

EXECUTIVE SUMMARY – ENFORCEMENT MATTER – CASE NO. 43817
Mike Watson and Robbie Watson, DBA Mike & Robbie Watson Dairy
RN106209513
Docket No. 2012-0635-AGR-E

Order Type:

Default Order

Media:

AGR

Small Business:

Yes

Location(s) Where Violation(s) Occurred:

159 Private Road 1121, Decatur, Wise County

Type of Operation:

animal feeding operation

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: May 24, 2013

Comments Received: None

Penalty Information

Total Penalty Assessed: \$2,100

Total Paid to General Revenue: \$0

Total Due to General Revenue: \$2,100

Compliance History Classifications:

Person/CN –Average (Both Respondents)
Site/RN – Average

Major Source: No

Statutory Limit Adjustment: None

Applicable Penalty Policy: September 2002

Investigation Information

Complaint Date(s): N/A

Date(s) of Investigation: February 2 - 7, 2012

Date(s) of NOV(s): August 19, 2011

Date(s) of NOE(s): February 10, 2012

Violation Information

1. Failed to prepare site-specific documentation that shows that no significant hydrologic connection exists between the contained wastewater and water in the state, or that the retention control structure ("RCS") has a liner designed and certified by a licensed Texas professional engineer [30 TEX. ADMIN. CODE §§ 321.38(g)(3) and 321.47(d)(5)].
2. Failed to maintain the required records for a minimum of five years [30 TEX. ADMIN. CODE § 321.47(i)].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

None

Technical Requirements:

1. Immediately begin maintaining the required records for the Facility.
2. Within 15 days, submit written certification to demonstrate compliance with Technical Requirement No. 1.
3. Within 120 days:
 - a. Either, complete a site-specific assessment to demonstrate that there will be no significant leakage from the RCS or that any leakage from the RCS will not migrate to water in the state; or
 - b. Construct a liner for the RCS designed and certified by a licensed Texas professional engineer.
4. Within 135 days, submit written certification to demonstrate compliance with Technical Requirement No. 3.

Litigation Information

Date Petition(s) Filed: January 24, 2013; February 14, 2013; March 19, 2013

Date Green Card(s) Signed: Unclaimed; Unclaimed; March 27, 2013

Date Answer(s) Filed: N/A

Contact Information

TCEQ Attorneys: Jim Sallans, Litigation Division, (512) 239-3400
Lena Roberts, Litigation Division, (512) 239-3400
Garrett Arthur, Public Interest Counsel, (512) 239-6363

TCEQ Enforcement Coordinator: Jennifer Graves, Enforcement Division, (956) 430-6023

TCEQ Regional Contact: Jeff Tate, Dallas/Fort Worth Regional Office, (817) 588-5800

Respondent: Mike and Robbie Watson, 159 Private Road 1121, Decatur, Texas 76234

Respondent's Attorney: N/A



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

TCEQ

DATES	Assigned	13-Feb-2012		
	PCW	13-Nov-2012	Screening	1-Mar-2012
			EPA Due	

RESPONDENT/FACILITY INFORMATION

Respondent	Mike Watson and Robbie Watson, dba Mike & Robbie Watson Dairy		
Reg. Ent. Ref. No.	RN106209513		
Facility/Site Region	4-Dallas/Fort Worth	Major/Minor Source	Minor

CASE INFORMATION

Enf./Case ID No.	43817	No. of Violations	2
Docket No.	2012-0635-AGR-E	Order Type	1660
Media Program(s)	Water Quality	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Jennifer Graves
		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	\$2,000
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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	5.0% Enhancement	Subtotals 2, 3, & 7	\$100
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Notes	Enhancement for one NOV with same/similar violations.
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Culpability	No	0.0% Enhancement	Subtotal 4	\$0
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Notes	The Respondents do not meet the culpability criteria.
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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	\$423	*Capped at the Total EB \$ Amount
Approx. Cost of Compliance	\$4,175	

SUM OF SUBTOTALS 1-7	Final Subtotal	\$2,100
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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	
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Final Penalty Amount	\$2,100
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$2,100
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DEFERRAL	0.0% Reduction	Adjustment	\$0
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Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes	Deferral not offered for non-expedited settlement.
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PAYABLE PENALTY	\$2,100
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Screening Date 1-Mar-2012

Docket No. 2012-0635-AGR-E

PCW

Respondent Mike Watson and Robbie Watson, dba Mike & Robbie Watson Dairy
Case ID No. 43817
Reg. Ent. Reference No. RN106209513
Media [Statute] Water Quality
Enf. Coordinator Jennifer Graves

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

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>)	1	5%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	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 (<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) 5%

