

EXECUTIVE SUMMARY – ENFORCEMENT MATTER – CASE NO. 42546
JAMES WAYNE ROBINSON
RN102343373
Docket No. 2011-1678-MWD-E

Order Type:

Agreed Order

Findings Order Justification:

N/A

Media:

MWD

Small Business:

N/A

Location(s) Where Violation(s) Occurred:

end of Northwinds Street, approximately 1,590 feet south of the intersection of Northwinds Street and Farm-to-Market Road 529, Harris County

Type of Operation:

wastewater treatment plant

Other Significant Matters:

Additional Pending Enforcement Actions:	None
Past-Due Penalties:	None
Past-Due Fees:	None
Other:	None
Interested Third-Parties:	None

Texas Register Publication Date: August 3, 2012

Comments Received: None

Penalty Information

Total Penalty Assessed: \$12,210

Total Paid to General Revenue: \$660

Total Due to General Revenue: \$11,550

Payment Plan: 33 payments of \$350 each

SEP Conditional Offset: N/A

Compliance History Classifications:

Person/CN – Average
Site/RN – Average

Major Source: No

Statutory Limit Adjustment: None

Applicable Penalty Policy: September 2002

JAMES WAYNE ROBINSON
RN102343373
Docket No. 2011-1678-MWD-E

Investigation Information

Complaint Date(s): N/A
Date(s) of Investigation: August 10, 2011
Date(s) of NOV(s): See Compliance History – 20 related NOVs
Date(s) of NOE(s): August 26, 2011

Violation Information

Failed to comply with permit effluent limits [TEX. WATER CODE § 26.121(a)(1), 30 TEX. ADMIN. CODE § 305.125(1) and TPDES Permit No.WQ0012830001].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

None

Technical Requirements:

Within 180 days, submit written certification of compliance with the effluent limits of TPDES Permit No. WQ0012830001, including specific corrective actions that were implemented at the Facility to achieve compliance, and copies of the most current self-reported discharge monitoring reports demonstrating at least three consecutive months of compliance with all permitted effluent limitations.

Litigation Information

Date Petition(s) Filed: February 16, 2012
Date Answer(s) Filed: March 9, 2012
SOAH Referral Date: April 12, 2012
Hearing Date(s):
Preliminary hearing: May, 24, 2012 (waived)
Evidentiary hearing: September 27, 2012
Settlement Date: July 6, 2012

Contact Information

TCEQ Attorneys: Kari L. Gilbreth, Litigation Division, (512) 239-3400
Lena Roberts, Litigation Division, (512) 239-3400
Amy Swanholm, Public Interest Counsel, (512) 239-6363

TCEQ SEP Coordinator: N/A

TCEQ Enforcement Coordinator: Heather Brister, Enforcement Division, 254)761-3034

TCEQ Regional Contact: Stephen Smith, Houston Regional Office, (713) 767-9500

Respondent: James Wayne Robinson, 15400 Vantage Parkway West, Houston, Texas 77032

Respondent's Attorney: Jephtha P. Hill, Attorney at Law, P.O. Box 30254, Austin, Texas 78755-0254



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

TCEQ

DATES	Assigned	29-Aug-2011	Screening	13-Sep-2011	EPA Due	
	PCW	27-Apr-2012				

RESPONDENT/FACILITY INFORMATION	
Respondent	James Wayne Robinson
Reg. Ent. Ref. No.	RN102343373
Facility/Site Region	12-Houston
Major/Minor Source	Minor

CASE INFORMATION			
Enf./Case ID No.	42546	No. of Violations	2
Docket No.	2011-1678-MWD-E	Order Type	1660
Media Program(s)	Water Quality	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Heather Brister
		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	\$5,500
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ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History	122.0% Enhancement	Subtotals 2, 3, & 7	\$6,710
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Notes: Enhancement for 19 months of self-reported effluent violations, one NOV for same/similar violations, one NOV for dissimilar violations, and one Agreed Order with denial of liability.

