

REQUEST FOR REMISSION OF CIVIL PENALTY ASSESSMENT

DWR Case Number: PC-2016-0052

Region: Fayetteville

County: Bladen

Assessed Entity: Douglas A. Bordeaux, owner and operator of Billy Bordeaux farm

CASE BACKGROUND AND ASSESSMENT

- February 23, 2016 DWR staff from the Fayetteville Regional Office (FRO) inspected the Billy E. Bordeaux Farm on February 23, 2016 and observed that the lagoon level was at 17 inches. The CAWMP for Douglas A. Bordeaux requires that the waste level in the lagoons not exceed the maximum liquid level of 19 inches below the top of the lagoon wall. On February 29, 2016 during a random lagoon structure evaluation inspection a lagoon/storage pond level was documented at 16 inches of freeboard at the lagoon. Staff returned to re-inspect the farm on February 29, 2016 because we had no response from Mr. Bordeaux since the last inspection. The Fayetteville Regional Office had not received notification from Douglas A. Bordeaux that the waste level exceeded the level specified in the CAWMP of nineteen (19) inches.

On June 10, 2016 staff of DWR/WQROS conducted a routine inspection of the Billy E. Bordeaux Farm and documented that no calibration of spray equipment had been done since March of 2013. It was also documented that no sludge survey for the Billy E. Bordeaux Farm had been done since March of 2013.

- June 24, 2016 DWR issued a Notice of Violation and Recommendation for Enforcement
- February 24, 2017 Douglas Bordeaux was assessed a civil penalty of \$3063.68 (\$2500.00 civil penalty plus \$563.68 investigative costs):
 - \$500.00 for violating Condition II.24 of General Permit AWG100000 by failing to test and calibrate waste application equipment from March 2015 to August 2016.
 - \$500.00 for violating Condition No. III.18 of General Permit AWG100000 for failure to conduct a survey of the sludge accumulation in the lagoon from December 31, 2014 to August 8, 2016.
 - \$1000.00 for violating Condition V.2. of General Permit AWG100000 for failure to maintain adequate freeboard in the lagoon at the level specified in the CAWMP.
 - \$500.00 for violating Condition III.13. e. of General Permit AWG100000 for failing to report by telephone to the appropriate Regional Office as soon as possible, but in no case more than 24 hours, first knowledge of the occurrence of failure to maintain storage capacity in a lagoon/storage pond greater than or equal to that required in Condition No. V. 2.
- April 28, 2017 The assessment document was delivered through Bladen County Sheriff's office.

REMISSION REQUEST

- May 25, 2017 Remission request signed by Mr. Timothy Smitherman.
- May 26, 2017 DWR received the request for remission from Mr. Timothy Smitherman. The request included a "Justification for Remission Request" and a "Waiver of Right to an Administrative Hearing and Stipulation of Facts."

- August 1, 2017 The Director of DWR considered the information contained in the remission request and remitted \$250.00 of the \$3063.68 civil penalty assessment. The revised civil penalty was reduced to a total amount of **\$2813.68**, which includes \$563.68 in investigative costs.
- August 8, 2017 Green card indicated delivery of the remission decision document.

REQUEST FOR ORAL PRESENTATION

- Mr. Douglas A. Bordeaux did not request an oral presentation before the Environmental Management Commission's Committee on Civil Penalty Remissions.
- Billy Bordeaux Farm has not been cited for previous violations on this farm.

DWR RECOMMENDATION

- The Division of Water Resources opposes any further remission or mitigation of the penalty provided in the Director's decision.

BIMS 4 March 16 (30)

Structure Evaluation Inspection

Facility Number: 9 -- 125 Date: 29 Feb 16

Time in: 11:15 A Time out: 11:45 A

Farm Name: Billy Bordeaux Farm 911 address: _____

Owner Name: Dody Bordeaux Phone _____

Facility Contact: u _____

Onsite Representative: u Integrator: MB

Certified Operator: u Cert. Number _____

Is storage capacity less than adequate? Yes No _____

If yes is waste level into the structural freeboard? Yes _____ No

Was non-compliant level reported to DWR yes POA received yes

Structure:	1	2	3	4	5	6
Identifier:	_____	_____	_____	_____	_____	_____
Spillway?	_____	_____	_____	_____	_____	_____
Designed Freeboard (in.):	_____	_____	_____	_____	_____	_____
Observed Freeboard (in.):	<u>17</u>	_____	_____	_____	_____	_____

Are there any immediate threats to the integrity of any of the structures observed? Yes _____ No

Do any structures lack adequate markers as required by the permit? Yes _____ No

Does any part of the waste management system need repair Yes _____ No

Condition of field's Drying, _____

Condition of receiving crop Fair _____

Comments: 2'

- Division of Water Resources
- Division of Soil and Water Conservation
- Other Agency _____

Facility Number: 090125 Facility Status: Active Permit: AWS090125 Denied Access
 Inspection Type: Structure Evaluation Inactive Or Closed Date: _____
 Reason for Visit: Routine County: Bladen Region: Fayetteville
 Date of Visit: 02/29/2016 Entry Time: 11:15 am Exit Time: 11:45 am Incident # _____
 Farm Name: Billy E Bordeaux Farm Owner Email: dbordeaux8@ec.rr.com
 Owner: Douglas A Bordeaux Phone: 910-874-1477
 Mailing Address: 98 Sweet Home Church Rd Elizabethtown NC 28337
 Physical Address: 2690 Sweet Home Church Rd Elizabethtown NC 28337
 Facility Status: Compliant Not Compliant Integrator: Murphy-Brown LLC
 Location of Farm: Latitude: 34° 40' 57" Longitude: 78° 33' 05"
 From Elizabethtown, take Hwy 701 north to Sweet Home Church Road, turn left and go approx. 3 miles to farm on right.

Question Areas:
 Waste Col, Stor, & Treat

Certified Operator: Douglas A Bordeaux Operator Certification Number: 17945
Secondary OIC(s): _____

On-Site Representative(s):	Name	Title	Phone
24 hour contact name	Douglas Bordeaux		Phone :
On-site representative	Douglas Bordeaux		Phone :

Primary Inspector: Bill Dunlap Phone: _____
Inspector Signature: _____ Date: _____
Secondary Inspector(s): _____

Inspection Summary:
 I visited this facility on February 24, 2016 with Curtis Barwick. Lagoon Level was at 17 inches then. I wanted to give Mr. Bordeaux time to call in a high freeboard report, since we had significant rain over night and did not want him to say he had not been down that morning. I visited again on February 29, with Kathy Barker as witness. Mr. Bordeaux had not called in and the lagoon was at about 16, he said 17 and without an instrument to measure, I am going to give him the benefit of the doubt. However, it had been in that condition for six days and he had not called in, violating his permit. Mr. Bordeaux has been deficient in several items the past two years, at the next inspection, within the month, I plan to cite every item and proceed to NOV.

Permit: AWS090125

Owner - Facility : Douglas A Bordeaux

Facility Number: 090125

Inspection Date: 02/29/16

Inspection Type: Structure Evaluation

Reason for Visit: Routine

Waste Structures

Type	Identifier	Closed Date	Start Date	Disignated Freeboard	Observed Freeboard
Lagoon	1			19.00	17.00

Waste Collection, Storage & Treatment

Yes No Na Ne

- 4. Is storage capacity less than adequate?
- If yes, is waste level into structural freeboard?
- 5. Are there any immediate threats to the integrity of any of the structures observed (i.e./ large trees, severe erosion, seepage, etc.)?
- 6. Are there structures on-site that are not properly addressed and/or managed through a waste management or closure plan?
- 7. Do any of the structures need maintenance or improvement?
- 8. Do any of the structures lack adequate markers as required by the permit? (Not applicable to roofed pits, dry stacks and/or wet stacks)
- 9. Does any part of the waste management system other than the waste structures require maintenance or improvement?

BIMS 15 June '16 DL

Facility Number - Division of Water Quality
 Division of Soil and Water Conservation
 Other Agency

Type of Visit: Compliance Inspection Operation Review Structure Evaluation Technical Assistance
Reason for Visit: Routine Complaint Follow-up Referral Emergency Other Denied Access

Date of Visit: Arrival Time: Departure Time: County: Region:

Farm Name: Owner Email: _____

Owner Name: Phone: _____

Mailing Address: _____

Physical Address: _____

Facility Contact: Title: _____ Phone: _____

Onsite Representative: Integrator:

Certified Operator: Certification Number: _____

Back-up Operator: _____ Certification Number: _____

Location of Farm: _____ Latitude: _____ Longitude: _____

incident 2016 00902 PC-0202
NW 2016 LV-0842

Swine	Design Capacity	Current Pop.	Wet Poultry	Design Capacity	Current Pop.	Cattle	Design Capacity	Current Pop.
Wean to Finish			Layer			Dairy Cow		
Wean to Feeder			Non-Layer			Dairy Calf		
Feeder to Finish	3672	0	Design Current			Dairy Heifer		
Farrow to Wean			Capacity Pop.			Dry Cow		
Farrow to Feeder			Dry Poultry			Non-Dairy		
Farrow to Finish			Layers			Beef Stocker		
Gilts			Non-Layers			Beef Feeder		
Boars			Pullets			Beef Brood Cow		
Other			Turkeys					
Other			Turkey Poults					
Other			Other					

Discharges and Stream Impacts

- Is any discharge observed from any part of the operation? Yes No NA NE
Discharge originated at: Structure Application Field Other: _____
a. Was the conveyance man-made? Yes No NA NE
b. Did the discharge reach waters of the State? (If yes, notify DWQ) Yes No NA NE
c. What is the estimated volume that reached waters of the State (gallons)? _____
d. Does the discharge bypass the waste management system? (If yes, notify DWQ) Yes No NA NE
- Is there evidence of a past discharge from any part of the operation? Yes No NA NE
- Were there any observable adverse impacts or potential adverse impacts to the waters of the State other than from a discharge? Yes No NA NE

