



INDIANA DEPARTMENT OF ENVIRONMENTAL MANAGEMENT

We Protect Hoosiers and Our Environment.

100 N. Senate Avenue • Indianapolis, IN 46204
(800) 451-6027 • (317) 232-8603 • www.idem.IN.gov

Eric J. Holcomb
Governor

Brian C. Rockensuess
Commissioner

January 4, 2022

Via E-Mail:

Alan and Victoria Schroll
Schroll Dairy Farm
4648 E Co Rd 800 N
North Manchester, Indiana 46962
mjschrollfamily@gmail.com

Dear Mr. and Ms. Schroll:

Re: Notice of Violation and Proposed Agreed Order
Alan and Victoria Schroll d.b.a. Schroll Dairy Farm
Case No. 2021-28320-C
North Manchester, Wabash County

Qualified offer of settlement: inadmissible per Rule 408 of the Ind. Rules of Evidence. IDEM asserts that any offer to compromise a claim or any acceptance of such offer does not bind or obligate the parties of this enforcement action in the absence of a final order of the agency.

IDEM conducted an investigation of the farm located at 4648 E Co Rd 800 N, in North Manchester, Wabash County and has made a preliminary determination that violations of environmental management laws, rules, and/or permit exist. Per IC 13-30-3-3, enclosed please find a Notice of Violation that sets forth the alleged violations and a proposed Agreed Order which constitutes a qualified offer of settlement.

You may request a settlement conference to discuss the allegations and the actions necessary to correct and resolve the violations, which may include injunctive relief and the establishment of a compliance schedule. Payment of a civil penalty will also be discussed. The civil penalty amount noted in the proposed Agreed Order contains a preliminary penalty figure for settlement discussion purposes only and is based on penalty calculations associated with the alleged violations set forth in the Notice of Violation.

The individual signing the enclosed Agreed Order should be fully authorized to execute the document and legally bind the parties. The timely entry into an Agreed Order, which saves you and IDEM time and resources, may lead to a reduction in the civil penalty.

IDEM is not required to extend the offer of entry into an Agreed Order for more than 60 days. You may enter into an Agreed Order without admitting that the violations occurred. Additionally, to encourage a timely agreement, IDEM may offer a onetime twenty percent reduction (20%) to the Civil Penalty for 60 days after receipt of this Notice of Violation.

If an Agreed Order is not entered into, IDEM may proceed to issue a unilateral notice and order requiring compliance with the environmental laws, rules, and/or permit, including payment of a civil penalty. Please contact me at (317) 233-5954 or via email at lmccclure@idem.IN.gov if you have any questions or if you wish to request a settlement conference.

Sincerely,



Linda L. McClure
Senior Environmental Manager
Enforcement Section
Office of Land Quality

Enclosures

cc: Wabash County Health Department
Corey Webb, IDEM OLQ, Deputy Assistant Commissioner
Julia Wickard, IDEM, Office of Program Support, Assistant Commissioner and Agricultural Liaison
Diana Toth, IDEM OLQ Compliance
IDEM Virtual File Cabinet



INDIANA DEPARTMENT OF ENVIRONMENTAL MANAGEMENT

We Protect Hoosiers and Our Environment.

100 N. Senate Avenue • Indianapolis, IN 46204

(800) 451-6027 • (317) 232-8603 • www.idem.IN.gov

Eric J. Holcomb
Governor

Brian C. Rockensuess
Commissioner

NOTICE OF VIOLATION

Via E-Mail:

Alan and Victoria Schroll
Schroll Dairy Farm
4648 E CO Rd 800 N
North Manchester, Indiana 46962
mjschrollfamily@gmail.com

Case No: **2021-28320-C**

Pursuant to Indiana Code (“IC”) 13-30-3-3, the Indiana Department of Environmental Management (“IDEM”) issues this Notice of Violation. Based on an investigation including an inspection conducted on October 14, 2021, by an IDEM representative, IDEM has reason to believe Alan and Victoria Schroll d.b.a. Schroll Dairy Farm (“Respondents”) violated environmental statutes and rules. The violations are based on the following:

1. Respondents are Alan and Victoria Schroll d.b.a. Schroll Dairy Farm, who own and operate the farm, located at 4643 E CR 800 N, in North Manchester, Wabash County, Indiana (“Site”).
2. Pursuant to 327 IAC 5-2-2, any discharge of pollutants into waters of the state as a point source discharge, except for exclusions made in 327 IAC 5-2-1.8, is prohibited unless in conformity with a valid NPDES permit obtained prior to the discharge.

During the inspection on October 14, 2021, IDEM staff observed and documented milking parlor wastewater discharging from a pipe, a point source discharge, into an unnamed creek.