Culpability	No	0.0% Enhancement	Subtotal 4	\$0
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Notes: The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply Total Adjustments	Subtotal 5	\$0
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Economic Benefit	0.0% Enhancement*	Subtotal 6	\$0
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Total EB Amounts: \$321
 Approx. Cost of Compliance: \$3,500
 *Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7	Final Subtotal	\$12,210
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OTHER FACTORS AS JUSTICE MAY REQUIRE	0.0%	Adjustment	\$0
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

Final Penalty Amount	\$12,210
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$12,210
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DEFERRAL	0.0% Reduction	Adjustment	\$0
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Reduces the Final Assessed Penalty by the indicted percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes:

Deferral not offered for non-expedited settlement.

PAYABLE PENALTY	\$12,210
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Screening Date 13-Sep-2011

Docket No. 2011-1678-MWD-E

PCW

Respondent James Wayne Robinson

Policy Revision 2 (September 2002)

Case ID No. 42546

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN102343373

Media [Statute] Water Quality

Enf. Coordinator Heather Brister

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 (<i>number of NOVs meeting criteria</i>)	20	100%
	Other written NOVs	1	2%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	1	20%
	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 (<i>number of judgements or consent decrees meeting criteria</i>)	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 (<i>number of counts</i>)	0	0%
Emissions	Chronic excessive emissions events (<i>number of events</i>)	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 (<i>number of audits for which notices were submitted</i>)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which violations were disclosed</i>)	0	0%
<i>Please Enter Yes or No</i>			
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) 122%

>> 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 19 months of self-reported effluent violations, one NOV for same/similar violations, one NOV for dissimilar violations, and one Agreed Order with denial of liability.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 122%

Screening Date 13-Sep-2011

Docket No. 2011-1678-MWD-E

PCW

Respondent James Wayne Robinson

Policy Revision 2 (September 2002)

Case ID No. 42546

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN102343373

Media [Statute] Water Quality

Enf. Coordinator Heather Brister

Violation Number 1

Rule Cite(s) Tex. Water Code § 26.121(a)(1), 30 Tex. Admin. Code § 305.125(1), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0012830001, Effluent Limitations and Monitoring Requirements No. 1

Violation Description Failed to comply with permitted effluent limits, as documented during a record review conducted on August 10, 2011. See attached table.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual		x		25%
	Potential				

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
				0%

Matrix Notes

A simplified model was used to evaluate ammonia nitrogen to determine whether the discharged amounts of pollutants exceeded levels protective of human health or the environment. E. coli was also considered. As a result of these discharges, human health or the environment has been exposed to significant amounts pollutants which do not exceed levels that are protective of human health or environmental receptors.

Adjustment \$7,500

\$2,500

Violation Events

Number of Violation Events 1 30 Number of violation days

daily	
weekly	
monthly	x
quarterly	
semiannual	
annual	
single event	

mark only one with an x

Violation Base Penalty \$2,500

One monthly event is recommended for the month of April 2011.

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 \$2,500

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$321

Violation Final Penalty Total \$5,550

This violation Final Assessed Penalty (adjusted for limits) \$5,550

Economic Benefit Worksheet

Respondent James Wayne Robinson
Case ID No. 42546
Req. Ent. Reference No. RN102343373
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)	\$3,500	31-Jul-2010	31-May-2012	1.84	\$321	n/a	\$321

Notes for DELAYED costs

Estimated cost to determine the cause of noncompliance and to make necessary adjustments to achieve compliance with the permitted effluent limits. Date required is the initial month of noncompliance. 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

\$3,500

TOTAL

\$321

Screening Date 13-Sep-2011
Respondent James Wayne Robinson
Case ID No. 42546
Reg. Ent. Reference No. RN102343373
Media [Statute] Water Quality
Enf. Coordinator Heather Brister

Docket No. 2011-1678-MWD-E

PCW

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

Violation Number
Rule Cite(s)

Tex. Water Code § 26.121(a)(1), 30 Tex. Admin. Code § 305.125(1), and TPDES Permit No. WQ0012830001, Effluent Limitations and Monitoring Requirements No. 1

Violation Description

Failed to comply with permitted effluent limits, as documented during a record review conducted on August 10, 2011. See attached table.