Facility Number: 9-125

Date of Inspection: 10 June 16

Waste Collection & Treatment

4. Is storage capacity (structural plus storm storage plus heavy rainfall) less than adequate? Yes No NA NE
- a. If yes, is waste level into the structural freeboard? Yes No NA NE

	Structure 1	Structure 2	Structure 3	Structure 4	Structure 5	Structure 6
Identifier:	_____	_____	_____	_____	_____	_____
Spillway?:	_____	_____	_____	_____	_____	_____
Designed Freeboard (in):	_____	_____	_____	_____	_____	_____
Observed Freeboard (in):	<u>29</u>	_____	_____	_____	_____	_____

5. Are there any immediate threats to the integrity of any of the structures observed? (i.e., large trees, severe erosion, seepage, etc.) Yes No NA NE
6. Are there structures on-site which are not properly addressed and/or managed through a waste management or closure plan? Yes No NA NE

If any of questions 4-6 were answered yes, and the situation poses an immediate public health or environmental threat, notify DWR

7. Do any of the structures need maintenance or improvement? Yes No NA NE
8. Do any of the structures lack adequate markers as required by the permit? (not applicable to roofed pits, dry stacks, and/or wet stacks) Yes No NA NE
9. Does any part of the waste management system other than the waste structures require maintenance or improvement? Yes No NA NE

Waste Application

10. Are there any required buffers, setbacks, or compliance alternatives that need maintenance or improvement? Yes No NA NE
11. Is there evidence of incorrect land application? If yes, check the appropriate box below. Yes No NA NE
- Excessive Ponding Hydraulic Overload Frozen Ground Heavy Metals (Cu, Zn, etc.)
- PAN PAN > 10% or 10 lbs. Total Phosphorus Failure to Incorporate Manure/Sludge into Bare Soil
- Outside of Acceptable Crop Window Evidence of Wind Drift Application Outside of Approved Area

12. Crop Type(s): Bermuda 560 Corn Wheat

13. Soil Type(s): Top Cape Fear Ocala

14. Do the receiving crops differ from those designated in the CAWMP? Yes No NA NE
15. Does the receiving crop and/or land application site need improvement? Yes No NA NE
16. Did the facility fail to secure and/or operate per the irrigation design or wettable acres determination? Yes No NA NE
17. Does the facility lack adequate acreage for land application? Yes No NA NE
18. Is there a lack of properly operating waste application equipment? Yes No NA NE

Required Records & Documents

19. Did the facility fail to have the Certificate of Coverage & Permit readily available? Yes No NA NE
20. Does the facility fail to have all components of the CAWMP readily available? If yes, check the appropriate box. Yes No NA NE
- WUP Checklists Design Maps Lease Agreements Other: _____

21. Does record keeping need improvement? If yes, check the appropriate box below. Yes No NA NE
- Waste Application Weekly Freeboard Waste Analysis Soil Analysis Waste Transfers Weather Code
- Rainfall Stocking Crop Yield 120 Minute Inspections Monthly and 1" Rainfall Inspections Sludge Survey

22. Did the facility fail to install and maintain a rain gauge? Yes No NA NE
23. If selected, did the facility fail to install and maintain rainbreakers on irrigation equipment? Yes No NA NE

Facility Number: 9-125

Date of Inspection: 10 June 16

24. Did the facility fail to calibrate waste application equipment as required by the permit? Yes No NA NE
25. Is the facility out of compliance with permit conditions related to sludge? If yes, check the appropriate box(es) below. Yes No NA NE
- Failure to complete annual sludge survey Failure to develop a POA for sludge levels

Non-compliant sludge levels in any lagoon
List structure(s) and date of first survey indicating non-compliance: _____

26. Did the facility fail to provide documentation of an actively certified operator in charge? Yes No NA NE
27. Did the facility fail to secure a phosphorus loss assessments (PLAT) certification? Yes No NA NE

Other Issues

28. Did the facility fail to properly dispose of dead animals with 24 hours and/or document and report mortality rates that were higher than normal? Yes No NA NE
29. At the time of the inspection did the facility pose an odor or air quality concern? If yes, contact a regional Air Quality representative immediately. Yes No NA NE

30. Did the facility fail to notify the Regional Office of emergency situations as required by the permit? (i.e., discharge, freeboard problems, over-application) Yes No NA NE

31. Do subsurface tile drains exist at the facility? If yes, check the appropriate box below. Yes No NA NE
- Application Field Lagoon/Storage Pond Other: _____

32. Were any additional problems noted which cause non-compliance of the permit or CAWMP? Yes No NA NE

33. Did the Reviewer/Inspector fail to discuss review/inspection with an on-site representative? Yes No NA NE

34. Does the facility require a follow-up visit by the same agency? Yes No NA NE

Comments (refer to question #): Explain any YES answers and/or any additional recommendations or any other comments. Use drawings of facility to better explain situations (use additional pages as necessary).

Calibration - Due
 Sludge Survey - Due
 # 18 Need calibration
 # 25 Sludge Survey Due
 # 30 High Freeboard insufficiently repaired

Reviewer/Inspector Name: Bill Dunlop
 Reviewer/Inspector Signature: Bill Dunlop

Phone: 433-3334
 Date: 10 June 16

- Division of Water Resources
- Division of Soil and Water Conservation
- Other Agency _____

Facility Number: 090125 Facility Status: Active Permit: AWS090125 Denied Access
 Inspection Type: Compliance Inspection Inactive Or Closed Date: _____
 Reason for Visit: Routine County: Bladen Region: Fayetteville
 Date of Visit: 06/10/2016 Entry Time: 09:30 am Exit Time: 11:00 am Incident # _____
 Farm Name: Billy E Bordeaux Farm Owner Email: dbordeaux8@ec.rr.com
 Owner: Douglas A Bordeaux Phone: 910-874-1477
 Mailing Address: 98 Sweet Home Church Rd Elizabethtown NC 28337
 Physical Address: 2690 Sweet Home Church Rd Elizabethtown NC 28337
 Facility Status: Compliant Not Compliant Integrator: Murphy-Brown LLC
 Location of Farm: Latitude: 34° 40' 57" Longitude: 78° 33' 05"
 From Elizabethtown, take Hwy 701 north to Sweet Home Church Road, turn left and go approx. 3 miles to farm on right.

Question Areas:

- Discharge & Stream Impacts
- Waste Col, Stor, & Treat
- Waste Application
- Records and Documents
- Other Issues

Certified Operator: Douglas A Bordeaux Operator Certification Number: 17945
 Secondary OIC(s): _____

On-Site Representative(s):	Name	Title	Phone
24 hour contact name	Douglas Bordeaux		Phone :
On-site representative	Douglas Bordeaux		Phone :

Primary Inspector: Bill Dunlap Phone: _____
 Inspector Signature: _____ Date: _____
 Secondary Inspector(s): _____

Inspection Summary:

- #18 No recent calibration
- #25 No Recent Sludge Survey
- #30 Failure to report high freeboard.

Permit: AWS090125 Owner - Facility : Douglas A Bordeaux Facility Number: 090125
 Inspection Date: 06/10/16 Inspection Type: Compliance Inspection Reason for Visit: Routine

Regulated Operations	Design Capacity	Current promotions
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Swine

<input type="checkbox"/> Swine - Feeder to Finish	3,672	0
Total Design Capacity:		3,672
Total SSLW:		495,720

Waste Structures

Type	Identifier	Closed Date	Start Date	Disignated Freeboard	Observed Freeboard
Lagoon	1			19.00	29.00

Discharges & Stream Impacts

Yes No Na Ne

1. Is any discharge observed from any part of the operation?
- Discharge originated at:
- Structure
- Application Field
- Other
- a. Was conveyance man-made?
- b. Did discharge reach Waters of the State? (if yes, notify DWQ)
- c. What is the estimated volume that reached waters of the State (gallons)?
- d. Does discharge bypass the waste management system? (if yes, notify DWQ)
2. Is there evidence of a past discharge from any part of the operation?
3. Were there any observable adverse impacts or potential adverse impacts to Waters of the State other than from a discharge?

Waste Collection, Storage & Treatment

Yes No Na Ne

4. Is storage capacity less than adequate?
- If yes, is waste level into structural freeboard?
5. Are there any immediate threats to the integrity of any of the structures observed (i.e./ large trees, severe erosion, seepage, etc.)?
6. Are there structures on-site that are not properly addressed and/or managed through a waste management or closure plan?
7. Do any of the structures need maintenance or improvement?
8. Do any of the structures lack adequate markers as required by the permit? (Not applicable to roofed pits, dry stacks and/or wet stacks)
9. Does any part of the waste management system other than the waste structures require maintenance or improvement?

Waste Application

Yes No Na Ne

10. Are there any required buffers, setbacks, or compliance alternatives that need maintenance or improvement?
11. Is there evidence of incorrect application?
- If yes, check the appropriate box below.
- Excessive Ponding?
- Hydraulic Overload?
- Frozen Ground?
- Heavy metals (Cu, Zn, etc)?
- PAN?
- Is PAN > 10%/10 lbs.?
- Total Phosphorus?
- Failure to incorporate manure/sludge into bare soil?
- Outside of acceptable crop window?
- Evidence of wind drift?
- Application outside of application area?

Waste Application

Yes No Na Ne

- Crop Type 1 Bermuda Grass (Hay, Pasture)
- Crop Type 2 Millet
- Crop Type 3 Corn (Grain)
- Crop Type 4 Winter Annual
- Crop Type 5
- Crop Type 6
- Soil Type 1 Torhunta
- Soil Type 2 Cape Fear
- Soil Type 3 Ocilla
- Soil Type 4
- Soil Type 5
- Soil Type 6
- 14. Do the receiving crops differ from those designated in the Certified Animal Waste Management Plan(CAWMP)?
- 15. Does the receiving crop and/or land application site need improvement?
- 16. Did the facility fail to secure and/or operate per the irrigation design or wettable acre determination?
- 17. Does the facility lack adequate acreage for land application?
- 18. Is there a lack of properly operating waste application equipment?