>> **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 same/similar violations.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 5%

Respondent Case ID No. 43817
 Reg. Ent. Reference No. RN106209513
 Media [Statute] Water Quality
 Enf. Coordinator Jennifer Graves

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

Violation Number

Rule Cite(s)

Violation Description

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"/>	<input type="text" value="10%"/>
	Potential	<input type="text"/>	<input checked="" type="text" value="x"/>	<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

Adjustment

Violation Events

Number of Violation Events Number of violation days

mark only one with an x

daily	<input type="text"/>
weekly	<input type="text"/>
monthly	<input type="text"/>
quarterly	<input checked="" type="text" value="x"/>
semiannual	<input type="text"/>
annual	<input type="text"/>
single event	<input type="text"/>

Violation Base Penalty

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 checked="" type="text" value="x"/>	(mark with x)

Notes

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 Mike Watson and Robbie Watson, dba Mike & Robbie Watson Dairy
Case ID No. 43817
Reg. Ent. Reference No. RN106209513
Media Violation No. Water Quality
 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	\$4,000	12-Aug-2011	31-Jan-2013	1.47	\$20	\$393	\$413
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
 Estimated cost to determine if leakage from the RCS will migrate to water in the state or for a liner to be designed, constructed, and certified by a Texas licensed professional engineer. Date required was the initial investigation date when the violation was first documented and final date is the expected 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 \$4,000

TOTAL \$413

Screening Date 1-Mar-2012

Docket No. 2012-0635-AGR-E

PCW

Respondent Mike Watson and Robbie Watson, dba Mike & Robbie Watson Dairy

Policy Revision 2 (September 2002)

Case ID No. 43817

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN106209513

Media [Statute] Water Quality

Enf. Coordinator Jennifer Graves

Violation Number 2

Rule Cite(s) 30 Tex. Admin. Code § 321.47(i)

Violation Description Failed to maintain the required records for a minimum of five years.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

Table with columns: Release (Actual, Potential), Harm (Major, Moderate, Minor), Percent (0%).

>> Programmatic Matrix

Table with columns: Falsification, Major, Moderate, Minor, Percent (10%).

Matrix Notes 100% of the rule requirement was not met.

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events 1 Number of violation days 28

Table for event frequency: daily, weekly, monthly, quarterly, semiannual, annual, single event (marked with x).

Violation Base Penalty \$1,000

One single event is recommended.

Good Faith Efforts to Comply

0.0% Reduction \$0

Table for Good Faith Efforts: Extraordinary, Ordinary, N/A (marked with x).

Notes The Respondents do not meet the good faith criteria for this violation.

Violation Subtotal \$1,000

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$11

Violation Final Penalty Total \$1,050

This violation Final Assessed Penalty (adjusted for limits) \$1,050

Economic Benefit Worksheet

Respondent Mike Watson and Robbie Watson, dba Mike & Robbie Watson Dairy
Case ID No. 43817
Reg. Ent. Reference No. RN106209513
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
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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	\$175	12-Aug-2011	31-Oct-2012	1.22	\$11	n/a	\$11
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

Estimated cost for maintaining records. Date required was the initial investigation date when the violation was first documented and final date is the expected 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

\$175

TOTAL

\$11

Compliance History Report

Customer/Respondent/Owner-Operator:	CN603948027 WATSON, MIKE	Classification: AVERAGE	Rating: 4.00
Regulated Entity:	RN106209513 MIKE & ROBBIE WATSON DAIRY	Classification: AVERAGE	Site Rating: 4.00
ID Number(s):	WASTEWATER AGRICULTURE NON PERMITTED	ID NUMBER	R4
Location:	159 PR 1121, WISE CO., TX		
TCEQ Region:	REGION 04 - DFW METROPLEX		
Date Compliance History Prepared:	March 15, 2012		
Agency Decision Requiring Compliance History:	Enforcement		
Compliance Period:	March 15, 2007 to March 15, 2012		
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History			
Name:	Merrilee Hupp	Phone:	(512) 239 - 4490

Site Compliance History Components

1. Has the site been in existence and/or operation for the full five year compliance period? NO
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. If **YES**, when did the change(s) in owner or operator occur? N/A
6. Rating Date: 9/1/2011 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 8/23/2011 (949321)
 - 2 2/10/2012 (983227)
 - 3 2/13/2012 (983859)
 - E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)