Base Penalty

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual	<input type="text"/>	<input type="text"/>	<input type="text" value="x"/>	<input type="text" value="10%"/>
	Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>	

>> Programmatic Matrix

	Falsification	Major	Moderate	Minor	Percent
	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text" value="0%"/>

Matrix Notes

A simplified model was used to evaluate ammonia nitrogen to determine whether the discharged amounts of pollutants exceeded levels protective of human health or the environment. Total suspended solids and *E. coli* were also considered. As a result of these discharges, human health or the environment has been exposed to insignificant amounts pollutants which do not exceed levels that are protective of human health or environmental receptors.

Adjustment

Violation Events

Number of Violation Events Number of violation days

<i>mark only one with an x</i>	daily	<input type="text"/>
	weekly	<input type="text"/>
	monthly	<input type="text"/>
	quarterly	<input type="text" value="x"/>
	semiannual	<input type="text"/>
	annual	<input type="text"/>
	single event	<input type="text"/>

Violation Base Penalty

Three quarterly events are recommended for the quarters containing the months of July, October, and December 2010, and February 2011.

Good Faith Efforts to Comply

Reduction

	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary	<input type="text"/>	<input type="text"/>
Ordinary	<input type="text"/>	<input type="text"/>
N/A	<input type="text" value="x"/>	(mark with x)

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

Violation Subtotal

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount

Violation Final Penalty Total

This violation Final Assessed Penalty (adjusted for limits)

Economic Benefit Worksheet

Respondent James Wayne Robinson
Case ID No. 42546
Req. Ent. Reference No. RN102343373
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

See Economic Benefit for Violation No. 1.

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

Effluent Limit Violation Table

table rev.

Respondent	James Wayne Robinson	
ID Number(s)	TPDES Permit No. WQ0012830001	
Docket Number	2011-1678-MWD-E	
Enf. Coordinator	Heather Brister	

Corresponds to Violation Numbers:

1 and 2

EFFLUENT PARAMETER						
Permit Limit						
	<i>E. coli</i> Single Grab Conc. 394 cfu/100 ml	*NH ₃ -N Daily Avg. Conc. 2 mg/L	*NH ₃ -N Single Grab Conc. 15 mg/L	*NH ₃ -N Daily Avg. Loading 0.10 lbs/day	TSS Daily Avg. Conc. 15 mg/L	TSS Daily Avg. Loading 0.75 lbs/day
Month/Year						
July 2010	461	c	c	c	c	c
October 2010	c	c	c	c	15.3	1.32
December 2010	461	N/A	N/A	N/A	c	c
February 2011	435	N/A	N/A	N/A	c	c
April 2011	2,420	6.41	24.28	0.115	c	c

NH₃-N = ammonia nitrogen
 TSS = total suspended solids
E. coli = *Escherichia coli*
 mg/L = milligrams per liter
 * March - October
 cfu = colony forming units

Conc. = concentration
 lbs/day = pounds per day
 Avg. = average
 c = compliant
 N/A = not applicable
 ml = milliliter

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Compliance History

Customer/Respondent/Owner-Operator: CN601235054 ROBINSON, JAMES WAYNE Classification: AVERAGE Rating: 1.75
 Regulated Entity: RN102343373 NORTHWINDS PLANT Classification: AVERAGE Site Rating: 1.75
 ID Number(s): WASTEWATER PERMIT WQ0012830001
 WASTEWATER EPA ID TX0094056

Location: Located at the end of Northwinds Street approximately 1,590 feet south of the intersection of Northwinds Street and Farm-to-Market Road 529 in Harris County, Texas