Records and Documents

Yes No Na Ne

- 19. Did the facility fail to have Certificate of Coverage and Permit readily available?
- 20. Does the facility fail to have all components of the CAWMP readily available?
- If yes, check the appropriate box below.
- WUP?
- Checklists?
- Design?
- Maps?
- Lease Agreements?
- Other?
- If Other, please specify
- 21. Does record keeping need improvement?
- If yes, check the appropriate box below.
- Waste Application?
- Weekly Freeboard?
- Waste Analysis?
- Soil analysis?
- Waste Transfers?
- Weather code?
- Rainfall?
- Stocking?

Permit: AWS090125 Owner - Facility : Douglas A Bordeaux Facility Number: 090125
 Inspection Date: 06/10/16 Inspection Type: Compliance Inspection Reason for Visit: Routine

Records and Documents

Yes No Na Ne

- Crop yields?
- 120 Minute inspections?
- Monthly and 1" Rainfall Inspections
- Sludge Survey
- 22. Did the facility fail to install and maintain a rain gauge?
- 23. If selected, did the facility fail to install and maintain a rainbreaker on irrigation equipment (NPDES only)?
- 24. Did the facility fail to calibrate waste application equipment as required by the permit?
- 25. Is the facility out of compliance with permit conditions related to sludge? If yes, check the appropriate box(es) below:
 - Failure to complete annual sludge survey
 - Failure to develop a POA for sludge levels
 - Non-compliant sludge levels in any lagoon
- List structure(s) and date of first survey indicating non-compliance:
- 26. Did the facility fail to provide documentation of an actively certified operator in charge?
- 27. Did the facility fail to secure a phosphorous loss assessment (PLAT) certification?

Other Issues

Yes No Na Ne

- 28. Did the facility fail to properly dispose of dead animals within 24 hours and/or document and report mortality rates that exceed normal rates?
- 29. At the time of the inspection did the facility pose an odor or air quality concern? If yes, contact a regional Air Quality representative immediately.
- 30. Did the facility fail to notify regional DWQ of emergency situations as required by Permit? (i.e., discharge, freeboard problems, over-application)
- 31. Do subsurface tile drains exist at the facility?
- If yes, check the appropriate box below.
 - Application Field
 - Lagoon / Storage Pond
 - Other
 - If Other, please specify
- 32. Were any additional problems noted which cause non-compliance of the Permit or CAWMP?
- 33. Did the Reviewer/Inspector fail to discuss review/inspection with on-site representative?
- 34. Does the facility require a follow-up visit by same agency?

PLAN OF ACTION (PoA) FOR HIGH FREEBOARD AT ANIMAL FACILITIES

Facility Number: 9 - 125 County: Bladen

Facility Name: Billy E Bordeaux Farm

Certified Operator Name: Doug Bordeaux Operator # _____

1. Current liquid level(s) in inches as measured from the current liquid level in the lagoon to the lowest point on the top of the dam for lagoons without spillways; and from the current liquid level in the lagoon to the bottom of the spillway for lagoons with spillways.

	Structure 1	Structure 2	Structure 3	Structure 4	Structure 5	Structure 6
Lagoon Name/Identifier (ID):	<u>1</u>	_____	_____	_____	_____	_____
Spillway (Yes or No):	<u>NO</u>	_____	_____	_____	_____	_____
Level (inches):	<u>16</u>	_____	_____	_____	_____	_____

2. Check **all** applicable items

Liquid level is within the designed structural freeboard elevations of one or more structures. Five and 30 day Plans of Action are attached. Hydraulic and agronomic balances are within acceptable ranges.

Liquid level is within the 25 year 24 hour storm elevations for one or more structures. A 30 day Plan of Action is attached. Agronomic balance is within acceptable range.

Waste is to be pumped and hauled to off site locations. Volume and PAN content of waste to pumped and hauled is reflected in section III tables. Included within this plan is a list of the proposed sites with related facility number(s), number acres and receiving crop information. **Contact and secure approval from the Division of Water Quality prior to transfer of waste to a site not covered in the facility's certified animal waste management plan.**

Operation will be partially or fully depopulated.
 - attach a complete schedule with corresponding animal units and dates for depopulation
 - if animals are to be moved to another permitted facility, provide facility number, lagoon freeboard levels and herd population for the receiving facility

3. Earliest possible date to begin land application of waste: 2/29/16

I hereby certify that I have reviewed the information listed above and included within the attached Plan of Action, and to the best of my knowledge and ability, the information is accurate and correct.

 Facility Owner/Manager (print) Phone: _____

 Facility Owner/Manager (signature) Date: _____

Completed by Becky Spearman 2/29/16

**PLAN OF ACTION (PoA) FOR HIGH FREEBOARD AT ANIMAL FACILITIES
30 DAY DRAW DOWN PERIOD**

I. TOTAL PAN TO BE LAND APPLIED PER WASTE STRUCTURE

1. Structure Name/Identifier (ID):

2. Current liquid volume in 25 yr./24 hr. storm storage & structural freeboard
 - a. current liquid level according to marker inches
 - b. designed 25 yr./24 hr. storm & structural freeboard inches
 - c. line b - line a (Inches in red zone) = 3.0 inches
 - d. top of dike surface area according to design
(area at below structural freeboard elevation) ft²
 - e. line c/12 x line d x 7.48 gallons/ft³ 198549 gallons

3. Projected volume of waste liquid produced during draw down period
 - f. temporary storage period according to structural design days
 - g. volume of waste produced according to structural design ft³
 - h. current herd # certified herd #
 - actual waste produced = $\frac{\text{current herd \#} \times \text{line g}}{\text{certified herd \#}}$ = 121058 ft³
 - i. volume of wash water according to structural design ft³
 - j. excess rainfall over evaporation according to design ft³
 - k. ((lines h + i + j) x 7.48 x 30 days/line f = 330324 gallons

4. Total PAN to be land applied during draw down period
 - l. current waste analysis dated lbs/1000 gal.
 - m. ((lines e + k)/1000) x line l = 1004.9 lbs. PAN

**REPEAT SECTION I FOR EACH WASTE STRUCTURE ON SITE.
(Click on the next Structure tab shown below)**

Appendix 1. Lagoon Sludge Survey Form

A. Farm Permit or DWQ Identification Number Doug Bordeaux 9-125

B. Lagoon Identification 1

C. Person(s) Taking Measurements Curtis Barwick

D. Date of Measurement 8/8/2016

E. Methods/Devices Used for Measurement of:

a. Distance from the lagoon liquid surface to the top of the sludge layer.
remote control boat w/ depth sonar

b. Distance from the lagoon liquid surface to the bottom (soil) of the lagoon.
pvc pipe

c. Thickness of the sludge layer if making a direct measurement with "core sampler".

F. Lagoon Surface Area (using dimensions at inside top of bank): 2.38 (acres)

(Draw a sketch of the lagoon on a separate sheet, list dimensions, and calculate surface area. **The lagoon may have been built different than designed, so measurements should be made.**)

G. Estimate number of sampling points:

a. Less than 1.33 acres: Use 8 points 6295 points measured

b. If more than 1.33 ac. acres x 6 = , with maximum of 24.

(Using sketch and dimensions, develop a uniform grid that has the same number of intersections as the estimated number of sampling points needed. Number the intersection points on the lagoon grid so that data recorded at each can be easily matched.)

H. Conduct sludge survey and record data on "Sludge Survey Data Sheet" (Appendix 2). **Also, at the location of the pump intake, take measurements of distance from liquid surface to top of sludge layer and record it on the Data Sheet (last row); this must be at least 2.5 ft. when irrigating.**

I. At the time of the survey, also measure the distance from the Maximum Liquid Level to the Present Liquid Level (measure at the lagoon gauge pole): 1.0

J. Determine the distance from the top of bank to the Maximum Liquid Level (use lagoon management plan or other lagoon records) 1.7

K. Determine the distance from the Maximum Liquid to the Minimum Liquid level: (use lagoon management plan or other lagoon records) 2.8

L. Calculate the distance from the present liquid surface level to the Minimum Liquid Level (Item K Minus Item I, assuming the present liquid level is below the Maximum Liquid Level) 1.8

M. Record from the Sludge Survey Data Sheet the distance from the present liquid surface level to the lagoon bottom (average for all the measurement points) 9.1

N. Record from the Sludge Survey Data Sheet the distance from the present liquid surface level to the top of the sludge layer (average for all the measurement points): 5.3

O. Record from the Sludge Survey Data Sheet the average thickness of the sludge layer: 3.8

P. Calculate the thickness of the existing Liquid Treatment Zone (Item N minus Item L): 3.6

Q. **If Item O is greater than Item P, proceed to the Worksheet for Sludge Volume and Treatment Volume. If Item O is equal to or less than Item P, you do not have to determine volumes.**

Completed by: Curtis Barwick 4 at pump intake
Print Name /Signature Date: 8/8/2016

Lagoon Identification _____

Completed by: _____ Date: _____

Print Name

Signature

(A) Grid Point No.	(B) Distance from liquid surface to top of sludge			(C) Distance from liquid surface to lagoon bottom (soil)			(C) - (B) Thickness of sludge layer		
	Ft.	& in.	Ft. (tenths)	Ft.	& in.	Ft. (tenths)	Ft.	& in.	Ft. (tenths)
	1			0.0			0.0		
2			0.0			0.0			0.0
3			0.0			0.0			0.0
4			0.0			0.0			0.0
5			0.0			0.0			0.0
6			0.0			0.0			0.0
7			0.0			0.0			0.0
8			0.0			0.0			0.0
9			0.0			0.0			0.0
10			0.0			0.0			0.0
11			0.0			0.0			0.0
12			0.0			0.0			0.0
13			0.0			0.0			0.0
14			0.0			0.0			0.0
15			0.0			0.0			0.0
16			0.0			0.0			0.0
17			0.0			0.0			0.0
18			0.0			0.0			0.0
19			0.0			0.0			0.0
20			0.0			0.0			0.0
21			0.0			0.0			0.0
22			0.0			0.0			0.0
23			0.0			0.0			0.0
24			0.0			0.0			0.0
Number of points with readings				X	X		X	X	
Average of points			X	X	#DIV/0!	X	X	#DIV/0!	#DIV/0!
At pump intake						0.0	X	X	X

*All Grid Points and corresponding sludge layer thicknesses must be shown on a sketch attached to this Sludge Survey Data Sheet.

