Executive Summary – Enforcement Matter – Case No. 40838
Robert L. Rodriguez, Jr. dba Robert & Robert
RN105623623
Docket No. 2010-1994-SLG-E

Order Type:
1660 Agreed Order
Findings Order Justification:
N/A
Media:
SLG
Small Business:
Yes
Location(s) Where Violation(s) Occurred:
Robert & Robert, 14601 Plover Place, Del Valle, Travis County
Type of Operation:
Sludge transporter business
Other Significant Matters:
Additional Pending Enforcement Actions: No
Past-Due Penalties: No
Other: N/A
Interested Third-Parties: The complainant has expressed an interest in this matter but does not wish to speak at Agenda.
Texas Register Publication Date: May 27, 2011
Comments Received: No

Penalty Information

Total Penalty Assessed: $1,020
Amount Deferred for Expedited Settlement: $204
Amount Deferred for Financial Inability to Pay: $0
Total Paid to General Revenue: $116
Total Due to General Revenue: $700
Payment Plan: 7 payments of $100 each
SEP Conditional Offset: $0
Name of SEP: N/A
Compliance History Classifications:
Person/CN - Average
Site/RN - Average
Major Source: No
Statutory Limit Adjustment: N/A
Applicable Penalty Policy: September 2002

Executive Summary – Enforcement Matter – Case No. 40838
Robert L. Rodriguez, Jr. dba Robert & Robert
RN105623623
Docket No. 2010-1994-SLG-E

Investigation Information

Complaint Date(s): August 27, 2010
Complaint Information: A complaint was received alleging that the Respondent stored waste and began dumping contents on the ground, causing nuisance odors.
Date(s) of Investigation: September 23, 2010
Date(s) of NOE(s): November 24, 2010

Violation Information

1. Failed to deposit wastes at a facility that has written authorization by permit or registration issued by the Executive Director to receive wastes. Specifically, the Respondent discharged grease-trap waste onto property located at 14601 Plover Place, Del Valle, Travis County, Texas [TEX. WATER CODE § 26.121(a)(2) and 30 TEX. ADMIN. CODE § 312.143].

2. Failed to pay the fiscal year 2010 TCEQ Waste Management Sludge Haulers fee and associated late fees for Account No. 0804049H [30 TEX. ADMIN. CODE § 312.9 and TEX. WATER CODE § 5.702].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

N/A

Technical Requirements:

The Order will require the Respondent to:

a. Immediately, cease disposing of grease-trap waste at the unauthorized Site;

b. Within 15 days, remove any remaining grease-trap waste, disinfect affected area, and dispose of the waste at an authorized facility;

c. Within 30 days:

i. Pay the outstanding fiscal year 2010 TCEQ Waste Management Sludge Haulers fee, including any associated penalties and interest for Account No. 0804049H; and

ii. Submit written certification demonstrating compliance.

Litigation Information

Date Petition(s) Filed: N/A
Date Answer(s) Filed: N/A
SOAH Referral Date: N/A
Hearing Date(s): N/A
Settlement Date: N/A

Executive Summary – Enforcement Matter – Case No. 40838
Robert L. Rodriguez, Jr. dba Robert & Robert
RN105623623
Docket No. 2010-1994-SLG-E

Contact Information

TCEQ Attorney: N/A
TCEQ Enforcement Coordinator: JR Cao, Enforcement Division, Enforcement Team 1, MC 169, (512) 239-2543; Laurie Eaves, Enforcement Division, MC 219, (512) 239-4495
TCEQ SEP Coordinator: N/A
Respondent: Robert L. Rodriguez, Jr., Owner, Robert & Robert, 9304 Pioneer Forest Drive, Austin, Texas 78744
Respondent's Attorney: N/A

Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002) — *PCW Revision October 30, 2008*

TCEQ

DATES					
Assigned	29-Nov-2010				
PCW	9-Dec-2010	Screening	9-Dec-2010	EPA Due	

RESPONDENT/FACILITY INFORMATION

Respondent	Robert L. Rodriguez, Jr. dba Robert & Robert		
Reg. Ent. Ref. No.	RN105623623		
Facility/Site Region	11-Austin	Major/Minor Source	Minor

CASE INFORMATION

Enf./Case ID No.	40838	No. of Violations	2
Docket No.	2010-1994-SLG-E	Order Type	1660
Media Program(s)	Water Quality	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	JR Cao
		EC's Team	Enforcement Team 1

Admin. Penalty $ Limit Minimum $0 Maximum $10,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties) — *Subtotal 1* **$1,000**

ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

Compliance History 2.0% Enhancement — *Subtotals 2, 3, & 7* **$20**

Notes: Enhancement for one NOV with dissimilar violation.

