

Executive Summary – Enforcement Matter – Case No. 46356
JMH Homes-Houston, LLC
RN101523264
Docket No. 2013-0449-MWD-E

Order Type:

1660 Agreed Order

Findings Order Justification:

N/A

Media:

MWD

Small Business:

Yes

Location(s) Where Violation(s) Occurred:

JMH Homes-Houston, at 6421 Hermann Road, approximately 1.5 miles south of Greens Bayou and 1.0 mile east of United States Highway 59, Houston, Harris County

Type of Operation:

Wastewater treatment facility

Other Significant Matters:

Additional Pending Enforcement Actions: No

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: None

Texas Register Publication Date: August 30, 2013

Comments Received: No

Penalty Information

Total Penalty Assessed: \$8,721

Amount Deferred for Expedited Settlement: \$1,744

Amount Deferred for Financial Inability to Pay: \$0

Total Paid to General Revenue: \$6,977

Total Due to General Revenue: \$0

Payment Plan: N/A

SEP Conditional Offset: \$0

Name of SEP: N/A

Compliance History Classifications:

Person/CN - Satisfactory

Site/RN - Satisfactory

Major Source: No

Statutory Limit Adjustment: N/A

Applicable Penalty Policy: September 2011

Executive Summary – Enforcement Matter – Case No. 46356
JMH Homes-Houston, LLC
RN101523264
Docket No. 2013-0449-MWD-E

Investigation Information

Complaint Date(s): N/A

Complaint Information: N/A

Date(s) of Investigation: January 25, 2013

Date(s) of NOE(s): February 8, 2013

Violation Information

1. Failed to timely submit monitoring results at the intervals specified in the permit. Specifically, the DMRs for the monthly monitoring periods ending November 30, 2011 through October 31, 2012 and the quarterly monitoring period ending August 31, 2012 were not submitted by the 20th day of the following month [30 TEX. ADMIN. CODE §§ 305.125(1) and (17) and 319.7(d), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0014987001, Monitoring and Reporting Requirements No. 1].

2. Failed to timely submit the annual sludge report for the monitoring period ending July 31, 2012, by September 30, 2012 [30 TEX. ADMIN. CODE § 305.125(1) and (17) and TPDES Permit No. WQ0014987001, Sludge Provisions].

3. Failed to collect and analyze effluent samples for *Escherichia coli* ("*E. coli*"). Specifically, effluent samples were not collected and analyzed for *E. coli* for the quarterly monitoring periods ending November 30, 2011, February 29, 2012, and May 31, 2012 [30 TEX. ADMIN. CODE §§ 305.125(1) and 319.1 and 319.4 and 319.5(b), and TPDES Permit No. WQ0014987001, Monitoring and Reporting Requirements No. 1].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

Respondent implemented the following corrective measures:

a. On March 1, 2013, submitted the discharge monitoring reports ("DMRs") for the monitoring periods ending November 30, 2011 through October 31, 2012 and the quarterly monitoring period ending August 31, 2012;

b. On March 1, 2013, submitted the annual sludge report for the monitoring period ending July 31, 2012; and

c. Began collecting and analyzing effluent samples for *E. coli* for the quarterly monitoring period ending August 31, 2012.

Executive Summary – Enforcement Matter – Case No. 46356
JMH Homes-Houston, LLC
RN101523264
Docket No. 2013-0449-MWD-E

Technical Requirements:

Respondent shall undertake the following technical requirements:

- a. Within 30 days, update the Facility's operational guidance and conduct employee training to ensure that self-reporting requirements are properly accomplished, including the sampling of effluent parameters at the required frequency and the timely submittal of complete, signed, and certified monthly and quarterly DMRs and annual sludge reports; and
- b. Within 45 days, submit written certification demonstrating compliance with Ordering Provision a.

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

Contact Information

TCEQ Attorney: N/A
TCEQ Enforcement Coordinator: Jacquelyn Green, Enforcement Division, Enforcement Team 1, MC 169, (512)239-2587; Candy Garrett, Enforcement Division, MC 219, (512) 239-1456
TCEQ SEP Coordinator: N/A
Respondent: Jody Francis, Manager, JMH Homes-Houston, LLC, 4207 Southeast Woodstock Boulevard, Portland, Oregon 97206
John M. Heffner III, Owner, JMH Homes-Houston, LLC, 4207 Southeast Woodstock Boulevard, Portland, Oregon 97206
Respondent's Attorney: N/A



Penalty Calculation Worksheet (PCW)