The average thickness of the sludge layer and the thickness of the existing liquid (sludge-free) treatment zone are determined from the information on the Lagoon Sludge Survey Form (Items O and P, respectively). In this example, the average sludge layer thickness is 2.5 feet and the existing liquid treatment zone is 3.5 feet. **If the lagoon has a designed sludge storage volume, see notes at end of the worksheet.** The dimensions of the lagoon as measured and the side slope are needed for calculations of sludge volume and of total treatment volume. If the lagoon is a standard geometric shape, the sludge volume and the treatment volume in the lagoon can be estimated by using standard equations. For approximate volumes of rectangular lagoons with constant side slope, calculate length and width at the midpoint of the layer, and multiply by layer thickness to calculate layer volume, as shown in the example. For irregular shapes, convert the total surface area to a square or rectangular shape. For exact volumes for lagoons with constant side slope, the "Prismoidal Equations" may be used.

	Example	Your Lagoon
1. Average sludge Layer Thickness (T)	<u>2.5</u> ft.	<u>3.8</u> ft.
2. Depth of the lagoon from top of bank to bottom soil surface (D)	<u>11</u> ft.	<u>11.8</u> ft.
3. Slope = Horizontal/ vertical side slope (S)	<u>3</u>	<u>3.0</u>
4. Length at the top of inside bank (L)	<u>457</u> ft.	<u>450.0</u> ft.
5. Width at top inside slope (W)	<u>229</u> ft.	<u>230.0</u> ft.
6. Length at midpoint of sludge layer $L_m = L-2S(D-(T/2))$	<u>398.5</u> ft.	<u>390.6</u> ft.
7. Width at midpoint of sludge layer $W_m = W-2S(D-(T/2))$	<u>170.5</u> ft.	<u>170.6</u> ft.
8. Volume of sludge (Vs) $V_s = L_m W_m T$	<u>169,860</u> ft ³	<u>253,218</u> ft ³
9. Volume in gallons: $V_g = V * 7.5 \text{ gal./ft}^3$	<u>1,273,950</u> gal.	<u>1,899,136</u> gal.
10. Thickness of existing liquid tmt. zone (Y)	<u>3.5</u> ft	<u>3.6</u> ft
11. Thickness of total treatment zone (Z) $Z = T+Y$	<u>6</u> ft	<u>7.4</u> ft
12. Length at midpoint of total tmt. zone $L_z = L-2(S)(D-(Z/2))$	<u>409</u> ft.	<u>401.3</u> ft.
13. Width at midpoint of total tmt. Zone $W_z = W-2(S)(D-(Z/2))$	<u>181</u> ft.	<u>181.3</u> ft.
14. Volume of total treatment zone (Vz) $V_z = L_z W_z Z$	<u>444,174</u> ft ³	<u>534,540</u> ft ³
15. Ratio (R) of sludge layer volume to total Treatment Volume $R = V_s/V_z$	<u>0.38</u>	<u>0.47</u>

If the ratio R exceeds 0.50, than a sludge Plan of Action may be required. Check with DWQ for information on filing the Plan of Action.

Note: If the lagoon has a designed sludge storage volume (DSSV), subtract that volume from both the volume of sludge (Vs) (Item 8) and from the volume of total treatment zone (Vz) (Item 14), and take the ratio.

Then, $R = (V_s - DSSV) / (V_z - DSSV)$

Example: If DSSV = 85,000 ft³, then $R = (169,860 - 85,000) / (447,174 - 85,000) = 84,860 / 362,174 = 0.24$.

16. Design sludge storage volume (DSSV)	<u>85,000</u>	<u> </u>
17. Ratio (R) of sludge layer volume to treatment volume adjusted for designed sludge storage volume	<u>0.24</u>	<u>0.47</u>

BARWICK AG SERVICES, LLC
Clinton, NC 28328
910-385-1000

Irrigation Equipment Field Calibration Form

Location: Doug Bordeaux 9-125

Date of Field Calibration: 8-8-16
(mm/dd/yy)

Flow Meter Serial Number: M 0626 02 903 (FM657)

Equipment Number: 1

Measured ring size: 1.18 inches 150 year

Is ring size within 0.01" of original manufactured size?
 Yes or No. If not replace ring.

Pressure Gauge Readings At Pump: 120 psi

At Traveler: _____ psi (if applicable)

At Sprinkler/Gun: 40 psi

Expected Flow Rate (from manufacturers chart): 185 GPM

Measure Flow Rate (from flow meter): 185 GPM

Flow rate variance greater than 10%
Yes _____ No

Expected Wetted Diameter (from the wettable acres determination): 275 ft.

Measured Wetted Diameter: 250 ft.

Wetted diameter variance greater than 15% &/or measured flow variance greater than 10%: Yes _____ No If Yes, then contact a technical specialist or irrigation dealer for assistance, enter work order number: _____

And/or explain findings: _____

Calibrator: Cut & Baird
(Signature)



Water Resources
ENVIRONMENTAL QUALITY

PAT MCCRORY

Governor

DONALD R. VAN DER VAART

Secretary

S. JAY ZIMMERMAN

Director

June 24, 2016

CERTIFIED MAIL 7010 3090 0001 3216 4281
RETURN RECEIPT REQUESTED

Billy E. Bordeaux Farm
Douglas A. Bordeaux
98 Sweet Home Church Road
Elizabethtown, NC 28337

Subject: NOTICE OF VIOLATION/NOTICE OF INTENT
Administrative Code 15A NCAC 2T .1304
NOV-2016-PC-0202
Billy E. Bordeaux Farm Facility Number 09-0125, AWS090125
Bladen County

Dear Mr. Douglas A. Bordeaux

On February 23, 2016 staff of the NC Division of Water Resources (DWR), Water Quality Regional Operations inspected the Billy E. Bordeaux Farm and the permitted waste disposal system. No one from the farm was present or assisted during the inspection.

As a result of this inspection, you are hereby notified that, having been permitted to have a non-discharge permit for the subject animal waste disposal system pursuant to 15A NCAC 2T .1304, you have been found to be in violation of your permit as follows:

Violation 1:

Failure to maintain waste levels in your lagoon/storage ponds in accordance with the facilities Certified Animal Waste Management Plan. (Permit No. AWS090125 Section V 2).

On February 23, 2016 during a lagoon structure evaluation inspection by staff of the NC DEQ, Division of Water Resources (DWR) a lagoon/storage pond level was documented at 17 inches of freeboard at the lagoon.

On February 29, 2016 during a lagoon structure evaluation inspection a lagoon/storage pond level was documented at 16 inches of freeboard at the lagoon. Mr. Douglas A. Bordeaux was present at this time and starting his irrigation pump to lower the lagoon level and apply waste to Bermuda fields.

Mr. Bordeaux
June 24, 2016
Page 2

On February 29, 2016 staff of the NC Division of Water Resources (DWR), Water Quality Mr. Bordeaux

Regional Operations inspected the Billy E. Bordeaux Farm and the permitted waste disposal system. We wish to thank Mr. Douglas A. Bordeaux, who was present and assisted during the inspection.

A level of 19 inches is the maximum level allowed by your permit.

Required Corrective Action for Violation 1:

Continue to follow the proposed actions outlined in your Plan of Action (POA) dated February 29, 2016 and received in the Fayetteville Regional Office on February 29, 2016. Take all necessary additional steps to insure lagoon levels remain in compliance with Section (V 2) of your permit.

Violation 2:

Failure to notify Division of Water Resources of inadequate freeboard in the lagoon within 24 hours in accordance with your permit: (Permit No. AWS090125 Section III 13e).

Your permit specifically requires notification by telephone within 24 hours and a written report within 5 calendar days following first knowledge of the occurrence of a reportable permit condition. The Division of Water Resources has no record of receiving the 24-hour notification and the 5 day written report. You documented on your waste structure freeboard form FRBD-1 that on February 23, 2016 your lagoon levels were inadequate. On February 29, 2016 you reported lagoon level of 16 inches.

Because of the high chronic rain fall, DEQ employee Bill Dunlap was visiting several farms in the area on February 23, 2016. After the February 23, 1:00 PM visit, when the lagoon level at the Billy E. Bordeaux farm was at 17 inches a phone call was made to Mr. Bordeaux on February 24, but he did not respond or return a call in response to a message. When Bill Dunlap returned to the farm on February 29, 11:30 AM, the lagoon level as at 16 inches and Mr. Bordeaux was starting the engine to pump the lagoon. Mr. Bordeaux acknowledged that the lagoon was high and that this was the first time it had been dry enough to pump.

At the time of the Tuesday, February 23 visit, Mr. Dunlap was accompanied by Mr. Curtis Barwick and on the Monday, February 29 visit he was accompanied by Ms Kathy Barker.

Mr. Bordeaux
June 24, 2016
Page 3

Required Corrective Action for Violation 2:

In the future, please notify the Division of Water Resources of the occurrence of any reportable events in accordance with your permit.

