STATE OF NORTH CAROLINA

COUNTY OF DUPLIN

IN THE OFFICE OF

ADMINISTRATIVE HEARINGS

BER SER

HOUSE OF RAEFORD FARMS, INC., ADM	FFICE OF IN HEARINGS
PETITIONER,	
v. NORTH CAROLINA DEPARTMENT OF ENVIRONMENT AND) PETITION) FOR) CONTESTED CASE HEARING
NATURAL RESOURCES, DIVISION OF WATER QUALITY,) [DWQ CASE No. DV-2009-0046]
RESPONDENT. PERMIT No.: WQ0002005)))

HOUSE OF RAEFORD FARMS, INC. ("HORF"), Petitioner, a North Carolina corporation, hereby asks for a contested case hearing as provided for by North Carolina General Statute § 150B-23. In support of this Petition and in response to the August 10, 2010, Notice of Violation and Assessment of Civil Penalty issued against HORF in Case No. DV-2009-0046 ("Notice"), a conformed copy of which is attached hereto as "Exhibit A", by the NORTH CAROLINA DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES, DIVISION OF WATER QUALITY ("NCDENR"), HORF respectfully shows the following:

- 1. The allegations in Findings of Fact A and B in the Notice are admitted.
- 2. It is admitted that on September 10, 2009, Geof Kegley and Linda Willis with DWQ's Wilmington Regional Office inspected the House of Raeford Farms, Inc., Rose Hill Fresh facility located at 3333 U.S. Highway 117 South, Rose Hill, North Carolina. The Petitioner is without sufficient information to admit or deny the remaining allegations in paragraph C of the Findings of Fact and therefore denies the same.
- 3. The Petitioner is without sufficient information to admit or deny the allegations in paragraphs D and E of the Findings of Fact.
- 4. It is admitted that on September 15, 2009 Division Representatives met with Joe Teachey at the HORF-Rose Hill facility and requested access to the area of the facility located adjacent to Cabin Branch, directly behind the secondary wastewater lagoon. It is also admitted that Kenneth Rhame and Kevin LaPointe of the U.S. Environmental Protection Agency conducted an investigation. The Petitioner is without sufficient information to admit or deny the remaining allegations in paragraph F of the Findings of Fact.
- 5. The Petitioner does not have sufficient information to admit or deny the allegations in paragraphs G and H of the Findings of Fact.
- 6. The allegations in paragraphs I and J of the Findings of Fact constitute legal conclusions.
- 7. The Petitioner does not have sufficient information to admit or deny the allegations in paragraph K of the Findings of Fact.

- 8. The Conclusions of Law designated as A and B in the Notice are admitted.
- 9. The Conclusions of Law referred to as C and I are legal conclusions.
- 10. The allegations in Conclusions of Law paragraphs D, E, F, G, and H are all specifically denied.
- 11. If there was sludge or wastewater in Cabin Branch at the locations on the days alleged in the Notice, such conditions were not caused or permitted by HORF. Such conditions were likely present at those locations for an extended period of time and were likely caused by other participants and contributors unrelated to HORF in the vicinity of Cabin Branch.
- 12. In any event, HORF did not violate N.C. Gen. Stat. §143-215.1(a)(6) by causing or permitting a waste, directly or indirectly, to be discharged to or in any manner intermixed with the waters of the State in violation of water quality standards applicable to the assigned classifications.
- 13. Further, HORF did not violate 15A NCAC 2B .0211(3)(b) for causing the depletion of oxygen in Cabin Branch and Beaverdam Branch below the oxygen water quality standard for Class C-Sw waters of the State.
- 14. Further, HORF did not violate 15A NCAC 2B .0211(3)(c) for depositing floating solids and sludge in Cabin Branch and Beaverdam Branch or impairing it for its best use.
- 15. Thus, HORF was improperly assessed civil penalties in this matter as alleged in the Notice herein.
- 16. Inasmuch as the Petitioner has not violated the statutes and regulations as alleged in the Notice, the State's enforcement costs in this matter are improper and may not be assessed against HORF.
- 17. NCDENR has failed to comply with the requirements of N.C. Gen. Stat. §143-215.6A in determining the amount of the civil penalty. Therefore, the civil penalties and costs must be dismissed in whole or in part.
- 18. NCDENR has failed to properly apply the factors set forth in N.C. Gen. Stat. §143-282.1(b) in determining the amount of civil penalty. Therefore, the civil penalties and costs must be dismissed in whole or in part.
- 19. All allegations in the Notice not specifically admitted in this Petition are hereby denied.