Policy Revision 3 (September 2011)

PCW Revision August 3, 2011

TCEQ

DATES	Assigned 19-Feb-2013	Screening 27-Feb-2013	EPA Due
	PCW 27-Feb-2013		

RESPONDENT/FACILITY INFORMATION

Respondent	JMH Homes-Houston, LLC		
Reg. Ent. Ref. No.	RN101523264		
Facility/Site Region	12-Houston	Major/Minor Source	Minor

CASE INFORMATION

Enf./Case ID No.	46356	No. of Violations	4
Docket No.	2013-0449-MWD-E	Order Type	1660
Media Program(s)	Water Quality	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Jacquelyn Green
		EC's Team	Enforcement Team 1
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$25,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties) **Subtotal 1** **\$7,250**

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History 31.0% Enhancement **Subtotals 2, 3, & 7** **\$2,247**

Notes Enhancement for three NOV's with dissimilar violations and one order without denial of liability.

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** **\$937**

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

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

SUM OF SUBTOTALS 1-7 **Final Subtotal** **\$8,560**

OTHER FACTORS AS JUSTICE MAY REQUIRE **Adjustment** **\$161**

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes Recommended enhancement to capture the avoided cost associated with Violation No. 4.

Final Penalty Amount **\$8,721**

STATUTORY LIMIT ADJUSTMENT **Final Assessed Penalty** **\$8,721**

DEFERRAL Reduction **Adjustment** **-\$1,744**

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

Notes Deferral offered for expedited settlement.

PAYABLE PENALTY **\$6,977**

Screening Date 27-Feb-2013

Docket No. 2013-0449-MWD-E

PCW

Respondent JMH Homes-Houston, LLC

Policy Revision 3 (September 2011)

Case ID No. 46356

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN101523264

Media [Statute] Water Quality

Enf. Coordinator Jacquelyn Green

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>)	0	0%
	Other written NOVs	3	6%
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	1	25%
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) 31%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Satisfactory Performer

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance History Notes

Enhancement for three NOVs with dissimilar violations and one order without denial of liability.

Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7) 31%

>> Final Compliance History Adjustment

Final Adjustment Percentage *capped at 100% 31%

Screening Date 27-Feb-2013
Respondent JMH Homes-Houston, LLC
Case ID No. 46356
Reg. Ent. Reference No. RN101523264
Media [Statute] Water Quality
Enf. Coordinator Jacquelyn Green
Violation Number 1

Docket No. 2013-0449-MWD-E

PCW

Policy Revision 3 (September 2011)
 PCW Revision August 3, 2011

Rule Cite(s) 30 Tex. Admin. Code §§ 305.125(1) and (17) and 319.7(d), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0014987001, Monitoring and Reporting Requirements No. 1

Violation Description Failed to timely submit monitoring results at the intervals specified in the permit, as documented during a record review conducted on January 25, 2013. Specifically, the discharge monitoring reports ("DMRs") for the monthly monitoring periods ending November 30, 2011 through October 31, 2012 were not submitted by the 20th day of the following month.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

		Harm			
		Major	Moderate	Minor	
OR	Actual				Percent 0.0%
	Potential				

>> Programmatic Matrix

		Major	Moderate	Minor	
	Falsification			x	Percent 1.0%

Matrix Notes At least 70% of the rule requirement was met.

Adjustment \$24,750

\$250

Violation Events

Number of Violation Events: 12 435 Number of violation days

mark only one with an x

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty \$3,000

Twelve single events are recommended, one for each DMR.

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 \$3,000

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$44

Violation Final Penalty Total \$4,004

This violation Final Assessed Penalty (adjusted for limits) \$4,004

Economic Benefit Worksheet

Respondent JMH Homes-Houston, LLC
Case ID No. 46356
Reg. Ent. Reference No. RN101523264
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
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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	\$250	20-Dec-2011	24-Nov-2013	1.93	\$24	n/a	\$24
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)	\$325	20-Dec-2011	1-Mar-2013	1.20	\$19	n/a	\$19

Notes for DELAYED costs

Estimated cost to update the Facility's operational guidance and to conduct employee training (\$250), and to prepare and submit the DMRs (\$25 per DMR). Date required is the date the first DMR was due. Final dates are the estimated date of compliance and the date the DMRs were submitted.