TCEQ Region: REGION 12 - HOUSTON

Date Compliance History Prepared: October 13, 2011

Agency Decision Requiring Compliance History: Enforcement

Compliance Period: October 13, 2006 to October 13, 2011

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

Name: Heather Brister Phone: (254) 761-3034

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.
- Effective Date: 01/28/2008 ADMINORDER 2007-0817-MWD-E**
- Classification: Moderate
- Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(1)
- Rqmt Prov: Effluent Limits PERMIT
- Description: Failure to comply with permit effluent limits as documented by a TCEQ record review of self-reported data.
- 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 | 04/21/2008 | (454751) | 34 | 04/27/2009 | (771920) |
| 2 | 05/18/2007 | (558978) | 35 | 05/21/2009 | (771921) |
| 3 | 03/07/2007 | (626476) | 36 | 11/24/2008 | (771922) |
| 4 | 03/21/2007 | (626477) | 37 | 05/24/2010 | (834740) |
| 5 | 04/16/2007 | (626478) | 38 | 06/18/2010 | (847445) |
| 6 | 04/27/2007 | (626479) | 39 | 10/08/2010 | (865300) |
| 7 | 08/03/2007 | (626480) | 40 | 09/21/2010 | (868354) |
| 8 | 08/10/2007 | (626481) | 41 | 08/20/2010 | (868355) |
| 9 | 08/21/2007 | (626482) | 42 | 09/16/2010 | (875235) |
| 10 | 09/17/2007 | (626483) | 43 | 10/18/2010 | (882852) |
| 11 | 10/30/2006 | (626484) | 44 | 12/22/2010 | (885098) |
| 12 | 10/17/2007 | (626485) | 45 | 11/19/2010 | (889245) |
| 13 | 11/22/2006 | (626486) | 46 | 12/17/2010 | (897630) |
| 14 | 12/03/2007 | (626487) | 47 | 01/11/2011 | (903517) |
| 15 | 04/22/2007 | (626488) | 48 | 02/17/2011 | (910417) |
| 16 | 12/28/2007 | (626489) | 49 | 03/19/2011 | (917654) |
| 17 | 01/18/2007 | (626490) | 50 | 03/01/2010 | (928930) |
| 18 | 03/09/2008 | (637316) | 51 | 03/25/2010 | (928931) |
| 19 | 05/14/2008 | (669822) | 52 | 04/19/2010 | (928932) |
| 20 | 02/19/2008 | (675919) | 53 | 04/18/2011 | (928933) |
| 21 | 03/18/2008 | (675920) | 54 | 06/18/2009 | (928934) |
| 22 | 04/23/2008 | (694297) | 55 | 06/30/2009 | (928935) |
| 23 | 05/20/2008 | (694298) | 56 | 11/04/2010 | (928936) |
| 24 | 02/11/2008 | (694299) | 57 | 09/17/2009 | (928937) |
| 25 | 06/13/2008 | (715674) | 58 | 10/14/2009 | (928938) |
| 26 | 07/17/2008 | (715675) | 59 | 08/03/2009 | (928939) |
| 27 | 08/27/2008 | (715676) | 60 | 12/14/2009 | (928940) |
| 28 | 10/03/2008 | (715677) | 61 | 01/28/2010 | (928941) |
| 29 | 10/29/2008 | (731376) | 62 | 05/20/2011 | (939357) |
| 30 | 12/22/2008 | (731377) | 63 | 06/20/2011 | (946764) |
| 31 | 02/23/2009 | (754705) | 64 | 08/26/2011 | (948514) |
| 32 | 01/26/2009 | (754706) | 65 | 07/11/2011 | (954024) |
| 33 | 03/17/2009 | (771919) | 66 | 08/22/2011 | (960613) |

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

Date: 10/31/2006 (626486)	CN601235054	
Self Report? YES		Classification: Moderate
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)		
Description: Failure to meet the limit for one or more permit parameter		
Date: 11/30/2006 (626488)	CN601235054	
Self Report? YES		Classification: Moderate
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)		
Description: Failure to meet the limit for one or more permit parameter		
Date: 12/31/2006 (626490)	CN601235054	
Self Report? YES		Classification: Moderate
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)		
Description: Failure to meet the limit for one or more permit parameter		
Date: 02/28/2007 (626477)	CN601235054	
Self Report? YES		Classification: Moderate
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)		
Description: Failure to meet the limit for one or more permit parameter		
Date: 03/31/2007 (626478)	CN601235054	
Self Report? YES		Classification: Moderate
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)		
Description: Failure to meet the limit for one or more permit parameter		
Date: 04/18/2008 (454751)	CN601235054	
Self Report? NO		Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(5) 30 TAC Chapter 317 317.3		
Description: Failure to properly operate and maintain the onsite lift station.		
Self Report? NO		Classification: Minor
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)		
Description: Failure to provide an effluent flow measurement device.		
Self Report? NO		Classification: Minor
Citation: 30 TAC Chapter 319, SubChapter A 319.7(c)		
Description: Failure to properly complete the discharge monitoring reports (DMRs).		
Self Report? NO		Classification: Minor
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1) Monitoring & Reporting Req. 7(c) OP		
Description: Failure to provide noncompliance notification as required by the permit.		
Self Report? NO		Classification: Minor
Citation: 30 TAC Chapter 317 317.7(e)		
Description: Failure to post safety signs on the plant gate and fence.		
Date: 07/31/2008 (715676)	CN601235054	
Self Report? YES		Classification: Moderate
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)		
Description: Failure to meet the limit for one or more permit parameter		
Date: 09/30/2008 (731376)	CN601235054	
Self Report? YES		Classification: Moderate
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)		
Description: Failure to meet the limit for one or more permit parameter		
Date: 01/31/2009 (754705)	CN601235054	
Self Report? YES		Classification: Moderate
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)		
Description: Failure to meet the limit for one or more permit parameter		
Date: 04/30/2009 (771921)	CN601235054	
Self Report? YES		Classification: Moderate
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)		
Description: Failure to meet the limit for one or more permit parameter		