WHEREFORE, based on the foregoing facts and allegations, in assessing the foregoing civil penalties and costs:

- 1. NCDENR has: (a) Deprived HORF of property; (b) Ordered HORF to pay a civil penalty and costs totaling \$76,357.95, and (c) Substantially prejudiced the rights of HORF as alleged above; AND
- 2. NCDENR has exceeded its authority and jurisdiction, acted erroneously, failed to use proper procedure, acted arbitrarily or capriciously, and failed to act as required by law or rule by: (a) Erroneously applying N.C. Gen. Stat. § 143-215.1(a)(6) and related statutes and the regulations promulgated thereunder; (b) Failing to use proper procedure under N.C. Gen. Stat. § 143-215.6A(c) and the related statutes and regulations

promulgated thereunder; (c) Acting arbitrarily or capriciously in applying N.C. Gen. Stat. § 143-215.1(a)(6), N.C. Gen. Stat. § 143-215.6A(c) and the related statutes and the regulations promulgated thereunder; and (d) Otherwise exceeding its authority and jurisdiction, acting erroneously, failing to use proper procedure, acting arbitrarily or capriciously, and failing to act as required by law or rule.

Respectfully submitted this the 3 day of September, 2010.

JORDAN PRICE WALL GRAY JONES & CARLTON, PLI

By:

N.C. Bar No. 8343

1951 Clark Avenue

P.O. Box 10669-0669

Raleigh, North Carolina 27605-0669

919.828.2501 Telephone: Facsimile:

919.834.8447

ATTORNEYS FOR PETITIONER, HOUSE OF RAEFORD FARMS, INC.

CERTIFICATE OF SERVICE

I certify that this Petition has been served on the State agency or board named below by depositing a copy of it with the United States Postal Service with sufficient postage affixed:

Mary Penny Thompson, Registered Agent [VIA CERTIFIED MAIL/RETURN RECEIPT REQUESTED]

Department of Environment and Natural Resources

1601 Mail Service Center

Raleigh, North Carolina 27699-1601

This the 31 day of September, 2010.

Henry



North Carolina Department of Environment and Natural Resources

Beverly Eaves Perdue Governor Division of Water Quality Coleen H. Sullins Director

Dee Freeman Secretary

August 10, 2010

CERTIFIED MAIL RETURN RECEIPT REQUESTED

7009-1680-0002-2464-7705

Mr. Robert C. Johnson, CEO House of Raeford Farms, Inc. P.O. Box 40 Rose Hill, North Carolina 28458-0040

SUBJECT:

Assessment of Civil Penalties for Violation(s) of

N.C. General Statute(s) 143-215.1(a)(6) and WQ0002005

House of Raeford Farms, Inc.

Rose Hill Fresh/IQF Chicken Plant

DWQ Enforcement Case DV-2009-0046

Duplin County

Dear Mr. Johnson:

This letter transmits notice of a civil penalty assessed against House of Raeford Farms, Inc., in the amount of \$76,357.95, including \$1,357.95 in enforcement costs.

Attached is a copy of the assessment document explaining this penalty. This action was taken under the authority vested in me pursuant to delegation provided by the Secretary of the Department of Environment and Natural 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 Environment and Natural Resources (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:

Point Source Branch
Division of Water Quality
1617 Mail Service Center
Raleigh, North Carolina 27699-1617

OR

1617 Mail Service Center, Ralelgh, North Carolina 27699-1617
Location: 512 N, Salisbury St. Ralelgh, North Carolina 27604
Phone: 919-807-6300 \ FAX: 919-807-6492 \ Customer Service: 1-877-623-6748
Internet: www.ncyalerquality.org
An Equal Opportunity \ Affirmative Action Employer