Culpability No 0.0% Enhancement — *Subtotal 4* **$0**

Notes: The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply Total Adjustments — *Subtotal 5* **$0**

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

Total EB Amounts $11
Approx. Cost of Compliance $300
**Capped at the Total EB $ Amount*

SUM OF SUBTOTALS 1-7 — *Final Subtotal* **$1,020**

OTHER FACTORS AS JUSTICE MAY REQUIRE 0.0% — *Adjustment*

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

Final Penalty Amount **$1,020**

STATUTORY LIMIT ADJUSTMENT — *Final Assessed Penalty* **$1,020**

DEFERRAL 20.0% Reduction — *Adjustment* **-$204**

Reduces the Final Assessed Penalty by the indicted percentage. *(Enter number only; e.g. 20 for 20% reduction.)*

Notes: Deferral offered for expedited settlement.

PAYABLE PENALTY **$816**

Screening Date 9-Dec-2010 **Docket No.** 2010-1994-SLG-E **PCW**

Respondent Robert L. Rodriguez, Jr. dba Robert & Robert *Policy Revision 2 (September 2002)*

Case ID No. 40838 *PCW Revision October 30, 2008*

Reg. Ent. Reference No. RN105623623

Media [Statute] Water Quality

Enf. Coordinator JR Cao

Compliance History Worksheet

>> Compliance History *Site* Enhancement (Subtotal 2)

Component	Number of...	*Enter Number Here*	Adjust.
NOVs	Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action (*number of NOVs meeting criteria*)	0	0%
	Other written NOVs	1	2%
Orders	Any agreed final enforcement orders containing a denial of liability (*number of orders meeting criteria*)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (*number of judgements or consent decrees meeting criteria*)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (*number of counts*)	0	0%
Emissions	Chronic excessive emissions events (*number of events*)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 *(number of audits for which notices were submitted)*	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (*number of audits for which violations were disclosed*)	0	0%

		Please Enter Yes or No	
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 2%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Average Performer

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance History Notes

Enhancement for one NOV with dissimilar violation.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 2%

Screening Date 9-Dec-2010 **Docket No.** 2010-1994-SLG-E **PCW**

Respondent Robert L. Rodriguez, Jr. dba Robert & Robert *Policy Revision 2 (September 2002)*

Case ID No. 40838 *PCW Revision October 30, 2008*

Reg. Ent. Reference No. RN105623623

Media [Statute] Water Quality

Enf. Coordinator JR Cao

Violation Number 1

Rule Cite(s) Tex. Water Code § 26.121(a)(2) and 30 Tex. Admin. Code § 312.143

Violation Description Failed to deposit wastes at a facility that has written authorization by permit or registration issued by the Executive Director to receive wastes, as documented during an investigation conducted on September 23, 2010. Specifically, the Respondent discharged grease-trap waste onto property located at 14601 Plover Place, Del Valle, Travis County, Texas.

Base Penalty $10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm: Major	Moderate	Minor
Actual			x
Potential			

Percent 10%

>>Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0%

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

Adjustment $9,000

$1,000

Violation Events

Number of Violation Events 1 — 77 Number of violation days

mark only one with an x

daily	
weekly	
monthly	
quarterly	x
semiannual	
annual	
single event	

Violation Base Penalty $1,000

One quarterly event is recommended from the date of the investigation (September 23, 2010) to the date of screening (December 9, 2010).

Good Faith Efforts to Comply

0.0% Reduction $0

	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary		
N/A	x	(mark with x)

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

Violation Subtotal $1,000

Economic Benefit (EB) for this violation

Estimated EB Amount $11

Statutory Limit Test

Violation Final Penalty Total $1,020

This violation Final Assessed Penalty (adjusted for limits) $1,020

Economic Benefit Worksheet

Respondent Robert L. Rodriguez, Jr. dba Robert & Robert
Case ID No. 40838
Reg. Ent. Reference No. RN105623623
Media Water Quality
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
	No commas or $						
Delayed Costs							
Equipment				0.00	$0	$0	$0
Buildings				0.00	$0	$0	$0
Other (as needed)				0.00	$0	$0	$0
Engineering/construction				0.00	$0	$0	$0
Land				0.00	$0	n/a	$0
Record Keeping System				0.00	$0	n/a	$0
Training/Sampling				0.00	$0	n/a	$0
Remediation/Disposal				0.00	$0	n/a	$0
Permit Costs				0.00	$0	n/a	$0
Other (as needed)	$300	23-Sep-2010	7-Jun-2011	0.70	$11	n/a	$11

Notes for DELAYED costs Estimated cost to properly dispose of the grease-trap waste at an authorized facility. Date required is the date of the investigation. Final date is the anticipated date of compliance.