Date: 05/31/2009	(928934)	CN601235054	
Self Report?	YES	Classification:	Moderate
Citation:	2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)		
Description:	Failure to meet the limit for one or more permit parameter		
Date: 12/31/2009	(928941)	CN601235054	
Self Report?	YES	Classification:	Moderate
Citation:	2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)		
Description:	Failure to meet the limit for one or more permit parameter		
Date: 04/30/2010	(834740)	CN601235054	
Self Report?	YES	Classification:	Moderate
Citation:	2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)		
Description:	Failure to meet the limit for one or more permit parameter		
Date: 07/31/2010	(868355)	CN601235054	
Self Report?	YES	Classification:	Moderate
Citation:	2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)		
Description:	Failure to meet the limit for one or more permit parameter		
Date: 10/07/2010	(865300)	CN601235054	
Self Report?	NO	Classification:	Minor
Citation:	30 TAC Chapter 317 317.4(a)(8)		
Description:	Failure to maintain the reduced pressure zone (RPZ) backflow prevention device. The RPZ backflow device was leaking at the time of the investigation.		
Self Report?	NO	Classification:	Minor
Citation:	30 TAC Chapter 305, SubChapter F 305.125(5)		
Description:	Failure to maintain at least two operational pumps and a high level alarm at the on-site lift station. At the time of the investigation, only one pump was operational at the on-site lift station. In addition, the high flow alarm was not operational either.		
Self Report?	NO	Classification:	Minor
Citation:	30 TAC Chapter 305, SubChapter F 305.125(5)		
Description:	Failure to properly operate the chlorine contact chamber. Two feet of settled sludge in a two and a half foot water depth was measured in the chlorine contact chamber at the time of the investigation.		
Self Report?	NO	Classification:	Minor
Citation:	30 TAC Chapter 305, SubChapter F 305.125(5)		
Description:	Failure to provide an operational back-up blower for the aeration basin. Only one blower was working at the time of the inspection.		
Self Report?	NO	Classification:	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TPDES Permit WQ0012830001, EL&MR, No. 1 PERMIT		
Description:	Failure to maintain compliance with permitted effluent limits. The grab sample collected during the inspection was noncompliant for Total Suspended Solids (TSS). The sample measured 85 mg/l and the permit requires the grab sample for TSS to be no more than 60 mg/l. Steps must be taken to comply with all effluent limits.		
Self Report?	NO	Classification:	Minor
Citation:	30 TAC Chapter 317 317.7(e)		
Description:	Failure to provide hazard signs. At the time of the investigation, hazard signs stating "Danger-No Trespassing" were not present. In addition, emergency contact information was not posted.		
Self Report?	NO	Classification:	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TPDES Permit WQ0012830001, Sludge, F PERMIT		
Description:	Failure to submit the annual sludge report for August 2008 through July 2009. TCEQ records indicate that a sludge report was not submitted for 2009. The annual sludge report was due September 1, 2009. The annual sludge report must be submitted to the TCEQ Region 12 office and the Water Quality Compliance Monitoring Team of the Enforcement Division by September 1 of each year even if there were no solids removed from the plant.		
Self Report?	NO	Classification:	Moderate
Citation:	30 TAC Chapter 319, SubChapter A 319.11(c)		
Description:	Failure to perform the manganese oxide correction with each total chlorine residual analysis. The manganese oxide correction must be performed with each total chlorine residual analysis and subtracted from the total chlorine residual concentration.		
Date: 10/31/2010	(889245)	CN601235054	
Self Report?	YES	Classification:	Moderate
Citation:	2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)		
Description:	Failure to meet the limit for one or more permit parameter		