Page 2 of 3 DV-2009-0046 House of Raeford Farms, Inc. – Rose Hill

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 Quality at the address listed below. In determining whether a remission request will be approved, the following factors shall be considered:

- (a) 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;
- (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 has been assessed civil penalties for any previous violations; or
- (e) 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 the Division of Water Quality will review your evidence and inform you of his 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 Quality also requests that you complete and submit the enclosed "Justification for Remission Request." Both forms should be submitted to the following address:

Point Source Branch Division of Water Quality 1617 Mail Service Center Raleigh, NC 27699-1617

Page 3 of 3 DV-2009-0046 House of Raeford Farms, Inc. – Rose Hill

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 original and one (1) copy of the petition must be filed with the Office of Administrative Hearings. The petition may be faxed - provided the original and one copy of the document is received in the Office of Administrative Hearings within five (5) business days following the faxed transmission. The mailing address for the Office of Administrative Hearings is:

Office of Administrative Hearings 6714 Mail Service Center Raleigh, NC 27699-6714 Telephone (919) 733-2698 Facsimile: (919) 733-3478

A copy of the petition must also be served on DENR as follows:

Ms. Mary Penny Thompson, Registered Agent DENR Office of General Counsel 1601 Mail Service Center Raleigh, NC 27699-1601

Please indicate the case number (as found on page one of this letter) on the petition.

Failure to exercise one of the options above within thirty (30) days of receipt of this letter, 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 Maureen Scardina at (919) 807-6388.

Sincerely.

Coleen H. Sullins

ATTACHMENTS

c: DWQ/SWPS – Wilmington Regional Office

Enforcement File: DV-2009-0046

Central Files

STATE OF NORTH CAROLINA
COUNTY OF DUPLIN

NORTH CAROLINA DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES

CASE NO.: DV-2009-0046

IN THE MATTER OF ROBERT C. JOHNSON, CEO HOUSE OF RAEFORD FARMS, INC.)))	
ROSE HILL FRESH/IQF CHICKEN)	
PLANT FACILITY)))	FINDINGS AND DECISION ANDASSESSMENT OF CIVIL PENALTIES
FOR VIOLATION OF:)	
N.C.G.S. §143-215.1(a)(6) AND WQ0002005)	

Acting pursuant to delegation provided by the Secretary of the Department of Environment and Natural Resources, I, Jeff Poupart, Point Source Branch Chief for the Division of Water Quality (DWQ), make the following:

I. FINDINGS OF FACT:

- A. House of Raeford Farms, Inc. is a corporation organized and existing under the laws of the State of North Carolina.
- B. House of Raeford Farms, Inc. operates a chicken processing facility, the Rose Hill Fresh, IQF Chicken Plant, that is located at 3333 U.S. Highway 117 South, in Rose Hill, North Carolina. The facility does not have an NPDES Permit that allows the discharge of treated or untreated process wastewater to surface waters of the State.
- C. On September 10, 2009, Geof Kegley and Linda Willis with the DWQ Wilmington Regional Office ("Division Representatives") inspected the House of Raeford Farms Inc., Rose Hill Fresh ("HORF-Rose Hill") facility located at 3333 U.S. Highway 117 South, Rose Hill, North Carolina. The inspection was the result of a notification from a concerned citizen that Beaverdam Branch at the Sheffield Road and Brooks-Quinn Road crossings had a foul odor.
- D. On September 10, 2009, Division Representatives observed a film on the surface of the water at both Beaverdam Branch crossings; Sheffield Road and Brooks-Quinn Road.

- E. On September 10, 2009, dissolved oxygen was measured at both Beaverdam Branch crossings:
 - (1) Sheffield Road crossing = 0.19 milligrams per liter at a depth of 0.1 meters, and
 - (2) Brooks-Quinn Road crossing = 0.22 milligrams per liter at a depth of 0.3 meters.
- F. On September 15, 2009, Division Representatives met with Joe Teachey at the HORF-Rose Hill facility and requested access to the area of the facility located adjacent to Cabin Branch, directly behind their secondary wastewater lagoon. The Division Representatives observed Cabin Branch filled with sludge and had wastewater-like characteristics. Floating sludge was seen on the surface of Cabin Branch beginning directly behind their secondary wastewater lagoon and extending downstream to the confluence of Cabin Branch, and the lake behind the Parker Bark facility.