3. Pursuant to IC 13-18-4-5, a person may not: (1) throw, run, drain, or otherwise dispose; or (2) cause, permit, or suffer to be thrown, run, drained, allowed to seep, or otherwise disposed; into any of the streams or waters of Indiana any organic or inorganic matter that causes or contributes to a polluted condition of any of the streams or waters of Indiana.

Pursuant to IC 13-30-2-1(1), it is unlawful for any person to discharge, emit, cause or allow any contaminant or waste, including any noxious odor, either alone or in combination with contaminants from other sources in the environment in any form that causes or would cause pollution that violates or would violate rules, standards, or discharge or emission requirements adopted by the appropriate board under the environmental management laws.

Pursuant to 327 IAC 2-1-6(a)(1), all surface waters at all times and at all places, including the mixing zone, shall meet the minimum conditions of being free from substances, materials, floating debris, oil or scum attributable to municipal, industrial, agricultural, and other land use practices or other discharges that do any of the following:

- a. will settle to form putrescent or otherwise objectionable deposits;
- b. are in amounts sufficient to be unsightly or deleterious;
- c. produce color, visible oil sheen, odor, or other conditions in such degree as to create a nuisance;
- d. are in concentrations or combinations that will cause or contribute to the growth of aquatic plants or algae to such degree as to create a nuisance, be unsightly, or otherwise impair the designated uses; or
- e. are in amounts sufficient to be acutely toxic to, or to otherwise severely injure or kill aquatic life, other animals, plants, or humans.

During the inspection on October 14, 2021, IDEM staff observed and documented milking parlor wastewater discharging into an unnamed creek, a water of the state, resulting in white cloudy water. In addition, ammonia nitrogen field tests, conducted on October 14, 2021, obtained readings of 1 part per million ("ppm") at the pipe discharge and 8 ppm at a culvert located near E CR 800 N.

Pursuant to IC 13-30-3-3, the Commissioner herein provides notice that the violations may exist and offers an opportunity to enter into an Agreed Order providing for the actions required to correct the violations and, as necessary and appropriate, for the payment of a civil penalty. The Commissioner is not required to extend this offer for more than sixty (60) days.

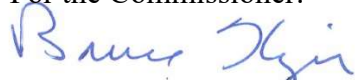
Pursuant to IC 13-30-3-3, an alleged violator may enter into an Agreed Order without admitting the violations occurred. IDEM encourages settlement by Agreed Order, thereby resulting in quicker correction of the environmental violations and avoidance of extensive litigation. Timely settlement by Agreed Order may result in a reduced civil penalty. Also, settlement discussions will allow Respondents the opportunity to present any mitigating factors that may be relevant to the violations.

If an Agreed Order is not entered into within sixty (60) days of receipt of this Notice of Violation, the Commissioner may issue a Notice and Order under IC 13-30-3-4 containing the actions that must be taken to correct the violations and requiring the payment of an appropriate civil penalty. Pursuant to IC 13-30-4-1, the Commissioner may assess penalties of up to \$25,000 per day for each violation.

Please contact Linda McClure at (317) 233-5954 or lmccclure@idem.IN.gov within fifteen (15) days of receipt of this Notice to discuss resolution of this matter.

Date: 1/3/2022

For the Commissioner:



Bruce Kizer, Branch Chief
Compliance Branch
Office of Land Quality

INDIANA DEPARTMENT OF ENVIRONMENTAL MANAGEMENT

We Protect Hoosiers and Our Environment.

100 N. Senate Avenue • Indianapolis, IN 46204
(800) 451-6027 • (317) 232-8603 • www.idem.IN.gov

Eric J. Holcomb
Governor

Brian C. Rockensuess
Commissioner

STATE OF INDIANA) SS: BEFORE THE INDIANA DEPARTMENT OF
)
COUNTY OF MARION) ENVIRONMENTAL MANAGEMENT

COMMISSIONER OF THE DEPARTMENT)
OF ENVIRONMENTAL MANAGEMENT,)
)
Complainant,)
)
v.) Case No. 2021-28320-C
)
ALAN AND VICTORIA SCHROLL)
D.B.A. SCHROLL DAIRY FARM,)
)
Respondents.)

AGREED ORDER

Complainant and Respondents desire to settle and compromise this action without hearing or adjudication of any issue of fact or law, and consent to the entry of the following Findings of Fact and Order. Pursuant to Indiana Code ("IC") 13-30-3-3, entry into the terms of this Agreed Order does not constitute an admission of any violation contained herein. Respondents' entry into this Agreed Order shall not constitute a waiver of any defense, legal or equitable, which Respondents may have in any future administrative or judicial proceeding, except a proceeding to enforce this order.