Violation 3:

Failure to test and calibrate all waste application equipment at least once every two years in accordance with your permit: (Permit No. AWS090125 Section II 24).

On June 10, 2016 staff of the NC Division of Water Resources (DWR), Water Quality Regional Operations inspected the Billy E. Bordeaux Farm and the permitted waste disposal system. We wish to thank Mr. Douglas A. Bordeaux, who was present and assisted during the inspection. It was documented on that date that no calibration of spray equipment had been done since March of 2013.

Required Corrective action for Violation 3:

If you have not already done so please have spray equipment used at the Billy E. Bordeaux Farm (AWS090125) calibrated within the next 30 days and see that confirmation is sent to my attention at 225 Green Street, Suite 714, Fayetteville, NC 28301.

Violation 4:

Failure to conduct a survey of the sludge accumulation in all lagoons every year in accordance with the CAWMP: (Permit No. AWS090125 Section III 18).

On June 10, 2016 it was documented that no sludge survey for the Billy E. Bordeaux Farm (AWS090125) had been done since March of 2013.

Required Corrective action for Violation 4:

If you have not already done so, have a sludge survey done at the Billy E. Bordeaux Farm (AWS090125) within the next 30 days and see that confirmation is sent to my attention at 225 Green Street, Suite 714, Fayetteville, NC 28301.

Mr. Bordeaux
June 24, 2016
Page 4

The Division of Water Resources requests that, in addition to the specified corrective action above, please submit the following items on or before **(July 20, 2016)**:

1. *An explanation from the OIC for this farm regarding how this violation occurred.*
2. *A list from the OIC concerning the steps that will be taken to prevent this violation from occurring in the future.*

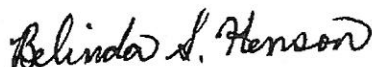
You are required to take any necessary action to correct the above violations on or before July 20, 2016 and to provide a written response to this Notice by July 20, 2016. Please include in your response all corrective actions already taken and a schedule for completion of any corrective actions not addressed.

As a result of the violations in this Notice, this office is considering a recommendation for a civil penalty assessment to the Director of the Division. If you wish to present an explanation for the violations cited, or if you believe there are other factors, which should be considered, please send such information to me in writing within ten (10) days following receipt of this letter. Your response will be reviewed, and, if an enforcement action is still deemed appropriate, it will be forwarded to the Director and included for consideration.

Failure to comply with conditions in a permit may result in a recommendation of enforcement action, to the Director of the Division of Water Quality who may issue a civil penalty assessment of not more than twenty-five thousand (\$25,000) dollars against any "person" who violates or fails to act in accordance with the terms, conditions, or requirements of a permit under authority of G.S. 143-215.6A.

If you have any questions concerning this Notice, please contact Bill Dunlap or me at (910) 433-3300.

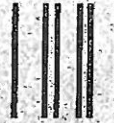
Sincerely,



Belinda S. Henson
Regional Supervisor
Water Quality Regional Operations Section
Division of Water Resources

c: Christine Lawson, DWR Animal Feeding Operations Program
Smithfield
Fayetteville Regional Office WQROS files

UNITED STATES POSTAL SERVICE



First-Class Mail
Postage & Fees Paid
USPS
Permit No. G-10

• Sender: Please print your name, address, and ZIP+4 in this box •

NCDEQ - DIVISION OF WATER RESOURCES
ATTN: BILL DUNLAP
225 GREEN STREET, SUITE 714
FAYETTEVILLE NC 28301-5095

RECEIVED
DEQ/DWR

JUL 26 2016

WQROS
FAYETTEVILLE REGIONAL OFFICE

U.S. Postal Service™
CERTIFIED MAIL RECEIPT
(Domestic Mail Only. No Insurance Coverage Provided)

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OFFICIAL USE

7010 309E 060E 0702 1924 9T3E T000 4281

Postage	\$ 1.465
Certified Fee	3.30
Return Receipt Fee (Endorsement Required)	2.70
Restricted Delivery Fee (Endorsement Required)	
Total Postage & Fees	\$ 6.465

Postmark
Here

6/24/16

Sent To *Billy E. Bordeaux Farm*
 Street, Apt. No., or PO Box No. *Douglas A. Bordeaux*
98 Sweet Home Ct. Rd.
 City, State, ZIP+4 *Elizabethton, NC 28337*

PS Form 3801, August 2005 See reverse for instructions

SENDER: COMPLETE THIS SECTION	COMPLETE THIS SECTION ON DELIVERY
<ul style="list-style-type: none"> ■ Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired ■ Print your name and address on the reverse so that we can return the card to you. ■ Attach this card to the back of the mailpiece, or on the front if space permits. 	<p>A. Signature X <i>Douglas Bordeaux</i> <input type="checkbox"/> Agent <input type="checkbox"/> Addressee</p> <p>B. Received by (Printed Name) C. Date of Delivery <i>Douglas Bordeaux</i> <i>25 July 16</i></p> <p>D. Is delivery address different from item 1? <input type="checkbox"/> Yes If YES, enter delivery address below <input type="checkbox"/> No</p>
<p>1. Article Addressed to</p> <p>BILLY E. BORDEAUX DOUGLAS A. BORDEAUX 98 SWEET HOME CHURCH RD. ELIZABETHTOWN, NC 28337</p>	<p>3. Service Type</p> <p><input checked="" type="checkbox"/> Certified Mail <input type="checkbox"/> Express Mail <input type="checkbox"/> Registered <input checked="" type="checkbox"/> Return Receipt for Merchandise <input type="checkbox"/> Insured Mail <input type="checkbox"/> C.O.D.</p> <p>4. Restricted Delivery? (Extra Fee) <input type="checkbox"/> Yes</p>
<p>2. Article Number (transfer from service label)</p>	<p>7010 3090 0001 3216 4281</p>
<p>PS Form 3811, February 2004 Domestic Return Receipt 102595-02-M-1540</p>	

DIVISION OF WATER RESOURCES
ANIMAL OPERATIONS
ENFORCEMENT CASE REPORT

Violator: Mr. Douglas A. Bordeaux
Farm Name: Billy E. Bordeaux Farm
Contact Person: Douglas A. Bordeaux
Address: 98 Sweet Home Church Road
Facility #: AWS090125
Regional Office: Fayetteville
Inspector: Bill Dunlap
Report Prepared by: Bill Dunlap
Date: January 11, 2017

Case Narrative:

On February 23, 2016 during a random lagoon structure evaluation inspection by staff of the NC Department of Environmental Quality (DEQ), Water Quality Regional Operations Section (WQROS) a lagoon/storage pond level was documented at 17 inches of freeboard at the lagoon. Mr. Bordeaux was not on site, did not answer a phone call or the door at his home. Staff did leave a message on his phone to the effect that Mr. Bordeaux needed to contact them regarding his lagoon level.

On February 29, 2016 during a random lagoon structure evaluation inspection a lagoon/storage pond level was documented at 16 inches of freeboard at the lagoon. Mr. Douglas A. Bordeaux was present at this time and starting his irrigation pump to lower the lagoon level and apply waste to Bermuda fields. Staff returned to re-inspect the farm on February 29, 2016 because we had no response from Mr. Bordeaux since the last inspection. Mr. Bordeaux commented that he had checked the lagoon on Sunday the 28th and found the level to be higher than permitted and planned then to pump on Monday. Since this was Mr. Bordeaux's first acknowledgement of high freeboard, and it had been in that condition since at least the 23rd, he failed to inform DWR/WQROS of the fact within 24 hours.

On June 10, 2016 staff of DWR/WQROS conducted a routine inspection the Billy E. Bordeaux Farm and the permitted waste disposal system. It was documented on that date that no calibration of spray equipment had been done since March of 2013.

On June 10, 2016 it was documented that no sludge survey for the Billy E. Bordeaux Farm (AWS090125) had been done since March of 2013.

Farm and/or Company Compliance History:

Notice of Violation, AWS090040, formerly owned by Mr. Bordeaux:
September 24, 2007 – High freeboard, structure
January 30, 2008, failure to have current sludge survey
June 25, 2009 High freeboard
December 31, 2010, High freeboard

Notice of Violation, AWS090125
January 30, 2008, Failure to have current sludge survey

Violator's degree of cooperation (including efforts to prevent or restore) recalcitrance:

On June 16, 2016 an NOV was sent to Mr. Douglas A. Bordeaux, addressed to his personal residence. No one ever signed for the letter and it was returned to the office. On July 25, 2016, Bill Dunlap visited Mr. Bordeaux at the farm and had him sign for the letter and explained its ramifications.

Mr. Bordeaux retained Mr. Curtis Barwick to help him meet his permitted requirements. On August 8, 2016 Mr. Barwick calibrated the irrigation equipment and conducted sludge surveys for the lagoon. Mr. Barwick left relevant reporting forms at the farm. Mr. Barwick forwarded the reports DWR/WQROS staff on August 15, 2016.

Fish kill observed? Y/N If yes, include report from WRC:

No fish kill was observed.

Mitigating Circumstances:

Mr. Bordeaux had contracted with Arguments Services (Geno Kennedy) for calibration and sludge survey in 2014, but according to Mr. Bordeaux, only for the Billy Bordeaux Farm (09-0125) and not for the Home Farm (09-0115) or the Clarkton farm (Doug Bordeaux #2, 09-0040), which has since been sold to Nick Gooden. Mr. Kennedy performed the requested services on all the farms, billing accordingly. Mr. Bordeaux was willing to pay for the Billy Bordeaux Farm (09-0125), but not the others and Mr. Kennedy would not release any information about work done, without full payment of invoice.

Recommendation:

The Fayetteville Regional Office is recommending assessment of civil penalties pursuant to G.S. 143-215.6A.