Kenneth Rhame and Kevin LaPointe, of the U.S. Environmental Protection Agency also conducted an investigation.

- G. No sludge was observed by Division or EPA representatives upstream of the HORF-Rose Hill facility at any time between September 10th and 23rd, 2009.
- H. The low dissolved oxygen condition in Beaverdam Branch persisted through September 23rd. Dissolved oxygen measurements taken on September 23rd were:
 - (1) Sheffield Road crossing = 0.5 milligrams per liter at depths of 0.1 and 1.0 meter
 - (2) Brooks-Quinn Road crossing = 0.14 milligrams per liter at a depth of 1.0 meter.
 - (3) Beaverdam Branch at Highway 117 just north of the Parker Bark facility = 0.6 milligrams-per liter
- I. Both Cabin Branch and Beaverdam Branch are classified as Class C-Sw waters of the State in the Cape Fear River Basin. The dissolved oxygen standard listed in 15A NCAC 2B .0211(3)(b) for waters classified as C-Sw is not less than a daily average of 5.0 milligrams per liter with a minimum instantaneous value of not less than 4.0 milligrams per liter; swamp waters, lake coves or backwaters, and lake bottom waters may have lower values if caused by natural conditions.
- J. The best usage for Class C-Sw waters as defined in 15A NCAC 2B .211(3)(b) states waters shall not make water unsafe or unsuitable for aquatic life and wildlife or impair the water for any designated uses. The floating solids and sludge observed in Cabin Branch and Beaverdam Branch impeded such use.

K. The costs to the State of the enforcement procedures in this matter totaled \$1,357.95.

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

II. CONCLUSIONS OF LAW:

- A. The HORF-Rose Hill facility is a "person" within the meaning of N.C. Gen. Stat. §143-215.6A pursuant to N.C. Gen. Stat. §143-212(4).
- B. The HORF-Rose Hill facility does not have an NPDES permit that allows the discharge of sludge or wastewater generated from chicken processing.
- C. Beaverdam Branch and Cabin Branch constitute waters of the State within the meaning of N.C. Gen. Stat. §143-215.1(a)(6) pursuant to N.C. Gen. Stat. §143-212(6).
- D. The HORF-Rose Hill facility violated N.C. Gen. Stat. §143-215.1(a)(6) by causing or permitting a waste, directly or indirectly, to be discharged to or in any manner intermixed with the waters of the State in violation of the water quality standards applicable to the assigned classifications.
- E. The HORF-Rose Hill facility violated 15A NCAC 2B .0211(3)(b) for causing the depletion of oxygen in Cabin Branch and Beaverdam Branch below the water quality standard for class C-Sw waters of the State.
- F. The HORF-Rose Hill facility violated 15A NCAC 2B .0211(3)(c) for depositing floating solids and sludge in Cabin Branch and Beaverdam Branch impairing it for its best use.
- G. The HORF-Rose Hill facility may be assessed civil penalties in this matter pursuant to N.C. Gen. Stat. §143-215.6A, which provides that a civil penalty of not more than twenty-five thousand dollars (\$25,000) may be assessed against any person who (1) violates any classification, standard, limitation or management practice established pursuant to N.C. Gen. Stat. §143-215.
- H. The State's enforcement costs in this matter may be assessed against HORF-Rose Hill facility pursuant to N.C. Gen. Stat. §143-215.3(a)(9) and N.C. Gen. Stat. §143B-282.1(b)(8).
- I. The Director of the Division of Water Quality, pursuant to delegation provided by the Secretary of the Department of Environment and Natural Resources, has the authority to assess civil penalties.

f---

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

III. <u>DECISION</u>:

Accordingly, House of Raeford Farms Inc. Rose Hill Fresh/IQF Chicken Plant facility is hereby assessed a civil penalty of:

\$ 2.5,000	For violation of N.C. Gen. Stat. §143-215.1(a)(6); causing or permitting waste to be discharged to or in any manner intermixed with the waters of the State in violation of water quality standards applicable to the assigned classifications or in violation of any effluent standards or limitations established for any point source, unless allowed as a condition of any permit, special order or other appropriate instrument issued or entered into by the Commission under the provisions of the Article.
\$ <u>25,000</u>	For violation of 15A NCAC 2B .0211(3)(b); violating the dissolved oxygen water quality standard for Class C-Sw waters of the State.
<u>\$ 25,000</u>	For violation of 15A NCAC 2B .0211(3)(c); by allowing settleable solids and sludge in excess of the water quality standard for Class C-Sw waters of the State.
\$ <i>75,000</i>	TOTAL CIVIL PENALTY
\$ <u>1,357.95</u>	Enforcement Costs
\$ <u>76,357.9</u> 5	TOTAL AMOUNT DUE

Pursuant to N.C. Gen. Stat. §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. Gen. Stat. §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.

Jeff Poupart

Point Source Branch Chief Division of Water Quality

Surface Water Protection Section

JUSTIFICATION FOR REMISSION REQUEST

DWQ Case Number:	DV-2009-0046	County: Duplin	
Assessed Entity:	House of Raeford Farms, 1	nc., Rose Hill Fresh/IQF Chicken Plant	
Permit No.:	WQ0002005	Amount Assessed:	
For Remission, Waiver remission of this civil p are necessary for the D request for remission is reasonableness of the procedure for contesting contained in the civil precivil penalty may be grafactor that you believe supporting documents, a	of Right to an Administrative benalty. You should attach any irrector to consider in evaluating limited to consideration of the amount of the civil penalty go whether the violation(s) occurately assessment document, anted only when one or more of a applies to your case and pas to why the factor applies (at the of the civil penalty assess the detriment of the petitions.	s civil penalty. You must also complete the "Regard Hearing, and Stipulation of Facts" form to request a documents that you believe support your request as your request for remission. Please be aware the five factors listed below as they may relate to assessed. Requesting remission is not the property or the accuracy of any of the factual statemed Pursuant to N.C.G.S. § 143B-282.1(c), remission of the following five factors apply. Please check enovide a detailed explanation, including copies tach additional pages as needed). Sement factors in N.C.G.S. 143B-282.1(b) were at the assessment factors are listed in the civil	uest and at a the oper ents of a each s of
(b) the violator	promptly abated continuing e	nvironmental damage resulting from the violation attion and prevent future occurrences);	
(c) the violation		f an accident (i.e., explain why the violation was	
(d) the violator	had not been assessed civil pe	nalties for any previous violations;	
(e) payment of actions (i.e., explain hornecessary to achieve con	w payment of the civil penalty	t payment for the remaining necessary remedial will prevent you from performing the activities	

EXPLANATION (Attach additional pages as necessary):

STATE OF NORTH CAROLINA COUNTY OF DUPLIN

DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES

THE MATTER OF CIVIL PENALTIF	S AGAINST) WAIVER OF RIGHT TO AN) ADMINSTRATIVE HEARING AND) STIPULATION OF FACTS
JSE OF RAEFORI SE HILL FRESH/I) FARMS, INC QF CHICKEN PLAN) (T)
MIT NO. WQ000	2005) FILE NO. DV-2009-0046
ek remission of t e-stated matter an	he civil penalty, does d does stipulate that t	for violation(s) as set forth in ter Quality dated, 2010, the undersigned, designer hereby waive the right to an administrative hearing in the facts are as alleged in the assessment document.
penalty must be s pt of the notice of (30) days from th	ubmitted to the direct fassessment. No nev e receipt of the notice	or of the Division of Water Quality within thirty (30) day evidence in support of a remission request will be allogof assessment.
penalty must be s pt of the notice of (30) days from th	ubmitted to the direct fassessment. No nev e receipt of the notice	or of the Division of Water Quality within thirty (30) day w evidence in support of a remission request will be allo
penalty must be s pt of the notice of (30) days from th	ubmitted to the direct fassessment. No nev e receipt of the notice	or of the Division of Water Quality within thirty (30) day evidence in support of a remission request will be allowed assessment.
penalty must be s pt of the notice of (30) days from th	ubmitted to the direct fassessment. No nev e receipt of the notice	or of the Division of Water Quality within thirty (30) day evidence in support of a remission request will be allow of assessment
penalty must be s pt of the notice of (30) days from th	ubmitted to the direct fassessment. No nev e receipt of the notice	or of the Division of Water Quality within thirty (30) day we vidence in support of a remission request will be allo of assessment
penalty must be s pt of the notice of (30) days from th	ubmitted to the direct fassessment. No nev e receipt of the notice	or of the Division of Water Quality within thirty (30) day we vidence in support of a remission request will be allo of assessment
penalty must be sipt of the notice of (30) days from the	ubmitted to the direct fassessment. No nev e receipt of the notice	, 2010SIGNATURE