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

\$575

TOTAL

\$44

Screening Date 27-Feb-2013
 Respondent JMH Homes-Houston, LLC
 Case ID No. 46356

Docket No. 2013-0449-MWD-E

PCW

Policy Revision 3 (September 2011)
 PCW Revision August 3, 2011

Reg. Ent. Reference No. RN101523264

Media [Statute] Water Quality

Enf. Coordinator Jacquelyn Green

Violation Number

Rule Cite(s)

30 Tex. Admin. Code §§ 305.125(1) and (17) and 319.17(d), and TPDES Permit No. WQ0014987001, Monitoring and Reporting Requirements No. 1

Violation Description

Failed to timely submit monitoring results at the intervals specified in the permit, as documented during a record review conducted on January 25, 2013. Specifically, the DMR for the quarterly monitoring period ending August 31, 2012 was not submitted by the 20th day of the following month.

Base Penalty

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>
Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>

Percent

>> Programmatic Matrix

Falsification	Harm		
	Major	Moderate	Minor
<input type="text"/>	<input type="text"/>	<input type="text"/>	<input checked="" type="text" value="X"/>

Percent

Matrix Notes

At least 70% of the rule requirement was met.

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 type="text"/>
semiannual	<input type="text"/>
annual	<input type="text"/>
single event	<input checked="" type="text" value="X"/>

Violation Base Penalty

One single event is recommended.

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

The Respondent does not meet 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 JMH Homes-Houston, LLC

Case ID No. 46356

Reg. Ent. Reference No. RN101523264

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				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

Economic benefit is included in 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

Screening Date 27-Feb-2013
Respondent JMH Homes-Houston, LLC
Case ID No. 46356

Docket No. 2013-0449-MWD-E

PCW

*Policy Revision 3 (September 2011)
 PCW Revision August 3, 2011*

Reg. Ent. Reference No. RN101523264

Media [Statute] Water Quality

Enf. Coordinator Jacquelyn Green

Violation Number 3

Rule Cite(s)

30 Tex. Admin Code § 305.125(1) and (17) and TPDES Permit No. WQ0014987001, Sludge Provisions

Violation Description

Failed to timely submit the annual sludge report for the monitoring period ending July 31, 2012, by September 30, 2012, as documented during a record review conducted on January 25, 2013.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential			

Percent 0.0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor
			x

Percent 1.0%

Matrix Notes

At least 70% of the rule requirement was met.

Adjustment \$24,750

\$250

Violation Events

Number of Violation Events 1

150 **Number of violation days**

<i>mark only one with an x</i>	daily	
	weekly	
	monthly	
	quarterly	
	semiannual	
	annual	
	single event	x

Violation Base Penalty \$250

One single event is recommended.

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 \$250

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$1

Violation Final Penalty Total \$334

This violation Final Assessed Penalty (adjusted for limits) \$334

Economic Benefit Worksheet

Respondent JMH Homes-Houston, LLC
Case ID No. 46356
Reg. Ent. Reference No. RN101523264
Media Water Quality
Violation No. 3

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				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)	\$50	30-Sep-2012	1-Mar-2013	0.42	\$1	n/a	\$1

Notes for DELAYED costs

Estimated cost to submit the annual sludge report for the monitoring period ending July 31, 2012. Date required is the date the annual sludge report was due and the final date is the date of compliance. The estimated cost to conduct employee training is included in 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	\$50	TOTAL	\$1
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Screening Date 27-Feb-2013
Respondent JMH Homes-Houston, LLC
Case ID No. 46356
Reg. Ent. Reference No. RN101523264
Media [Statute] Water Quality
Enf. Coordinator Jacquelyn Green

Docket No. 2013-0449-MWD-E

PCW

Policy Revision 3 (September 2011)
 PCW Revision August 3, 2011

Violation Number

Rule Cite(s)

30 Tex. Admin. Code §§ 305.125(1) and 319.1 and 319.4 and 319.5(b), and TPDES Permit No. WQ0014987001, Monitoring and Reporting Requirements No. 1

Violation Description

Failed to collect and analyze effluent samples for Escherichia coli ("E.coli"), as documented in a record review conducted on January 25, 2013. Specifically, effluent samples were not collected and analyzed for E. coli for the quarterly monitoring periods ending November 30, 2011, February 29, 2012, and May 31, 2012.

Base Penalty

>> Environmental, Property and Human Health Matrix

Release	Harm			Percent
	Major	Moderate	Minor	
Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text" value="5.0%"/>
Potential	<input type="text"/>	<input checked="" type="checkbox"/>	<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="0.0%"/>

Matrix Notes

Human health or the environment has been exposed to significant amounts of pollutants which do not exceed levels that are protective of human health or environmental receptors as a result of the violation.