Assessment Factors required to be considered by G.S. 143B-282.1(b):

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

In reference to the cited violation, no harm to the natural resources of the State was observed, to the public health, or to private property was documented. With no on farm waste application records or waste analysis DWR/WQROS is unable to determine if waste was applied above agronomic rates, when it was applied or if any runoff of applied waste occurred.

The duration and gravity of the violation:

A compliance inspection was completed on June 10, 2016 and documented that the farm was in compliance except that the farm failed to have on hand a current Sludge Survey. Mr. Bordeaux also failed to advise DEQ/WQROS of his high freeboard situation in February.

The effect on ground or surface water quantity or quality:

The effect on groundwater quality could not be measured.

The cost of rectifying the damage:

This factor cannot be determined because there is no evidence of a discharge to the waters of the State.

The amount of money saved by noncompliance:

The cost of irrigation calibration was \$200.00 and sludge survey was \$250.00, for a total estimated money saved is \$450.00. These are numbers are from Mr. Curtis Barwick, who performed the services.

Whether the violation was committed willfully or intentionally:

Because DWR/WAROS CAFO inspector Bill Dunlap had reviewed the situation with Mr. Bordeaux in 2015 and his past history of this particular violation on another farm, it could be established that Mr. Bordeaux was aware of the need to remedy these matters and willfully chose not address them.

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

The Billy E. Bordeaux Farm as a permitted facility has failed to comply with the Required Records and Documentations of their permit for the past year.

The Billy E. Bordeaux Farm has a history of this type violation, as well as other facilities (090040, 090115) held now or formerly by Mr. Bordeaux.

The DWR Staff have repeatedly provided information in an attempt to help the farm become compliant.

Summary of Enforcement Cost:

The cost to the State of the enforcement procedures:

Bill Dunlap	10 hours @ \$27.67 /hr.	\$ 276.70
Asst. Supervisor, Allen	1 hours @ \$45.68/hr.	\$ 45.68
Supervisor, Henson	1 hours @\$44.36/hr.	\$ 44.36
Certified Mail	1 @ 6.46	\$ 6.46
Central Office Administrative Cost		\$ 100.00
Mileage-3 trips, total 233 mi@ \$0.39		\$ 90.48
	Total	\$ 563.68



ROY COOPER
Governor
MICHAEL S. REGAN
Secretary
S. JAY ZIMMERMAN
Director

February 24, 2017

CERTIFIED MAIL - #7009 2250 0000 8087 2037
RETURN RECEIPT REQUESTED

Douglas A. Bordeaux
Billy E. Bordeaux Farm
98 Sweet Home Church Road
Elizabethtown, NC 28337

SUBJECT: Assessment of Civil Penalties for Violation(s) of
15A NCAC 2T .0105(e)(2)
Farm # 09-0125
Bladen County
Enforcement File No. PC-2016-0052

Dear Mr. Bordeaux:

This letter transmits notice of a civil penalty assessed against Douglas A. Bordeaux in the amount of \$2500.00, and \$563.68 in investigative costs, for a total of **\$3063.68**. 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 Environment Quality. 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:

Miressa Garoma
Water Quality Regional Operations Section
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 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:

Miressa Garoma
Water Quality Regional Operations Section
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 DEQ as follows:

William F. Lane, General Counsel
DEQ
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 Miressa D. Garoma at (919) 807-6340.

Sincerely,



Jon Risgaard, Chief
Water Quality Regional Operations Section
Division of Water Resources

ATTACHMENTS

cc: Fayetteville WQROS Regional Supervisor w/ attachments
File # PC-2016-0052 w/ attachments
WQROS Central Files w/ attachments
Bladen County Health Department

STATE OF NORTH CAROLINA

NORTH CAROLINA
DEPARTMENT OF ENVIRONMENTAL QUALITY

COUNTY OF BLADEN

FILE NO. PC-2016-0052

IN THE MATTER OF)
DOUGLAS A. BORDEAUX)
)
)
FOR VIOLATIONS OF SWINE WASTE)
MANAGEMENT SYSTEM)
GENERAL PERMIT AWG100000)
PURSUANT TO NORTH CAROLINA)
GENERAL STATUE 143-215.1)

FINDINGS AND DECISION
AND ASSESSMENT OF
CIVIL PENALTIES

Acting pursuant to delegation provided by the Secretary of the Department of Environmental Quality and the Director of the Division of Water Resources (DWR), I, Jon Risgaard, Chief of the Water Quality Regional Operations Section of the DWR, make the following:

I. FINDINGS OF FACT:

- A. Douglas A. Bordeaux owns and operates Billy E. Bordeaux farm, a swine animal feeding operation in Bladen County.
- B. Douglas A. Bordeaux was issued Certificate of Coverage AWS090125 by DWR, under General Permit AWG100000 for Billy E. Bordeaux Farm on October 1, 2014, effective upon issuance, with an expiration date of September 30, 2019.
- C. Condition No. II 24. of the General Permit AWG100000 states that "All waste application equipment must be tested and calibrated at least once every two years. The results must be documented on forms provided by, or approved by, the Division."
- D. The latest record of equipment calibration provided was done in March 19, 2013.
- E. Condition III.18, of the General Permit AWG100000 states in part that "All facilities which are issued a COC to operate under this General Permit, shall conduct a survey of the sludge accumulation in all lagoons every year."
- F. The latest record of sludge survey result provided was done on March 19, 2013.
- G. Condition V.2. of General Permit AWG100000 states that "the maximum waste level in lagoons/storage ponds shall not exceed that specified in the facility's CAWMP. At a minimum, maximum waste level for lagoons/storage ponds must not exceed the level that provides adequate storage to contain the 25-year, 24-hour storm event plus an additional one (1) foot of structural freeboard except that there shall be no violation of this condition if: (a) there is a storm event more severe than a 25-year, 24-hour event, (b) the Permittee is in compliance with its CAWMP, and (c) there is at least one (1) foot of structural freeboard."

- H. The CAWMP for Douglas A. Bordeaux requires that the waste level in the lagoons not exceed the maximum liquid level of 19 inches below the top of the lagoon wall.
- I. DWR staff from the Fayetteville Regional Office (FRO) inspected the Billy E. Bordeaux Farm on February 23, 2016 and observed that the lagoon level was at 17 inches.
- J. Condition III.13. of the General Permit AWG100000 states that "The Permittee shall report by telephone to the appropriate Division Regional Office as soon as possible, but in no case more than twenty-four (24) hours following first knowledge of the occurrence of any of the following events: (e) Failure to maintain storage capacity in a lagoon/storage pond greater than or equal to that required in Condition V.2. of the General Permit."
- K. The Fayetteville Regional Office had not received notification from Douglas A. Bordeaux that the waste level exceeded the level specified in the CAWMP of nineteen (19) inches.
- L. On June 24, 2016 DWR issued a Notice of Violation/Notice of Intent to Enforce (NOV/NOI) to Douglas A. Bordeaux identifying violations of NCGS 143-215.1 and General Permit No. AWG100000. The violations include failure to maintain lagoon/storage pond level as specified in the facility's CAWMP. Failure to report by telephone to the FRO following first knowledge of the occurrence of failure to maintain waste level as specified in lagoon/storage pond design. Failure to test and calibrate waste application equipment. Failure to conduct a survey of the sludge accumulation in all lagoons every year.
- M. The NOV/NOI was sent by certified mail, return receipt requested and Returned on July 24, 2016, marked as Undelivered. DWR/FRO staff hand delivered the notice to Mr. Douglas A. Bordeaux on July 25, 2016.
- N. The cost to the State of the enforcement procedures in this matter totaled \$563.68.

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

II. CONCLUSIONS OF LAW:

- A. Douglas A. Bordeaux 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 an animal waste management system is required by N.C.G.S. 143-215.1.
- C. The above-cited failure to test and calibrate at least once every two years the waste application equipment violated Condition No. II. 24. of the General Permit AWG100000.
- D. The above-cited failure to conduct a survey of the sludge accumulation in the lagoon is a violation of Condition No. III.18. of General Permit AWG100000.
- E. The above-cited failure to maintain the liquid level in the lagoon at the level specified in the CAWMP violated Condition V.2. of the General Permit AWG100000.
- F. The above-cited failure to report by telephone to the appropriate Regional Office as soon as possible, but in no case more than 24 hours following first knowledge of

the occurrence of failure to maintain storage capacity in a lagoon/storage pond greater than or equal to that required in Condition V.2. violated Condition III.13. e. of the General Permit AWG100000.

- G. N.C.G.S. 143-215.6A(a)(2) provides that a civil penalty of not more than \$25,000.00 may be assessed against a person who fails to apply for or to secure a permit required by N.C.G.S. 143-215.1, or who violates or fails to act in accordance with the terms, conditions, or requirements of a permit required by N.C.G.S. 143-215.1.
- H. The State's enforcement costs in this matter may be assessed against Douglas Bordeaux pursuant to G.S. 143-215.3(a)(9) and G.S. 143B-282.1(b)(8).
- I. The Chief of the Water Quality Regional Operations Section, 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, Douglas A. Bordeaux, are hereby assessed a civil penalty of:

\$ 500 For violating Condition II.24 of General Permit AWG100000 by failing to test and calibrate waste application equipment from March 2015 to August 2016.

\$ 500 For violating Condition No. III.18 of General Permit AWG100000 for failure to conduct a survey of the sludge accumulation in the lagoon from December 31, 2014 to August 8, 2016.

\$ 1000 For violating Condition V.2. of General Permit AWG100000 for failure to maintain adequate freeboard in the lagoon at the level specified in the CAWMP.

\$ 500 For violating Condition III.13. e. of General Permit AWG100000 for failing to report by telephone to the appropriate Regional Office as soon as possible, but in no case more than 24 hours, first knowledge of the occurrence of failure to maintain storage capacity in a lagoon/storage pond greater than or equal to that required in Condition No. V. 2.