JORDAN PRICE WALL GRAY JONES & CARLTON

A PROFESSIONAL LIMITED LIABILITY COMPANY
2010 SEP 13 PM 12: 11951 CLARK AVENUE
RALEIGH, NORTH CAROLINA 27605-0669

(919) 828-2501

OFFICE OF ADMIN HEARINGS

MAILING ADDRESS

Post Office Box 10669 RALEIGH, N.C. 27605-0669

www.jordanprice.com

STEPHEN R. DOLAN ATTORNEY-AT-LAW

FACSIMILE: (919) 834-8447

13 September 2010

sdolan@jordanprice.com

Ms. Maria G. Erwin Deputy Clerk Office of Administrative Hearings 1711 New Hope Church Road Raleigh, NC 27609-6285

VIA HAND DELIVERY

RE:

House of Raeford Farms, Inc. v. North Carolina Department of Environment and Natural Resources Division of Water Quality

10 EHR 5508

Dear Ms. Erwin:

Enclosed please find Law Office Check in the amount of \$125.00 payable to the Office of Administrative Hearings for filing fees in the captioned matter and in response to your letter of 8 September 2010, postmarked 9 September, 2010, and received this morning, and recent emergency rule imposing same.

By way of further clarification, this will certify that the undersigned hand-delivered, personally appeared and presented the original Petition for filing on 3 September 2010, at which time I was not notified of the requisite filing fee and the Petition was file-stamped, with copies being given to me at that time. In any event, the Petition was filed at least one week early.

Please let us know if you have any further questions or require additional inforamtion.

Very truly yours,

JORDAN PRICE WALL GRAY JONES & CARLTON, PLLC

Stephen R. Dolan

Enclosure

icc: Henry W. Jones, Jr.

1#52438 13500 9/13/10



STATE OF NORTH CAROLINA OFFICE OF ADMINISTRATIVE HEARINGS

Mailing Address: 6714 Mail Service Center Raleigh, NC 27699-6714 Street address: 1711 New Hope Church Rd. Raleigh, NC 27609

September 8, 2010

Henry W. Jones Jr.
Jordan Price Wall Gray Jones & Carlton, PLLC
Attorneys at Law
PO Box 10669
Raleigh, NC 27605-0669

Re: House of Raeford Farms Inc. v. North Carolina Department of Environment and Natural Resources Division of Water Quality 10 EHR 5508

Dear Mr. Jones Jr.:

Your Petition was received on September 3, 2010. According to G.S. 150B-23 of the Administrative Procedure Act, a contested case must be started by filing a petition as provided below.

* You must include a filing fee of \$125.00 in order for your petition to be processed. NO PERSONAL or CORPORATE CHECKS ACCEPTED. Cash, money order, certified check or check drawn on an attorneys account made payable to the Office of Administrative Hearings are the only means of payment accepted.

You are responsible for meeting the filing time limit set by law for your type of case. Your Petition must be filed within the time limit set by the State or Federal law or rule especially related to your type of case.

If there is no special time limit set by law for your particular type of case, the general time limit for filing a petition is sixty (60) days from the date that the agency mailed to you the notice of the decision that you are appealing and the notice of your appeal rights. G.S. 150B-23(f).

By accepting your incomplete document for filing, this office can make no assurance to you that you have met the required time limit, if that issue is later raised by an opposing party.

If this office can be of any further assistance, please let us know.

Sincerely,

Maria G. enui

Deputy Clerk

Enclosure

cc: Amanda Foster