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="checkbox"/>
	semiannual	<input type="text"/>
	annual	<input type="text"/>
	single event	<input type="text"/>

Violation Base Penalty

Three quarterly events are recommended for the quarterly monitoring periods ending November 30, 2011; February 29, 2012; and May 31, 2012.

Good Faith Efforts to Comply

Reduction

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

Notes

The Respondent began collecting and analyzing effluent samples for E. coli for the quarterly monitoring period ending August 31, 2012.

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 JMH Homes-Houston, LLC

Case ID No. 46356

Reg. Ent. Reference No. RN101523264

Media Water Quality

Violation No. 4

Percent Interest	Years of Depreciation
5.0	15

Item Cost Date Required Final Date Yrs Interest Saved Onetime Costs EB Amount

Item Description No commas or \$

Delayed Costs

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Equipment	0.00			0.00	\$0	\$0	\$0
Buildings	0.00			0.00	\$0	\$0	\$0
Other (as needed)	0.00			0.00	\$0	\$0	\$0
Engineering/construction	0.00			0.00	\$0	\$0	\$0
Land	0.00			0.00	\$0	n/a	\$0
Record Keeping System	0.00			0.00	\$0	n/a	\$0
Training/Sampling	0.00			0.00	\$0	n/a	\$0
Remediation/Disposal	0.00			0.00	\$0	n/a	\$0
Permit Costs	0.00			0.00	\$0	n/a	\$0
Other (as needed)	0.00			0.00	\$0	n/a	\$0

Notes for DELAYED costs

Economic benefit is included in Violation No. 1

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Disposal	0.00			0.00	\$0	\$0	\$0
Personnel	0.00			0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling	0.00			0.00	\$0	\$0	\$0
Supplies/equipment	0.00			0.00	\$0	\$0	\$0
Financial Assurance [2]	0.00			0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]	\$150	30-Nov-2011	31-May-2012	1.42	\$11	\$150	\$161
Other (as needed)	0.00			0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Estimated avoided cost to perform the sample analysis for *E. coli* (\$50) for the quarterly monitoring periods ending November 30, 2011; February 29, 2012; and May 31, 2012.

Approx. Cost of Compliance

\$150

TOTAL

\$161

The TCEQ is committed to accessibility.

To request a more accessible version of this report, please contact the TCEQ Help Desk at (512) 239-4357.



TCEQ Compliance History Report

PUBLISHED Compliance History Report for CN603687781, RN101523264, Rating Year 2012 which includes Compliance History (CH) components from September 1, 2007, through August 31, 2012.

Customer, Respondent, or Owner/Operator: CN603687781, JMH Homes-Houston, LLC **Classification:** SATISFACTORY **Rating:** 6.67

Regulated Entity: RN101523264, HERMANN OAKS MOBILE HOME PARK **Classification:** SATISFACTORY **Rating:** 6.67

Complexity Points: 5 **Repeat Violator:** NO

CH Group: 08 - Sewage Treatment Facilities

Location: 6421 Hermann Road, approximately 1.5 miles south of Greens Bayou and one mile east of United States Highway 59, Houston, Harris County, Texas

TCEQ Region: REGION 12 - HOUSTON

ID Number(s):

WASTEWATER EPA ID TX0091847
WASTEWATER EPA ID TX0132365

WASTEWATER PERMIT WQ0014987001
WASTEWATER LICENSING LICENSE WQ0012626001

Compliance History Period: September 01, 2007 to August 31, 2012 **Rating Year:** 2012 **Rating Date:** 09/01/2012

Date Compliance History Report Prepared: April 10, 2013

Agency Decision Requiring Compliance History: Enforcement

Component Period Selected: April 10, 2008 to April 10, 2013

TCEQ Staff Member to Contact for Additional Information Regarding This Compliance History.

Name: Jacquelyn Green

Phone: (512) 239-2587

Site and Owner/Operator History:

- 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** for #2, who is the current owner/operator? N/A
- 4) If **YES** for #2, 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

Components (Multimedia) for the Site Are Listed in Sections A - J

A. Final Orders, court judgments, and consent decrees:

- 1 Effective Date: 02/17/2010 ADMINORDER 2008-0256-MWD-E (Findings Order-Default)
Classification: Major
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter D 305.65
30 TAC Chapter 305, SubChapter F 305.125(2)
Rqmt Prov:Permit Conditions 4(c) pg.8 PERMIT
Description: Failure to maintain a Texas Pollutant Discharge Elimination System (TPDES) permit.