Date: 8/19/2011 (949321) CN603948027

Self Report?	NO	Classification:	Minor
Citation:	30 TAC Chapter 321, SubChapter B 321.39(b)		
Description:	Failure of the AFO to maintain copies of documentation of the sources of information, assumptions, and calculations used in determining the appropriate volume capacity of the retention facilities.		
Self Report?	NO	Classification:	Minor
Citation:	30 TAC Chapter 321, SubChapter B 321.38 30 TAC Chapter 321, SubChapter B 321.47(c)(3)		
Description:	Failure to maintain site-specific documentation that no significant hydrologic connection exists between the wastewater in the RCS and water in the state and design capacity of the RCS.		
Self Report?	NO	Classification:	Moderate
Citation:	30 TAC Chapter 321, SubChapter B 321.47(i)		
Description:	Failure to maintain records required under this subsection on site for a minimum of five years from the date the record was created.		
Self Report?	NO	Classification:	Moderate
Citation:	30 TAC Chapter 321, SubChapter B 321.47(f)(19)(B)		
Description:	Failure of the operator to maintain crops, vegetation, forage growth, or post harvest residues in the normal growing where the AFO maintains animals in pastures.		
 - 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

Compliance History Report

Customer/Respondent/Owner-Operator:	CN603948035 WATSON, ROBBIE	Classification: AVERAGE	Rating: 4.00
Regulated Entity:	RN106209513 MIKE & ROBBIE WATSON DAIRY	Classification: AVERAGE	Site Rating: 4.00
ID Number(s):	WASTEWATER AGRICULTURE NON PERMITTED	ID NUMBER	R4
Location:	159 PR 1121, WISE CO., TX		
TCEQ Region:	REGION 04 - DFW METROPLEX		
Date Compliance History Prepared:	March 15, 2012		
Agency Decision Requiring Compliance History:	Enforcement		
Compliance Period:	March 15, 2007 to March 15, 2012		
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History			
Name:	Merrilee Hupp	Phone:	(512) 239 - 4490

Site Compliance History Components

1. Has the site been in existence and/or operation for the full five year compliance period? NO
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. If **YES**, when did the change(s) in owner or operator occur? N/A
6. Rating Date: 9/1/2011 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 8/23/2011 (949321)
 - 2 2/10/2012 (983227)
 - 3 2/13/2012 (983859)
 - E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)

Date: 8/19/2011 (949321) CN603948027

Self Report?	NO	Classification:	Minor
Citation:	30 TAC Chapter 321, SubChapter B 321.39(b)		
Description:	Failure of the AFO to maintain copies of documentation of the sources of information, assumptions, and calculations used in determining the appropriate volume capacity of the retention facilities.		
Self Report?	NO	Classification:	Minor
Citation:	30 TAC Chapter 321, SubChapter B 321.38 30 TAC Chapter 321, SubChapter B 321.47(c)(3)		
Description:	Failure to maintain site-specific documentation that no significant hydrologic connection exists between the wastewater in the RCS and water in the state and design capacity of the RCS.		
Self Report?	NO	Classification:	Moderate
Citation:	30 TAC Chapter 321, SubChapter B 321.47(i)		
Description:	Failure to maintain records required under this subsection on site for a minimum of five years from the date the record was created.		
Self Report?	NO	Classification:	Moderate
Citation:	30 TAC Chapter 321, SubChapter B 321.47(f)(19)(B)		
Description:	Failure of the operator to maintain crops, vegetation, forage growth, or post harvest residues in the normal growing where the AFO maintains animals in pastures.		
 - 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
MIKE WATSON AND ROBBIE
WATSON, DBA MIKE & ROBBIE
WATSON DAIRY;
RN106209513**

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**BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY**

DEFAULT ORDER

DOCKET NO. 2012-0635-AGR-E

At its _____ agenda meeting, the Texas Commission on Environmental Quality ("Commission" or "TCEQ") considered the Executive Director's Preliminary Report and Petition, filed pursuant to TEX. WATER CODE chs. 7 and 26 and the rules of the TCEQ, which requests appropriate relief, including the imposition of an administrative penalty and corrective action of the respondents. The respondents made the subject of this Order are Mike Watson and Robbie Watson, DBA Mike & Robbie Watson Dairy ("Respondents").