Avoided Costs	ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)						
Disposal				0.00	$0	$0	$0
Personnel				0.00	$0	$0	$0
Inspection/Reporting/Sampling				0.00	$0	$0	$0
Supplies/equipment				0.00	$0	$0	$0
Financial Assurance [2]				0.00	$0	$0	$0
ONE-TIME avoided costs [3]				0.00	$0	$0	$0
Other (as needed)				0.00	$0	$0	$0

Notes for AVOIDED costs

Approx. Cost of Compliance $300

TOTAL $11

Screening Date 9-Dec-2010 **Docket No.** 2010-1994-SLG-E **PCW**

Respondent Robert L. Rodriguez, Jr. dba Robert & Robert *Policy Revision 2 (September 2002)*

Case ID No. 40838 *PCW Revision October 30, 2008*

Reg. Ent. Reference No. RN105623623

Media [Statute] Water Quality

Enf. Coordinator JR Cao

Violation Number 2

Rule Cite(s) 30 Tex. Admin. Code § 312.9 and Tex. Water Code § 5.702

Violation Description Failed to pay the fiscal year 2010 TCEQ Waste Management Sludge Haulers fee and associated late fees for Account No. 0804049H.

Base Penalty $10,000

>> Environmental, Property and Human Health Matrix

OR	Release	Harm: Major	Moderate	Minor
	Actual			
	Potential			

Percent 0%

>>Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0%

Matrix Notes: No penalty is assessed for this violation, as penalty and interest will be assessed in the next billing cycle.

Adjustment $10,000

$0

Violation Events

Number of Violation Events _____ Number of violation days _____

mark only one with an x

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	

Violation Base Penalty $0

Good Faith Efforts to Comply

0.0% Reduction $0

	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary		
N/A		(mark with x)

Notes

Violation Subtotal $0

Economic Benefit (EB) for this violation

Estimated EB Amount $0

Statutory Limit Test

Violation Final Penalty Total $0

This violation Final Assessed Penalty (adjusted for limits) $0

Economic Benefit Worksheet

Respondent Robert L. Rodriguez, Jr. dba Robert & Robert
Case ID No. 40838
Reg. Ent. Reference No. RN105623623
Media Water Quality
Violation No. 2

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
	No commas or $						
Delayed Costs							
Equipment				0.00	$0	$0	$0
Buildings				0.00	$0	$0	$0
Other (as needed)				0.00	$0	$0	$0
Engineering/construction				0.00	$0	$0	$0
Land				0.00	$0	n/a	$0
Record Keeping System				0.00	$0	n/a	$0
Training/Sampling				0.00	$0	n/a	$0
Remediation/Disposal				0.00	$0	n/a	$0
Permit Costs				0.00	$0	n/a	$0
Other (as needed)				0.00	$0	n/a	$0
Notes for DELAYED costs	N/A						
Avoided Costs	ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)						
Disposal				0.00	$0	$0	$0
Personnel				0.00	$0	$0	$0
Inspection/Reporting/Sampling				0.00	$0	$0	$0
Supplies/equipment				0.00	$0	$0	$0
Financial Assurance [2]				0.00	$0	$0	$0
ONE-TIME avoided costs [3]				0.00	$0	$0	$0
Other (as needed)				0.00	$0	$0	$0
Notes for AVOIDED costs							

Approx. Cost of Compliance $0

TOTAL $0

Compliance History

Customer/Respondent/Owner-Operator: CN603408113 RODRIGUEZ, ROBERT L JR Classification: AVERAGE Rating: 1.00

Regulated Entity: RN105623623 ROBERT & ROBERT Classification: AVERAGE Site Rating: 1.00

ID Number(s):

Location: 14601 PLOVER PLACE, DEL VALLE, TRAVIS COUNTY, TEXAS

TCEQ Region: REGION 11 - AUSTIN

Date Compliance History Prepared: December 03, 2010

Agency Decision Requiring Compliance History: Enforcement

Compliance Period: December 03, 2005 to December 03, 2010

TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History

Name: JR Cao Phone: (512) 239-2543

Site Compliance History Components

1. Has the site been in existence and/or operation for the full five year compliance period? Yes
2. Has there been a (known) change in ownership/operator of the site during the compliance period? No
3. If Yes, who is the current owner/operator?