B. Criminal convictions:

N/A

C. Chronic excessive emissions events:

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**
JMH HOMES-HOUSTON, LLC §
RN101523264 § **ENVIRONMENTAL QUALITY**

AGREED ORDER
DOCKET NO. 2013-0449-MWD-E

I. JURISDICTION AND STIPULATIONS

On _____, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding JMH Homes-Houston, LLC ("Respondent") under the authority of TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent together stipulate that:

1. The Respondent owns and operates a wastewater treatment facility located at 6421 Hermann Road, approximately 1.5 miles south of Greens Bayou and 1.0 mile east of United States Highway 59, in Houston, Harris County, Texas (the "Facility").
2. The Facility adjoins, is contiguous with, surrounds, or is near or adjacent to water in the state as defined in TEX. WATER CODE § 26.001(5).
3. The Executive Director 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.
4. The Respondent received notice of the violations alleged in Section II ("Allegations") on or about February 13, 2013.
5. 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.
6. An administrative penalty in the amount of Eight Thousand Seven Hundred Twenty-One Dollars (\$8,721) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid Six Thousand Nine Hundred

Seventy-Seven Dollars (\$6,977) of the administrative penalty and One Thousand Seven Hundred Forty-Four Dollars (\$1,744) 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, the Executive Director may require the Respondent to pay all or part of the deferred penalty.

7. 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.
8. The Executive Director and the Respondent agree on a settlement of the matters alleged in this enforcement action, subject to final approval in accordance with 30 TEX. ADMIN. CODE § 70.10(a).
9. The Executive Director recognizes that the Respondent has implemented the following corrective measures at the Facility:
 - a. On March 1, 2013, submitted the discharge monitoring reports ("DMRs") for the monitoring periods ending November 30, 2011 through October 31, 2012 and the quarterly monitoring period ending August 31, 2012;
 - b. On March 1, 2013, submitted the annual sludge report for the monitoring period ending July 31, 2012; and
 - c. Began collecting and analyzing effluent samples for *Escherichia coli* ("*E. coli*") for the quarterly monitoring period ending August 31, 2012.
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 of the Facility, the Respondent is alleged to have:

1. Failed to timely submit monitoring results at the intervals specified in the permit, in violation of 30 TEX. ADMIN. CODE §§ 305.125(1) and (17) and 319.7(d), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0014987001, Monitoring and Reporting Requirements No. 1, as documented during a record review conducted on January 25, 2013. Specifically, the DMRs for the monthly monitoring

periods ending November 30, 2011 through October 31, 2012 and the quarterly monitoring period ending August 31, 2012 were not submitted by the 20th day of the following month.

2. Failed to timely submit the annual sludge report for the monitoring period ending July 31, 2012, by September 30, 2012, in violation of 30 TEX. ADMIN CODE § 305.125(1) and (17) and TPDES Permit No. WQ0014987001, Sludge Provisions, as documented during a record review conducted on January 25, 2013.
3. Failed to collect and analyze effluent samples for *E. coli*, in violation of 30 TEX. ADMIN. CODE §§ 305.125(1) and 319.1 and 319.4 and 319.5(b), and TPDES Permit No. WQ0014987001, Monitoring and Reporting Requirements No. 1, as documented in a record review conducted on January 25, 2013. Specifically, effluent samples were not collected and analyzed for *E. coli* for the quarterly monitoring periods ending November 30, 2011, February 29, 2012, and May 31, 2012.

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 6 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: JMH Homes-Houston, LLC, Docket No. 2013-0449-MWD-E" to:

Financial Administration Division, Revenue Operations 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. Within 30 days after the effective date of this Agreed Order, update the Facility's operational guidance and conduct employee training to ensure that self-reporting requirements are properly accomplished, including the sampling of effluent parameters at the required frequency and the timely submittal of complete, signed, and certified monthly and quarterly DMRs and annual sludge reports, in accordance with TPDES Permit No. WQ0014987001; and

- b. Within 45 days after the effective date of this Agreed Order, 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.a. 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
Houston Regional Office
Texas Commission on Environmental Quality
5425 Polk Avenue, Suite H
Houston, Texas 77023-1486

3. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
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.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

Pamela Newberry
For the Executive Director

12/6/13
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.

[Signature]
Signature

Nov 21, 2013
Date

Jody Francis
Name (Printed or typed)
Authorized Representative of
JMH Homes-Houston, LLC

Business Manager
Title

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