24
William Miller	8	\$32.07	\$256.56
Mileage	148	\$0.50	\$74.00
			\$614.80

<u>April 15, 2015 Inspection</u>	<u>Hours</u>	<u>Hourly Rate</u>	<u>Extended Cost</u>
Danny Smith	8	\$52.63	\$421.04
Cory Larsen	8	\$35.53	\$284.24
William Miller	8	\$32.07	\$256.56
Erin Deck	8	\$25.35	\$202.80
Mileage	148	\$0.50	\$74.00
			\$1,238.64

<u>Lab Costs (4/15/15 inspection)</u>	<u>No. Samples</u>	<u>Unit Cost</u>	<u>Extended Cost</u>
Fecal Coliform	7	\$17.75	\$124.25
Chloride	7	\$11.25	\$78.75
Total Dissolved Solids	7	\$9.96	\$69.72
Ammonia	7	\$14.00	\$98.00
TKN	7	\$16.39	\$114.73
Nitrate/Nitrite	7	\$18.37	\$128.59
			\$614.04
			<u>\$2,467.48</u>

Select Photos for Findings and Decision and Assessment of Civil Penalties
for Case # PC-2015-0026 (See Case File for Additional Photo Documentation)

Photo 1: Class B sludge within 25 feet of groundwater lowering ditch.



Photo 2: Application of residuals within 100 feet of water supply well.



Select Photos for Findings and Decision and Assessment of Civil Penalties
for Case # PC-2015-0026 (See Case File for Additional Photo Documentation)
, continued

Photo 3: Application of residuals within 25 feet of surface waters.



Photo 4: Bulk residuals stockpiled onsite.



Select Photos for Findings and Decision and Assessment of Civil Penalties
for Case # PC-2015-0026 (See Case File for Additional Photo Documentation)

Photo 5: Bulk residuals stockpiled onsite.



Photo 6: Application of residuals without suitable vegetative cover.



Select Photos for Findings and Decision and Assessment of Civil Penalties
for Case # PC-2015-0026 (See Case File for Additional Photo Documentation)

Photo 7: Application of residuals without suitable vegetative cover.



Photo 8: Application of residuals without suitable vegetative cover.



Select Photos for Findings and Decision and Assessment of Civil Penalties
for Case # PC-2015-0026 (See Case File for Additional Photo Documentation)

Photo 9: Bulk residuals application to ponded fields.



Select Photos for Findings and Decision and Assessment of Civil Penalties
for Case # PC-2015-0026 (See Case File for Additional Photo Documentation)

Photo 10: Ad-hoc signage at facility entrance.



Photo 11: Ad-hoc signage at facility entrance.



Select Photos for Findings and Decision and Assessment of Civil Penalties
for Case # PC-2015-0026 (See Case File for Additional Photo Documentation)

Photo 12: Surface water and groundwater lowering ditch with distinctly eutrophic conditions.



Photo 13: Stream with notable accumulations of algae.



Select Photos for Findings and Decision and Assessment of Civil Penalties
for Case # PC-2015-0026 (See Case File for Additional Photo Documentation)

Photo 14: Pond with notable accumulation of algae and eutrophic conditions.