The Commission makes the following Findings of Fact and Conclusions of Law:

FINDINGS OF FACT

1. Respondents own and operate an animal feeding operation located at 159 Private Road 1121 in Decatur, Wise 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. During a record review investigation conducted February 2 through 7, 2012, a TCEQ Dallas/Fort Worth Regional Office investigator documented that Respondents:
 - a. Failed to prepare site-specific documentation that shows that no significant hydrologic connection exists between the contained wastewater and water in the state, or that the retention control structure ("RCS") has a liner designed and certified by a licensed Texas professional engineer; and
 - b. Failed to maintain the required records for a minimum of five years.
3. Respondents received notice of the violations on or about February 15, 2012.
4. The Executive Director filed the "Executive Director's Preliminary Report and Petition Recommending that the Texas Commission on Environmental Quality Enter an Enforcement Order Assessing an Administrative Penalty Against and Requiring Certain Actions of Mike Watson and Robbie Watson DBA Mike & Robbie Watson Dairy" (the "EDPRP") in the TCEQ Chief Clerk's office on January 24, 2013.
5. The EDPRP was mailed to Respondents' last known address on January 24, 2013, via certified mail, return receipt requested, postage prepaid. The United States Postal Service returned the EDPRP sent by certified mail as "unclaimed."
6. The Executive Director re-filed the EDPRP in the TCEQ Chief Clerk's office on February 14, 2013.

7. The EDPRP was mailed to Respondents' last known address on February 14, 2013, via certified mail, return receipt requested, and first class mail, postage prepaid. The United States Postal Service returned the EDPRP sent by certified mail as "unclaimed. The EDPRP sent by first class mail was also returned.
8. The Executive Director re-filed the EDPRP in the TCEQ Chief Clerk's office on March 19, 2013.
9. By letter dated March 19, 2013, sent to Respondents' last known address via certified mail, return receipt requested, and first class mail, postage prepaid, the Executive Director served Respondents with notice of the EDPRP.¹ According to the return receipt "green card," Respondents received notice of the EDPRP on March 27, 2013, as evidenced by the signature on the card.
10. More than 20 days have elapsed since Respondents received notice of the EDPRP. Respondents failed to file an answer and failed to request a hearing.

CONCLUSIONS OF LAW

1. As evidenced by Finding of Fact No. 1, Respondents are subject to the jurisdiction of the TCEQ pursuant to TEX. WATER CODE ch. 26 and the rules of the Commission.
2. As evidenced by Finding of Fact No. 2.a., Respondents failed to prepare site-specific documentation that shows that no significant hydrologic connection exists between the contained wastewater and water in the state, or that the RCS has a liner designed and certified by a licensed Texas professional engineer, in violation of 30 TEX. ADMIN. CODE §§ 321.38(g)(3) and 321.47(d)(5).
3. As evidenced by Finding of Fact No. 2.b., Respondents failed to maintain the required records for a minimum of five years, in violation of 30 TEX. ADMIN. CODE § 321.47(i).
4. As evidenced by Findings of Fact Nos. 4 through 9, the Executive Director timely served Respondents with proper notice of the EDPRP, as required by TEX. WATER CODE § 7.055 and 30 TEX. ADMIN. CODE § 70.104(b)(1).
5. As evidenced by Finding of Fact No. 10, Respondents failed to file a timely answer as required by TEX. WATER CODE § 7.056 and 30 TEX. ADMIN. CODE § 70.105. Pursuant to TEX. WATER CODE § 7.057 and 30 TEX. ADMIN. CODE § 70.106, the Commission may enter a Default Order against Respondents and assess the penalty recommended by the Executive Director.
6. Pursuant to TEX. WATER CODE § 7.051, the Commission has the authority to assess an administrative penalty against Respondents for violations of state statutes within the Commission's jurisdiction, for violations of rules adopted under such statutes, or for violations of orders or permits issued under such statutes.
7. An administrative penalty in the amount of two thousand one hundred dollars (\$2,100.00) is justified by the facts recited in this Order, and considered in light of the factors set forth in TEX. WATER CODE § 7.053.
8. TEX. WATER CODE §§ 5.102 and 7.002 authorize the Commission to issue orders and make determinations necessary to effectuate the purposes of the statutes within its jurisdiction.

¹ Respondents are spouses and share the same mailing address.

PROVISIONS

NOW, THEREFORE, THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY ORDERS that:

1. Respondents are assessed an administrative penalty in the amount of two thousand one hundred dollars (\$2,100.00) for violations of state statutes and rules of the TCEQ. The payment of this administrative penalty and Respondents' compliance with all the terms and conditions set forth in this Order completely resolve the matters set forth by this Order in this action. The Commission shall not be constrained in any manner from requiring corrective actions or penalties for other violations which are not raised here.
2. The administrative penalty assessed by this Order shall be paid within 30 days after the effective date of this Order. All checks submitted to pay the penalty imposed by this Order shall be made out to "Texas Commission on Environmental Quality" and shall be sent with the notation "Re: Mike Watson and Robbie Watson, DBA Mike & Robbie Watson Dairy; Docket No. 2012-0635-AGR-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