   N/A

4. If Yes, who was/were the prior owner(s)/operator(s)?

   N/A

5. When did the change(s) in owner or operator occur?

   N/A

6. Rating Date: 9/1/2010 Repeat Violator: NO

Components (Multimedia) for the Site :

A. Final Enforcement Orders, court judgments, and consent decrees of the State of Texas and the federal government.

N/A

B. Any criminal convictions of the state of Texas and the federal government.

N/A

C. Chronic excessive emissions events.

N/A

D. The approval dates of investigations. (CCEDS Inv. Track. No.)

1 08/07/2009 (763207)

2 04/26/2010 (800302)

E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)

Date: 03/02/2010 (793949) CN603408113

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 312, SubChapter G 312.142(f)(3)

Description: Failure to notify the executive director, by letter, within 15 days of the following changes of their operation: a transporter plans to handle a waste not included in the existing registration. Robert & Robert is currently only authorized to transport grease trap waste.

F. Environmental audits.

N/A

G. Type of environmental management systems (EMSs).

N/A

H. Voluntary on-site compliance assessment dates.

N/A

I. Participation in a voluntary pollution reduction program.

N/A

J. Early compliance.

N/A

Sites Outside of Texas

N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

IN THE MATTER OF AN	**§**	**BEFORE THE**
ENFORCEMENT ACTION	**§**	
CONCERNING	**§**	**TEXAS COMMISSION ON**
ROBERT L. RODRIGUEZ, JR.	**§**	
DBA ROBERT & ROBERT	**§**	
RN105623623	**§**	**ENVIRONMENTAL QUALITY**

AGREED ORDER
DOCKET NO. 2010-1994-SLG-E

I. JURISDICTION AND STIPULATIONS

At its _____ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding Robert L. Rodriguez, Jr. dba Robert & Robert ("the Respondent") under the authority of TEX. HEALTH & SAFETY CODE ch. 361 and TEX. WATER CODE chs. 5, 7, and 26. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent appear before the Commission and together stipulate that:

1. The Respondent owns and operates a sludge transporter business located at 14601 Plover Place in Del Valle, Travis County, Texas (the "Site").

2. The Respondent has caused, suffered, allowed, or permitted the discharge of any waste or the performance of any activity in violation of TEX. WATER CODE ch. 26 or any rule, permit, or order of the Commission.

3. The operation involves or involved the management of municipal solid waste as defined in TEX. HEALTH & SAFETY CODE ch. 361.

4. The Commission and the Respondent agree that the Commission has jurisdiction to enter this Agreed Order, and that the Respondent is subject to the Commission's jurisdiction.

5. The Respondent received notice of the violations alleged in Section II ("Allegations") on or about November 29, 2010.

6. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by the Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.

7. An administrative penalty in the amount of One Thousand Twenty Dollars ($1,020) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid One Hundred Sixteen Dollars ($116) of the administrative penalty and Two Hundred Four Dollars ($204) is deferred contingent upon the Respondent's timely and satisfactory compliance with all the terms of this Agreed Order. The deferred amount will be waived upon full compliance with the terms of this Agreed Order. If the Respondent fails to timely and satisfactorily comply with all requirements of this Agreed Order, including the payment schedule, the Executive Director may require the Respondent to pay all or part of the deferred penalty.

   The remaining amount of Seven Hundred Dollars ($700) of the administrative penalty shall be payable in seven monthly payments of One Hundred Dollars ($100) each. The next monthly payment shall be paid within 30 days after the effective date of this Agreed Order. The subsequent payments shall each be paid not later than 30 days following the due date of the previous payment until paid in full. If the Respondent fails to timely and satisfactorily comply with the payment requirements of this Agreed Order, the Executive Director may, at the Executive Director's option, accelerate the maturity of the remaining installments, in which event the unpaid balance shall become immediately due and payable without demand or notice. In addition, the failure of the Respondent to meet the payment schedule of this Agreed Order constitutes the failure by the Respondent to timely and satisfactorily comply with all the terms of this Agreed Order.

8. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.