\$ 2500⁰⁰ TOTAL CIVIL PENALTY which is _____ percent of the maximum penalty authorized by N.C.G.S. 143-215.6A.

\$ 563.68 Enforcement costs

\$ 3063.68 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 N.C.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; and
- (8) The cost to the State of the enforcement procedures.

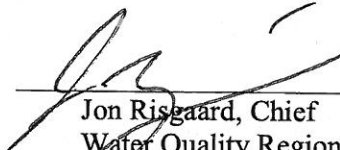
IV. NOTICE:

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 Douglas A. Bordeaux, in accordance with N.C.G.S. 143-215.6(A)(d).

2/24/17
(Date)



Jon Risgaard, Chief
Water Quality Regional Operations Section
Division of Water Resources

DIVISION OF WATER RESOURCES
CIVIL PENALTY ASSESSMENT FACTORS

Violator: Douglas Bordeaux
County: Bladen
Case Number: PC-2016-0052
Permit Number: AWS090125

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;**
In reference to the cited violation, no harm to the natural resources of the State was observed, to the public health, or to private property was documented. With no on farm waste application records or waste analysis DWR/WQROS is unable to determine if waste was applied above agronomic rates, when it was applied or if any runoff of applied waste occurred.

- 2) **The duration and gravity of the violation;**
A compliance inspection was completed on June 10, 2016 and documented that the farm was in compliance except that the farm failed to have on hand a current Sludge Survey. Mr. Bordeaux also failed to notify DEQ/WQROS of his high freeboard situation in February.

- 3) **The effect on ground or surface water quantity or quality or on air quality;**
The effect on groundwater quality could not be measured.

- 4) **The cost of rectifying the damage;**
This factor cannot be determined because there is no evidence of a discharge to the waters of the State.

- 5) **The amount of money saved by noncompliance;**
The cost of irrigation calibration was \$200.00 and sludge survey was \$250.00, for a total estimated money saved is \$450.00. These are numbers are from Mr. Curtis Barwick, who performed the services.
missed 2 years of sludge survey, total cost saving of approx. \$700

- 6) **Whether the violation was committed willfully or intentionally;**
Because DWR/WAROS CAFO inspector Bill Dunlap had reviewed the situation with Mr. Bordeaux in 2015 and his past history of this particular violation on another farm, it could be established that Mr. Bordeaux was aware of the need to remedy these matters and willfully chose not address them.

- 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**
NOV – January 2008 – Failure to conduct sludge survey

- 8) **The cost to the State of the enforcement procedures.**
\$563.68

2/24/17

Date


Jon Risgaard

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Douglas A. Bordeaux
 Billy E. Bordeaux Farm
 98 Sweet Home Church Road



9590 9403 0730 5196 3158 85

2. Article Number (Transfer from service label)

7009 2250 0000 8087 2037

PS Form 3811, April 2015 PSN 7530-02-000-9053

COMPLETE THIS SECTION ON DELIVERY

A. Signature

X

B. Received by (Printed Name)

C.

D. Is delivery address different from item 1? If YES, enter delivery address below:

3. Service Type

- Adult Signature
- Adult Signature Restricted Delivery
- Certified Mail®
- Certified Mail Restricted Delivery
- Collect on Delivery
- Collect on Delivery Restricted Delivery
- Insured Mail
- Insured Mail Restricted Delivery (over \$500)

- Priority
- Registered
- Registered Deliver
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- Signature Restricted

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Restricted Delivery Fee (Endorsement Required)	

Postmark Here

Total P.

Sent To
 Douglas A. Bordeaux
 Billy E. Bordeaux Farm
 98 Sweet Home Church Road
 Street, Apt. or PO Box
 City, State

PS Form 3800, August 2006

See Reverse for Instructions

Domestic Return Receipt

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Douglas A. Bordeaux
 Billy E. Bordeaux Farm
 98 Sweet Home Church Road
 Elizabethtown, NC 28337



9590 9402 2131 6132 5715 56

2. Article Number (Transfer from service label)

7016 1370 0001 8472 5235

PS Form 3811, July 2015 PSN 7530-02-000-9053

COMPLETE THIS SECTION ON DELIVERY

A. Signature

X

B. Received by (Printed Name)

D. Is delivery address different from item 1? If YES, enter delivery address below:

3. Service Type

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- Collect on Delivery Restricted Delivery
- Insured Mail
- Insured Mail Restricted Delivery (over \$500)

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<input type="checkbox"/> Return Receipt (hardcopy)	\$
<input type="checkbox"/> Return Receipt (electronic)	\$
<input type="checkbox"/> Certified Mail Restricted Delivery	\$
<input type="checkbox"/> Adult Signature Required	\$
<input type="checkbox"/> Adult Signature Restricted Delivery	\$

re-mailed
 3/22/17
 Postmark Here

Postage \$

Total Postage at \$

Sent To

Street and Apt. No.

City, State, ZIP+4

Douglas A. Bordeaux
 Billy E. Bordeaux Farm
 98 Sweet Home Church Road
 Elizabethtown, NC 28337

PS Form 3800, April 2015 PSN 7530-02-000-9047

See Reverse for Instructions

Domestic Return Receipt

orig

9250

RETURN OF SERVICE

I certify that this NOTICE OF SERVICE was received on the day of 4-28-17 2017, and together with the document(s) was served as follows:

Date Served: 4-28-17

Designated Recipient: Douglas A. Bordeaux

Place of Service: 98 Sweet Home Church Road
(fill in address) Elizabethtown, NC 28337

RECEIVED/NCDEQ/DWR
MAY 4 2017
Water Quality Regional
Operations Section

By: 
(Served Officer)

Check one of the following:

- By personally delivering copies to the named individual;
- By leaving copies of the Notice and original letter at the named individual's dwelling, house or place of business with a person of suitable age and discretion then residing therein. Name of the person who the copies were left:

If not served to the named individual, please state the reason why:

 Bladen County Sheriff
(Sheriff Signature)

4/28/17
(Date)

Service Fee Paid _____ Paid By _____

Please return this form to:
Miressa D. Garoma
Division of Water Resources
1636 Mail Service Center
Raleigh, NC 27699-1636



ROY COOPER
Governor
MICHAEL S. REGAN
Secretary
S. JAY ZIMMERMAN
Director

May 26, 2017

Douglas A. Bordeaux
Billy E. Bordeaux Farm
98 Sweet Home Church Road
Elizabethtown, NC 28337

SUBJECT: Remission Request
Farm # 09-0125
Bladen County
File No. PC-2016-0052
Permit No. AWS090125

Dear Mr. Bordeaux:

This letter is to acknowledge receipt of your request, on May 26, 2017, for remission of the civil penalty levied against the subject facility. The Director of the Division of Water Resources will review your evidence and inform you of his decision in the matter of your remission request.

If you have any questions, please call me at (919) 807-6340.

Sincerely,

A handwritten signature in black ink, appearing to read 'Miressa D. Garoma'. The signature is stylized and cursive.

Miressa D. Garoma
Animal Feeding Operations Program
Water Quality Regional Operations Section
Division of Water Resources, NCDEQ

cc: Fayetteville WQROS Regional Supervisor
File # PC-2016-0052
WQROS Central Files (AWS090125)

STATE OF NORTH CAROLINA

DEPARTMENT OF ENVIRONMENTAL QUALITY

COUNTY OF BLADEN

IN THE MATTER OF ASSESSMENT
OF CIVIL PENALTIES AGAINST

DOUGLAS A. BORDEAUX

PERMIT NO. AWS090125

) WAIVER OF RIGHT TO AN
) ADMINISTRATIVE HEARING AND
) STIPULATION OF FACTS
)
)
)
)

) FILE NO. PC-2016-0052

Having been assessed civil penalties totaling \$3063.68 for violation(s) as set forth in the assessment document of the Division of Water Resources dated, February 24, 2017, 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 thirty (30) days from the receipt of the notice of assessment.

This the 25 day of May, 2017

Douglas Bordeaux
Signature

ADDRESS

112 Sweet Home Church Rd
Elizabethtown, NC 28337

TELEPHONE

910-874-1477

JUSTIFICATION FOR REMISSION REQUEST

APS Case Number: PC-2016-0052
Assessed Party: Douglas A. Bordeaux
Permit No.: AWS090125

County: Bladen
Amount assessed: \$3063.68

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 determining 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. By law [NCGS 133-215.6A(f)] remission of a civil penalty may be granted 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 NCGS 143B-282.1(b) were wrongfully applied to the detriment of the petitioner (the assessment factors are included in the attached penalty matrix and/or 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:

Murphy-Brown LLC

PO Drawer 856
2822 Hwy. 24 West
Warsaw, NC 28398
Tel: 910-293-3434
Fax: 910-293-6957

May 23, 2017

Miressa Garoma
Water Quality Regional Operations Section
Division of Water Services
1636 Mail Service Center
Raleigh, NC 27699-1636

Dear Mr. Garoma

I am writing to you on behalf of Doug Bordeaux, owner of the of Billy E. Bordeaux farm, facility number 09-125 in Bladen County, in response to a notice of civil penalty against Douglas Bordeaux, case number PC-2016-PC-0052, issued to this farm in a letter dated Feb 24, 2017. Mr. Bordeaux is submitting a request for remission based on item (d) the violator has not been assessed civil penalties for any previous violations. Please take into consideration the following items.

Item #1 – I am including the Irrigation Equipment Calibration which was completed on 8/8/2016 by Curtis Barwick.

Item 2 - I am including the Sludge Survey's for 2014 and 2016. There was no sludge survey completed in 2015.

Item 3 – Mr. Bordeaux does not dispute the freeboard violation, nor the failure to report freeboard violation. Included is a copy of the POA that was submitted to Bill Dunlap on 2/29/2016. The owner was unaware of the freeboard level and has been strongly advised to make sure employees report to him immediately when lagoon freeboard gets to start pump.