3. Respondents shall undertake the following technical requirements:
 - a. Immediately upon the effective date of this Order, Respondents shall begin maintaining the required records for the Facility, in accordance with 30 TEX. ADMIN. CODE § 321.47(i).
 - b. Within 15 days after the effective date of this Order, Respondents shall submit written certification, in accordance with Ordering Provision No. 3.e., below, to demonstrate compliance with Ordering Provision No. 3.a.
 - c. Within 120 days after the effective date of this Order, Respondents shall:
 - i. Either, complete a site-specific assessment to demonstrate that there will be no significant leakage from the RCS or that any leakage from the RCS will not migrate to water in the state; or
 - ii. Construct a liner for the RCS designed and certified by a licensed Texas professional engineer, in accordance with 30 TEX. ADMIN. CODE § 321.38(g)(3)(C); and
 - d. Within 135 days after the effective date of this Order, Respondents shall submit written certification, in accordance with Ordering Provision No. 3.e., below, to demonstrate compliance with Ordering Provision No. 3.c.
 - e. The certifications required by these ordering provisions shall be accompanied by detailed supporting documentation, including photographs, receipts, and/or other records, shall be notarized by a State of Texas Notary Public, and shall 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."

Respondents shall submit the written certifications 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:

Jeff Tate, Water Section Manager
Dallas/Fort Worth Regional Office
Texas Commission on Environmental Quality
2309 Gravel Drive
Fort Worth, Texas 76118

4. All relief not expressly granted in this Order is denied.
5. The provisions of this Order shall apply to and be binding upon Respondents. Respondents are ordered to give notice of this Order to personnel who maintain day-to-day control over the Facility operations referenced in this Order.
6. If Respondents fail to comply with any of the Ordering Provisions in this Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, Respondents' failure to comply is not a violation of this Order. Respondents shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. Respondents 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.
7. The Executive Director may grant an extension of any deadline in this Order or in any plan, report, or other document submitted pursuant to this Order, upon a written and substantiated showing of good cause. All requests for extensions by Respondents shall be made in writing to the Executive Director. Extensions are not effective until Respondents receive written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
8. The Executive Director may refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings without notice to Respondents if the Executive Director determines that Respondents have not complied with one or more of the terms or conditions in this Order.
9. This Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Order, whichever is later.
10. The Chief Clerk shall provide a copy of this Order to each of the parties. By law, the effective date of this Order shall be the date the Order is final, as provided by 30 TEX. ADMIN. CODE § 70.106(d) and TEX. GOV'T CODE § 2001.144.

S I G N A T U R E P A G E

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

AFFIDAVIT OF JIM SALLANS

STATE OF TEXAS

§

COUNTY OF TRAVIS

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"My name is Jim Sallans. I am of sound mind, capable of making this affidavit, and the facts stated in this affidavit are within my personal knowledge and are true and correct.

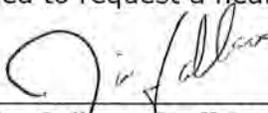
On behalf of the Executive Director of the Texas Commission on Environmental Quality, the "Executive Director's Preliminary Report and Petition Recommending that the Texas Commission on Environmental Quality Enter an Enforcement Order Assessing an Administrative Penalty Against and Requiring Certain Actions of Mike Watson and Robbie Watson DBA Mike & Robbie Watson Dairy" (the "EDPRP") was filed in the TCEQ Chief Clerk's office on January 24, 2013.

The EDPRP was mailed to Respondents' last known address on January 24, 2013, via certified mail, return receipt requested, postage prepaid. The United States Postal Service returned the EDPRP sent by certified mail as "unclaimed."

On behalf of the Executive Director of the Texas Commission on Environmental Quality, the EDPRP was re-filed in the TCEQ Chief Clerk's office on March 19, 2013.

The EDPRP was mailed to Respondents' last known address on March 19, 2013, via certified mail, return receipt requested, postage prepaid. According to the return receipt "green card," Respondents received notice of the EDPRP on March 27, 2013, as evidenced by the signature on the card.

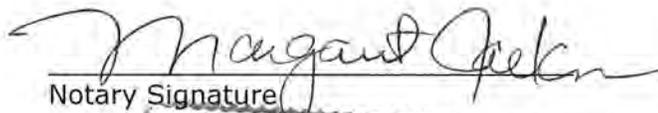
More than 20 days have elapsed since Respondents received notice of the EDPRP. Respondents failed to file an answer and failed to request a hearing."



Jim Sallans, Staff Attorney
Office of Legal Services, Litigation Division
Texas Commission on Environmental Quality

Before me, the undersigned authority, on this day personally appeared Jim Sallans, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed the same for the purposes and consideration herein expressed.

Given under my hand and seal of office this 8 day of May, A.D. 2013.


Notary Signature