Date: 12/31/2010 (903517)	CN601235054	Classification:	Moderate
Self Report? YES			
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)			
Description: Failure to meet the limit for one or more permit parameter			
Date: 02/28/2011 (917654)	CN601235054	Classification:	Moderate
Self Report? YES			
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)			
Description: Failure to meet the limit for one or more permit parameter			
Date: 04/30/2011 (939357)	CN601235054	Classification:	Moderate
Self Report? YES			
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)			
Description: Failure to meet the limit for one or more permit parameter			
Date: 06/30/2011	CN601235054	Classification:	Moderate
Self Report? YES			
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)			
Description: Failure to meet the limit for one or more permit parameter			
Date: 07/31/2011	CN601235054	Classification:	Moderate
Self Report? YES			
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)			
Description: Failure to meet the limit for one or more permit parameter			

- 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
ENFORCEMENT ACTION
CONCERNING
JAMES WAYNE ROBINSON;
RN102343373**

§
§
§
§
§

**BEFORE THE

TEXAS COMMISSION ON

ENVIRONMENTAL QUALITY**

AGREED ORDER

DOCKET NO. 2011-1678-MWD-E

I. JURISDICTION AND STIPULATIONS

On _____, the Texas Commission on Environmental Quality ("Commission" or "TCEQ") considered this agreement of the parties (the "Agreed Order"), resolving an enforcement action regarding James Wayne Robinson ("Respondent") under the authority of TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, represented by the Litigation Division, and Respondent, represented by Jephtha P. Hill of the Law Office of Jep Hill, together stipulate that:

1. Respondent owns and operates a wastewater treatment plant located at the end of Northwinds Street, approximately 1,590 feet south of the intersection of Northwinds Street and Farm-to-Market Road 529 in Harris County, Texas (the "Facility"). The Facility adjoins, is contiguous with, surrounds, or is near or adjacent to state water as defined in TEX. WATER CODE § 26.001(5).
2. This Agreed Order is entered into pursuant to TEX. WATER CODE §§ 7.051 and 7.070. The Commission has jurisdiction of this matter pursuant to TEX. WATER CODE § 5.013 because it alleges violations of TEX. WATER CODE ch. 26 and TCEQ rules.
3. The Executive Director and Respondent agree that the Commission has jurisdiction to enter this Agreed Order, and that Respondent is subject to the Commission's jurisdiction.
4. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
5. An administrative penalty in the amount of twelve thousand two hundred ten dollars (\$12,210.00) is assessed by the Commission in settlement of the violations alleged in Section II. Respondent paid six hundred sixty dollars (\$660.00) of the administrative penalty. The remaining amount of eleven thousand five hundred fifty dollars (\$11,550.00) of the administrative penalty shall be payable in thirty-three (33) monthly payments of three hundred fifty dollars (\$350.00) each. The first monthly payment shall be paid within 30 days after the effective date of this Agreed Order. The subsequent payments shall be paid not later than 30 days following the due date of the previous payment. If Respondent fails to timely and satisfactorily comply with the payment requirements of this Agreed Order, including the payment schedule, the Executive Director may, at his 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, Respondent's failure to meet the payment schedule of this Agreed Order constitutes the failure by Respondent to timely and satisfactorily comply with all of the terms of this Agreed Order.

6. 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.
7. The Executive Director and Respondent agree on a settlement of the matters addressed in this Agreed Order, subject to final approval in accordance with 30 TEX. ADMIN. CODE § 70.10(a).
8. 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 Respondent has not complied with one or more of the terms or conditions contained in this Agreed Order.
9. 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.
10. 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

1. During a record review conducted on August 10, 2011, a TCEQ Central Office investigator documented that Respondent failed to comply with permit limits, in violation of TEX. WATER CODE § 26.121(a)(1); 30 TEX. ADMIN. CODE § 305.125(1); and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0012830001, Effluent Limitations and Monitoring Requirements No. 1, as shown in the Effluent Violation table below:

Effluent Parameter	<i>E. coli</i> Single Grab Conc.	*NH ₃ -N Daily Avg. Conc.	*NH ₃ -N Single Grab Conc.	*NH ₃ -N Daily Avg. Loading	TSS Daily Avg. Conc.	TSS Daily Avg. Loading
Permit Limit	394 cfu/100 ml	2 mg/L	15 mg/L	0.10 lbs/day	15 mg/L	0.75 lbs/day
Month/Year						
July 2010	461	c	c	c	c	c
October 2010	c	c	c	c	15.3	1.32
December 2010	461	N/A	N/A	N/A	c	c
February 2011	435	N/A	N/A	N/A	c	c
April 2011	2,420	6.41	24.28	0.115	c	c

NH₃-N = ammonia nitrogen
TSS = total suspended solids
E. coli = Escherichia coli
mg/L = milligrams per liter
*March – October
cfu = colony forming units

Conc. = concentration
lbs/day = pounds per day
Avg. = average
c = compliant
N/A = not applicable
ml = milliliter

2. Respondent received notice of the violations on or about August 31, 2011.

III. DENIALS

Respondent generally denies each Allegation in Section II.

IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that Respondent pay an administrative penalty as set forth in Section I, Paragraph 5, above. The payment of this administrative penalty and 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 considering or requiring corrective actions or penalties for violations which are not raised here. Administrative penalty payments shall be made payable to "Texas Commission on Environmental Quality" and shall be sent with the notation "Re: James Wayne Robinson, Docket No. 2011-1678-MWD-E" to:

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

2. Within 180 days after the effective date of this Agreed Order, Respondent shall submit written certification of compliance with the effluent limits of TPDES Permit No. WQ0012830001, including specific corrective actions that were implemented at the Facility to achieve compliance, and copies of the most current self-reported discharge monitoring reports demonstrating at least three consecutive months of compliance with all permitted effluent limitations. 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 fine and imprisonment for knowing violations."

Respondent shall submit the written certification and supporting documentation necessary to demonstrate compliance with these Ordering Provisions to:

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

and:

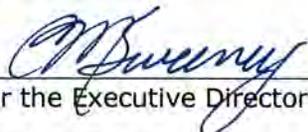
Steve Smith, Water Section Manager
Texas Commission on Environmental Quality
Houston Regional Office
5425 Polk Avenue, Suite H
Houston, Texas 77023-1486

3. All relief not expressly granted in this Agreed Order is denied.
4. The provisions of this Agreed Order shall apply to and be binding upon Respondent. Respondent is ordered to give notice of this Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
5. If 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, Respondent's failure to comply is not a violation of this Agreed Order. Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. Respondent shall notify the Executive Director within seven days after Respondent becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
6. 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 Respondent shall be made in writing to the Executive Director. Extensions are not effective until Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
7. This Agreed Order, issued by the Commission, shall not be admissible against 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.
8. 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.
9. Pursuant to 30 TEX. ADMIN. CODE § 70.10(b) and TEX. GOV'T CODE § 2001.142, the effective date of this Agreed Order is the date of hand delivery of this Agreed Order to Respondent, or three days after the date on which the Commission mails a copy of the fully executed Agreed Order to Respondent, whichever is earlier.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission



For the Executive Director

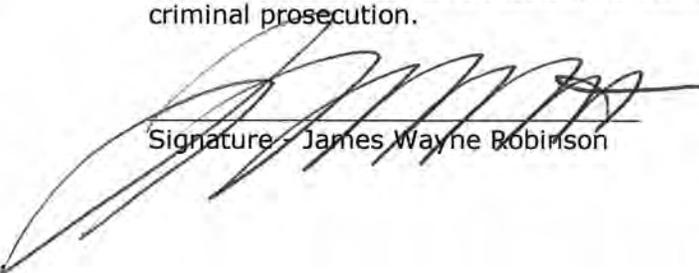
September 17, 2012
Date

I, the undersigned, have read and understand the attached Agreed Order. I represent that I am authorized to agree to the attached Agreed Order on behalf of James Wayne Robinson, 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 in this Agreed 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;
- 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, I understand that any falsification of any compliance documents may result in criminal prosecution.



Signature James Wayne Robinson

7/6/12
Date