I. FINDINGS OF FACT

1. Complainant is the Commissioner (“Complainant”) of the Indiana Department of Environmental Management (“IDEM”), a department of the State of Indiana created by IC 13-13-1-1.
2. Respondents are Alan and Victoria Schroll d.b.a. Schroll Dairy Farm, who own and operate the farm located at 4643 E CR 800 N, in North Manchester, Wabash County, Indiana (“Site”).
3. IDEM has jurisdiction over the parties and the subject matter of this action.
4. Pursuant to IC 13-30-3-3, IDEM issued a Notice of Violation (“NOV”) via Certified Mail and electronic mail to:

Alan and Victoria Schroll
Schroll Dairy Farm
4648 E CO Rd 800 N
North Manchester, Indiana 46962
mjschrollfamily@gmail.com

5. During an investigation including an inspection on October 14, 2021, conducted by a representative of IDEM, the following violations were found:

- a. Pursuant to 327 IAC 5-2-2, any discharge of pollutants into waters of the state as a point source discharge, except for exclusions made in 327 IAC 5-2-1.8, is prohibited unless in conformity with a valid NPDES permit obtained prior to the discharge.

During the inspection on October 14, 2021, IDEM staff observed and documented milking parlor wastewater discharging from a pipe, a point source discharge.

- b. Pursuant to IC 13-18-4-5, a person may not: (1) throw, run, drain, or otherwise dispose; or (2) cause, permit, or suffer to be thrown, run, drained, allowed to seep, or otherwise disposed; into any of the streams or waters of Indiana any organic or inorganic matter that causes or contributes to a polluted condition of any of the streams or waters of Indiana.

Pursuant to IC 13-30-2-1(1), it is unlawful for any person to discharge, emit, cause or allow any contaminant or waste, including any noxious odor, either alone or in combination with contaminants from other sources in the environment in any form that causes or would cause pollution that violates or would violate rules, standards, or discharge or emission requirements adopted by the appropriate board under the environmental management laws.

Pursuant to 327 IAC 2-1-6(a)(1), all surface waters at all times and at all places, including the mixing zone, shall meet the minimum conditions of being free from substances, materials, floating debris, oil or scum attributable to municipal, industrial, agricultural, and other land use practices or other discharges that do any of the following:

- a. will settle to form putrescent or otherwise objectionable deposits;
- b. are in amounts sufficient to be unsightly or deleterious;
- c. produce color, visible oil sheen, odor, or other conditions in such degree as to create a nuisance;
- d. are in concentrations or combinations that will cause or contribute to the growth of aquatic plants or algae to such degree as to create a nuisance, be unsightly, or otherwise impair the designated uses; or
- e. are in amounts sufficient to be acutely toxic to, or to otherwise severely injure or kill aquatic life, other animals, plants, or humans.

During the inspection on October 14, 2021, IDEM staff observed and documented milking parlor wastewater discharging into an unnamed creek, a water of the state, resulting in white cloudy water. In addition, ammonia nitrogen field tests, conducted on October 14, 2021, obtained readings of 1 part per million (“ppm”) at the pipe discharge and 8 ppm at a culvert located near E CR 800 N.

6. Orders of the Commissioner are subject to administrative review by the Office of Environmental Adjudication under IC 4-21.5; however, in recognition of the settlement reached, Respondents acknowledge notice of this right and waives any right to administrative and judicial review of this Agreed Order.

II. ORDER

1. This Agreed Order shall be effective (“Effective Date”) when it is approved by Complainant or Complainant’s delegate and has been received by Respondents. This Agreed Order shall have no force or effect until the Effective Date.
2. Respondents shall comply with the statutes and rules listed in the findings of fact above.
3. Immediately upon the Effective Date, Respondents shall ensure the milking parlor wastewater is not discharged or drained to the sump thereby resulting in a discharge from the Site to waters of the state.
4. Within thirty (30) days of the Effective Date, Respondent shall prevent pumping and/or draining of milking parlor wastewater from entering the sump. Respondents shall submit documentation, to include photographs, of how this was achieved. An enforcement follow-up inspection will confirm the success of Respondents’ implementation.
5. All submittals required by this Agreed Order, unless IDEM notifies the Respondents otherwise in writing, shall be sent to:

Linda McClure, Enforcement Case Manager
Office of Land Quality
Indiana Department of Environmental Management
100 North Senate Avenue
Indianapolis, IN 46204-2251

6. Pursuant to IC 13-30-4-1, Respondents are assessed and agree to pay a civil penalty of Eleven Thousand Two Hundred and Fifty Dollars (\$11,250). Respondents are jointly and severally liable for all civil penalty assessments, including stipulated penalties. Said penalty amount shall be due and payable to the “Environmental Management Special Fund” within thirty (30) days of the Effective Date; the thirtieth day being the “Due Date.”
7. In the event the terms and conditions of the following paragraphs are violated, Complainant may assess and Respondents shall pay stipulated penalties in the following amounts:

Paragraph

3

Stipulated Penalty

\$150 per week

8. Stipulated penalties shall be due and payable no later than the thirtieth day after Respondents receive written notice that Complainant has determined a stipulated penalty is due; the thirtieth day being the “Due Date.” Complainant may notify Respondents at any time that a stipulated penalty is due. Failure to notify Respondents in writing in a timely manner of a stipulated penalty assessment shall not waive Complainant’s right to collect such stipulated penalty or preclude Complainant from seeking additional relief against Respondents for violation of this Agreed Order. Neither assessment nor payment of stipulated penalties shall preclude Complainant from seeking additional relief against Respondents for a violation of this Agreed Order; such additional relief includes any remedies or sanctions available pursuant to Indiana law, including, but not limited to, civil penalties pursuant to IC 13-30-4. Respondents are jointly and severally liable for all stipulated penalty assessments.
9. Civil and stipulated penalties are payable by check to the “Environmental Management Special Fund.” Checks shall include the Case Number of this action and shall be mailed to:

Indiana Department of Environmental Management
Accounts Receivable
IGCN, Room 1340
100 North Senate Avenue
Indianapolis, IN 46204
10. In the event that the monies due to IDEM pursuant to this Agreed Order are not paid on or before their Due Date, Respondents shall pay interest on the unpaid balance at the rate established by IC 24-4.6-1. The interest shall be computed as having accrued from the Due Date until the date that Respondents pay any unpaid balance. Such interest shall be payable to the “Environmental Management Special Fund” and shall be payable to IDEM in the manner specified in Paragraph 9 above.
11. Signatories to this Agreed Order certify that they are fully authorized to execute this Agreed Order and legally bind the party they represent.
12. This Agreed Order shall jointly and severally apply to and be binding upon Respondents and all successors and assigns. Respondents shall provide a copy of this Agreed Order, if in force, to any subsequent owners, successors, or assigns before ownership rights are transferred.
13. No change in ownership, corporate, or partnership status of Respondents shall in any way alter the Respondents’ status or responsibilities under this Agreed Order.
14. Respondents shall ensure that all contractors, firms, and other persons performing work under this Agreed Order comply with the terms of this Agreed Order.

15. In the event that any terms of this Agreed Order are found to be invalid, the remaining terms shall remain in full force and effect and shall be construed and enforced as if this Agreed Order did not contain the invalid terms.
16. This Agreed Order is not and shall not be interpreted to be a permit or a modification of an existing permit. This Agreed Order, and IDEM's review or approval of any submittal made by Respondents pursuant to this Agreed Order, shall not in any way relieve Respondents of the obligation to comply with the requirements of any applicable permits or any applicable Federal or State laws or regulations.
17. Complainant does not, by its approval of this Agreed Order, warrant or aver in any manner that Respondents' compliance with any aspect of this Agreed Order will result in compliance with the provisions of any permit, order, or any applicable Federal or State law or regulation. Additionally, IDEM or anyone acting on its behalf shall not be held liable for any costs or penalties Respondents may incur as a result of Respondents' efforts to comply with this Agreed Order.
18. Nothing in this Agreed Order shall prevent or limit IDEM's rights to obtain penalties or injunctive relief under any applicable Federal or State law or regulation, except that IDEM may not, and hereby waives its right to seek additional civil penalties for the violations specified in the NOV.
19. Nothing in this Agreed Order shall prevent IDEM or anyone acting on its behalf from communicating with the U.S. Environmental Protection Agency (U.S. EPA) or any other agency or entity about any matters relating to this enforcement action. IDEM or anyone acting on its behalf shall not be held liable for any costs or penalties Respondents may incur as a result of such communications with the U.S. EPA or any other agency or entity.
20. This Agreed Order shall remain in effect until IDEM issues a Resolution of Case letter to Respondents.

REMAINDER OF PAGE LEFT BLANK INTENTIONALLY

TECHNICAL RECOMMENDATION:
Department of Environmental Management

RESPONDENT:

By: Jennifer Reno
Jennifer Reno, Chief
Land Enforcement Section
Compliance Branch
Office of Land Quality

By: _____
Printed: _____
Title: _____

Date: 12/21/2021

Date: _____

COUNSEL FOR RESPONDENT:

By: _____
Printed: _____
Date: _____

APPROVED AND ADOPTED BY THE INDIANA DEPARTMENT OF ENVIRONMENTAL
MANAGEMENT THIS _____ DAY OF _____, 20____

For the Commissioner:

Peggy Dorsey
Assistant Commissioner
Office of Land Quality