9. The Executive Director of the TCEQ and the Respondent have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.

10. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.

11. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.

12. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

II. ALLEGATIONS

As owner and operator of the Site, the Respondent is alleged to have:

1. Failed to deposit wastes at a facility that has written authorization by permit or registration issued by the Executive Director to receive wastes, in violation of TEX. WATER CODE § 26.121(a)(2) and 30 TEX. ADMIN. CODE § 312.143, as documented during an investigation conducted on September 23, 2010. Specifically, the Respondent discharged grease-trap waste onto property located at 14601 Plover Place, Del Valle, Travis County, Texas.

2. Failed to pay the fiscal year 2010 TCEQ Waste Management Sludge Haulers fee and associated late fees for Account No. 0804049H, in violation of 30 TEX. ADMIN. CODE § 312.9 and TEX. WATER CODE § 5.702.

III. DENIALS

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

IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that the Respondent pay an administrative penalty as set forth in Section I, Paragraph 7 above. The payment of this administrative penalty and the Respondent's compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective action or penalties for violations which are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: Robert L. Rodriguez, Jr. dba Robert & Robert, Docket No. 2010-1994-SLG-E" to:

   Financial Administration Division, Revenues Section
   Attention: Cashier's Office, MC 214
   Texas Commission on Environmental Quality
   P.O. Box 13088
   Austin, Texas 78711-3088

2. It is further ordered that the Respondent shall undertake the following technical requirements:

   a. Immediately upon the effective date of this Agreed Order, cease disposing of grease-trap waste at the unauthorized Site;

   b. Within 15 days after the effective date of this Agreed Order, remove any remaining grease-trap waste, disinfect affected area, and dispose of the waste at an authorized facility;

   c. Within 30 days after the effective date of this Agreed Order:

      i. Pay the outstanding fiscal year 2010 TCEQ Waste Management Sludge Haulers fee, including any associated penalties and interest for Account No. 0804049H, with the notation, "Robert L. Rodriguez, Jr. dba Robert & Robert" to the address referenced in Paragraph 1 above; and

ii. Submit written certification as described below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision No. 2.b. The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

> "I certify under penalty of law that I have personally examined and am familiar with the information submitted and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fines and imprisonment for knowing violations."

The certification shall be submitted to:

Order Compliance Team
Enforcement Division, MC 149A
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

with a copy to:

Water Section, Manager
Austin Regional Office
Texas Commission on Environmental Quality
2800 S IH 35, Suite 100
Austin, Texas 78704-5712

3. The provisions of this Agreed Order shall apply to and be binding upon the Respondent.

4. If the Respondent fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, the Respondent's failure to comply is not a violation of this Agreed Order. The Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The Respondent shall notify the Executive Director within seven days after the Respondent becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.

5. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by the Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent receives written approval from the Executive Director.

The determination of what constitutes good cause rests solely with the Executive Director.

6. This Agreed Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.

7. This Agreed Order may be executed in separate and multiple counterparts, which together shall constitute a single instrument. Any page of this Agreed Order may be copied, scanned, digitized, converted to electronic portable document format ("pdf"), or otherwise reproduced and may be transmitted by digital or electronic transmission, including but not limited to facsimile transmission and electronic mail. Any signature affixed to this Agreed Order shall constitute an original signature for all purposes and may be used, filed, substituted, or issued for any purpose for which an original signature could be used. The term "signature" shall include manual signatures and true and accurate reproductions of manual signatures created, executed, endorsed, adopted, or authorized by the person or persons to whom the signatures are attributable. Signatures may be copied or reproduced digitally, electronically, by photocopying, engraving, imprinting, lithographing, electronic mail, facsimile transmission, stamping, or any other means or process which the Executive Director deems acceptable. In this paragraph exclusively, the terms "electronic transmission", "owner", "person", "writing", and "written" shall have the meanings assigned to them under TEX. BUS. ORG. CODE § 1.002.

8. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to the Respondent, or three days after the date on which the Commission mails notice of the Order to the Respondent, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

_____
For the Commission

_____ 6/8/2011
For the Executive Director Date

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

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

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

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

_____ 3-17-11
Signature Date

Robert Rodriguez owner
Name (Printed or typed) Title
Authorized Representative of
Robert L. Rodriguez, Jr. dba Robert & Robert

Instructions: Send the original, signed Agreed Order with penalty payment to the Financial Administration Division, Revenues Section at the address in Section IV, Paragraph 1 of this Agreed Order.