In addition, Mr. Bordeaux has asked Agriment Services to put his facility on their schedule list for future calibration and sludge survey's to prevent future violations.

If you need additional information, please contact Toni King at Murphy Brown, LLC for clarification or assistance at 910-293-5334 or twking@smithfield.com.

Douglas Bordeaux



Remission Request Summary and Recommendation

To: S. Jay Zimmerman
From: Trent Allen Date: 6/1/2017 Region: FRO
Reviewed by: Jon Risgaard JR Date: 6/20/17
WQROS Section Chief (initials)

Assessed Party: Douglas A. Bordeaux County: Bladen
Case No.: PC-2016-0052 Permit No: AWS090125

Case Background and Assessment

October 1, 2014	DWR issued COC No. AWS090125 to Douglas Bordeaux for the Billy E. Bordeaux Farm.
February 23, 2016	<p>DWR staff from the Fayetteville Regional Office (FRO) inspected the Billy E. Bordeaux Farm on February 23, 2016 and observed that the lagoon level was at 17 inches. The CAWMP for Douglas A. Bordeaux requires that the waste level in the lagoons not exceed the maximum liquid level of 19 inches below the top of the lagoon wall. On February 29, 2016 during a random lagoon structure evaluation inspection a lagoon/storage pond level was documented at 16 inches of freeboard at the lagoon. Staff returned to re-inspect the farm on February 29, 2016 because we had no response from Mr. Bordeaux since the last inspection. The Fayetteville Regional Office had not received notification from Douglas A. Bordeaux that the waste level exceeded the level specified in the CAWMP of nineteen (19) inches.</p> <p>On June 10, 2016 staff of DWR/WQROS conducted a routine inspection of the Billy E. Bordeaux Farm and documented that no calibration of spray equipment had been done since March of 2013. It was also documented that no sludge survey for the Billy E. Bordeaux Farm had been done since March of 2013.</p>
June 24, 2016	A Notice of Violation/Notice of Intent to Enforce was sent via certified mail.
February 24, 2017	<p>Douglas Bordeaux was assessed a civil penalty of \$3063.68 (\$2500.00 civil penalty plus \$563.68 investigative costs):</p> <ul style="list-style-type: none">• \$500.00 for violating Condition II.24 of General Permit AWG100000 by failing to test and calibrate waste application equipment from March 2015 to August 2016.• \$500.00 for violating Condition No. III.18 of General Permit AWG100000 for failure to conduct a survey of the sludge accumulation in the lagoon from December 31, 2014 to August 8, 2016.• \$1000.00 for violating Condition V.2. of General Permit AWG100000 for failure to maintain adequate freeboard in the lagoon at the level specified in the CAWMP.• \$500.00 for violating Condition III.13. e. of General Permit AWG100000 for failing to report by telephone to the appropriate Regional Office as soon as possible, but in no case more than 24 hours, first knowledge of the occurrence of failure to maintain storage capacity in a lagoon/storage pond greater than or equal to that required in Condition No. V. 2.
April 28, 2017	The assessment document was delivered through Bladen County Sheriff's office.

Remission Request (Summary)

May 25, 2017 Remission request signed
May 26, 2017 Remission request received

Summary: The permittee submitted a request for remission based on the factor that the violator has not been assessed civil penalties for any previous violations. Mr. Bordeaux did not dispute freeboard violation, nor the failure to report freeboard violation. The owner was not aware of the freeboard level. Included in remission request are copies of Irrigation equipment calibration completed on 8/8/2016, sludge surveys for 2014 & 2016, and POA for freeboard violation.

Enforcement History

- No previous Violation.

Remission Recommendation from Regional Office and Central Office

- DWR Fayetteville Regional Office Recommendation (Check One)
Request Denied
Full Remission Retain Enforcement Costs? Yes No
Partial Remission _____ (enter amount to remit)

Comment:

- *Mr. Bordeaux has been in NOV situations before on other farms that he owned. DWR-FRO had let him by on the sludge survey for a year, based on the dispute with Agriment Services, regarding payment and service delivery. Mr. Bordeaux should know that it is required to check the lagoon level after any rainfall event of more than one inch.*

- DWR Central Office Recommendation (Check One)
Request Denied
Full Remission Retain Enforcement Costs? Yes No
Partial Remission \$ 250⁰⁰ (enter amount to remit)

Comment:

Provided Calibration document does not cover time period missed as part of the penalty

Provided Sludge Surveys do not document 2015 survey - Remission of \$250⁰⁰ should be considered since 2016 documents were provided



ROY COOPER
Governor
MICHAEL S. REGAN
Secretary
S. JAY ZIMMERMAN
Director

August 1, 2017

CERTIFIED MAIL - #7016 2140 0000 0564 3654
RETURN RECEIPT REQUESTED

Douglas A. Bordeaux
Billy E. Bordeaux Farm
98 Sweet Home Church Road
Elizabethtown, NC 28337

SUBJECT: Request for Remission of Civil Penalty
Farm # 09-0125
Bladen County
Permit No. AWS090125
File No. PC-2016-0055

Dear Mr. Bordeaux:

In accordance with North Carolina General Statute 143-215.6A(f), the Director of the North Carolina Division of Water Resources considered the information you submitted in support of your request for remission and remitted \$250.00 of the \$3063.68 civil penalty assessment. The revised civil penalty is therefore a total amount of **\$2813.68**, which includes \$563.68 in investigative costs. A copy of the Director's decision is attached.

Two options are available to you at this stage of the remission process:

1) You may pay the penalty.

If you decide to pay the penalty please make your check payable to the Department of Environmental Quality (DEQ). Send the payment within thirty (30) calendar days of your receipt of this letter to the attention of:

Miressa Garoma
NC DEQ-DWR
Animal Feeding Operations Program
1636 Mail Service Center
Raleigh, NC 27699-1636

OR

- 2) **You may decide to have the Environmental Management Commission's (EMC) Committee on Civil Penalty Remissions make the final decision on your remission request.**

If payment is not received within 30 calendar days from your receipt of this letter, your request for remission with supporting documents and the recommendation of the Director of the North Carolina Division of Water Resources will be delivered to the Committee on Civil Penalty Remissions for final agency decision.

If you or your representative would like to speak before the Committee, you must complete and return the attached Request for Oral Presentation Form within thirty (30) calendar days of receipt of this letter. Send the completed form to:

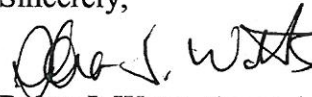
Miressa Garoma
NC DEQ-DWR
Animal Feeding Operations Program
1636 Mail Service Center
Raleigh, NC 27699-1636

The EMC Chairman will review the supporting documents and your request for an oral presentation (if you make the request). If the Chairman determines that there is a compelling reason to require a presentation, you will be notified of when and where you should appear. If a presentation is not required, the final decision will be based upon the written record.

Please be advised that the EMC's Committee on Civil Penalty Remissions will make its remission decision based on the original assessment amount. Therefore, the EMC may choose to uphold the original penalty amount and offer no remissions, they may agree with the DWR Director's remission recommendation detailed above, or the penalty amount may be further remitted.

Thank you for your cooperation in this matter. If you have any questions, please contact Miressa D. Garoma at (919) 807-6340.

Sincerely,



Debra J. Watts, Supervisor
Animal Feeding Operations, and
Ground Water Protection Branch

ATTACHMENTS

cc: Fayetteville WQROS Regional Supervisor
File # PC-2016-0052
WQROS Central Files (AWS090125)

**DIVISION OF WATER RESOURCES
CIVIL PENALTY REMISSION FACTORS**

Case Number: PC-2016-0052

Region: Fayetteville

County: Bladen

Assessed Entity: Douglas A. Bordeaux

Permit: AWS090125

(a) Whether one or more of the civil penalty assessment factors were wrongly applied to the detriment of the petitioner:

(b) Whether the violator promptly abated continuing environmental damage resulting from the violation:

(c) Whether the violation was inadvertent or a result of an accident:

(d) Whether the violator had been assessed civil penalties for any previous violations:

No previous assessed civil penalties.


(e) Whether payment of the civil penalty will prevent payment for the remaining necessary remedial actions:

DECISION (Check One)

Request Denied

Full Remission Retain Enforcement Costs? Yes No

Partial Remission \$ 250.00 (Enter Amount Remitted)


S. Jay Zimmerman 7/31/2017
Date

7016 2140 0000 0564 3654

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<input type="checkbox"/> Return Receipt (electronic)	\$
<input type="checkbox"/> Certified Mail Restricted Delivery	\$
<input type="checkbox"/> Adult Signature Required	\$
<input type="checkbox"/> Adult Signature Restricted Delivery	\$

Postmark
Here

Postage	\$
Total F	\$

Sent To: Douglas A. Bordeaux
 Street: Billy E. Bordeaux Farm
 City, St: 98 Sweet Home Church Road
 Elizabethtown, NC 28337

nessa

PS Form 3811, April 2013 PSN 7530-02-000-9047 See Reverse for Instructions

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Douglas A. Bordeaux
 Billy E. Bordeaux Farm
 98 Sweet Home Church Road
 Elizabethtown, NC 28337

COMPLETE THIS SECTION

A. Signature
X Douglas Bordeaux

B. Received by (Printed Name)
Douglas Bordeaux

D. Is delivery address different from above?
If YES, enter delivery address

3. Service Type

<input type="checkbox"/> Certified Mail	<input type="checkbox"/> Express
<input type="checkbox"/> Registered	<input type="checkbox"/> Return Receipt
<input type="checkbox"/> Insured Mail	<input type="checkbox"/> C.O.D.

2. Article Number (Transfer from service label) **7016 2140 0000 0564 3654**