

**EXECUTIVE SUMMARY - ENFORCEMENT MATTER**

**DOCKET NO.:** 2008-1295-MWD-E **TCEQ ID:** RN101920114 **CASE NO.:** 36358

**RESPONDENT NAME:** City of Rochester

<b>ORDER TYPE:</b>		
<input checked="" type="checkbox"/> 1660 AGREED ORDER	<input type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING
<input type="checkbox"/> FINDINGS DEFAULT ORDER	<input type="checkbox"/> SHUTDOWN ORDER	<input type="checkbox"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
<input type="checkbox"/> AMENDED ORDER	<input type="checkbox"/> EMERGENCY ORDER	
<b>CASE TYPE:</b>		
<input type="checkbox"/> AIR	<input type="checkbox"/> MULTI-MEDIA (check all that apply)	<input type="checkbox"/> INDUSTRIAL AND HAZARDOUS WASTE
<input type="checkbox"/> PUBLIC WATER SUPPLY	<input type="checkbox"/> PETROLEUM STORAGE TANKS	<input type="checkbox"/> OCCUPATIONAL CERTIFICATION
<input checked="" type="checkbox"/> WATER QUALITY	<input type="checkbox"/> SEWAGE SLUDGE	<input type="checkbox"/> UNDERGROUND INJECTION CONTROL
<input type="checkbox"/> MUNICIPAL SOLID WASTE	<input type="checkbox"/> RADIOACTIVE WASTE	<input type="checkbox"/> DRY CLEANER REGISTRATION
<p><b>SITE WHERE VIOLATION(S) OCCURRED:</b> City of Rochester WWTP, located approximately 2,000 feet north of the city limits of Rochester and adjacent to the Santa Fe Railroad and State Highway 283, Haskell County</p> <p><b>TYPE OF OPERATION:</b> Wastewater treatment plant</p> <p><b>SMALL BUSINESS:</b> <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p><b>OTHER SIGNIFICANT MATTERS:</b> A complaint was received on April 7, 2008, concerning the condition of the water treatment plant. There is no record of additional pending enforcement actions regarding this facility location.</p> <p><b>INTERESTED PARTIES:</b> A complaint was received, but the complainant has not expressed a desire to protest this action or to speak at Agenda.</p> <p><b>COMMENTS RECEIVED:</b> The <i>Texas Register</i> comment period expired on March 23, 2009. No comments were received.</p> <p><b>CONTACTS AND MAILING LIST:</b>  <b>TCEQ Attorney/SEP Coordinator:</b> None  <b>TCEQ Enforcement Coordinator:</b> Ms. Heather Brister, Enforcement Division, Enforcement Team 1, MC R-09, (254) 761-3034; Ms. Cari-Michel La Caille, Enforcement Division, MC 219, (512) 239-1387  <b>Respondent:</b> The Honorable Marvin Stegemoeller, Mayor, City of Rochester, P.O. Box 186, Rochester, Texas 79544  <b>Respondent's Attorney:</b> Not represented by counsel on this enforcement matter</p>		

**VIOLATION SUMMARY CHART:**

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p><b>Type of Investigation:</b>  <input checked="" type="checkbox"/> Complaint  <input type="checkbox"/> Routine  <input type="checkbox"/> Enforcement Follow-up  <input type="checkbox"/> Records Review</p> <p><b>Date(s) of Complaints Relating to this Case:</b> April 7, 2008</p> <p><b>Date of Investigation Relating to this Case:</b> April 18, 2008</p> <p><b>Date of NOV/NOE Relating to this Case:</b> June 17, 2008 (NOE)</p> <p><b>Background Facts:</b> This was a complaint investigation.</p> <p><b>WATER</b></p> <p>1) Failure to properly operate and maintain the wastewater treatment ponds. Specifically, trees were observed on the embankment of the evaporation ponds and an excessive amount of sludge was observed in the ponds [30 TEX. ADMIN. CODE § 305.125(1) and (5) and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0011636001, Special Provisions No. 3].</p> <p>2) Failure to accurately monitor flow. Specifically, the Respondent was using flow measurements recorded at the lift station instead of monitoring flow after the final treatment unit and prior to land application [30 TEX. ADMIN. CODE § 305.125(1) and (5) and TPDES Permit No. WQ0011636001, Effluent Limitations and Monitoring Requirements B].</p> <p>3) Failure to adequately maintain the Facility to achieve optimum efficiency of treatment capability. Specifically, the oxidation ditch's aeration rotor was inoperable and a significant amount of sludge was observed in and around the oxidation ditch, the chlorine contact chamber, and the clarifier. In addition, an excessive amount of vegetation was observed in the sludge drying beds, the Facility grounds were not maintained, and the lift station had only one operable pump [30 TEX. ADMIN. CODE § 305.125(1) and</p>	<p><b>Total Assessed:</b> \$7,490</p> <p><b>Total Deferred:</b> \$1,498  <input checked="" type="checkbox"/> Expedited Settlement  <input type="checkbox"/> Financial Inability to Pay</p> <p><b>SEP Conditional Offset:</b> \$0</p> <p><b>Total Paid (Due) to General Revenue:</b> \$352 (remaining \$5,640 due in 24 monthly payments of \$235 each)</p> <p><b>Site Compliance History Classification</b>  <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p><b>Person Compliance History Classification</b>  <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p><b>Major Source:</b> <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p><b>Applicable Penalty Policy:</b> September 2002</p>	<p><b>Ordering Provisions:</b></p> <p>The Order will require the Respondent to:</p> <p>a. Within 30 days after the effective date of this Agreed Order:</p> <p>i. Remove trees from areas that may compromise the integrity of the ponds;</p> <p>ii. Repair or replace the lift station pump; and</p> <p>iii. Update the Facility's operation guidance and conduct employee training to ensure that reporting requirements are properly accomplished.</p> <p>b. Within 45 days after the effective date of this Agreed Order, submit written certification of compliance with Ordering Provisions a.i through a.iii;</p> <p>c. Within 60 days after the effective date of this Agreed Order, and on a semi-annual basis thereafter, submit a report to the Commission, documenting the progress of the engineering study and corrective actions that are planned and/or have been completed to ensure the effluent meets the permitted limits;</p> <p>d. Within 90 days after the effective date of this Agreed Order, repair the aeration rotor in the oxidation ditch;</p> <p>e. Within 105 days after the effective date of this Agreed Order, submit written certification of compliance with Ordering Provision d;</p> <p>f. Within 120 days after the effective date of this Agreed Order:</p> <p>i. Remove excess sludge from the ponds;</p> <p>ii. Remove vegetation from the sludge drying beds; and</p> <p>iii. Begin monitoring the effluent flow of the wastewater treatment plant in a location after the final treatment unit and prior to land application.</p>

<p>(5) and TPDES Permit No. WQ0011636001, Special Provisions No. 3].</p> <p>4) Failed to maintain compliance with the permit effluent limits for biochemical oxygen demand [30 TEX. ADMIN. CODE § 305.125(1), TEX. WATER CODE § 26.121(a), and TPDES Permit No. WQ0011636001, Effluent Limitations and Monitoring Requirements A].</p> <p>5) Failure to submit noncompliance notification reports for effluent violations that deviated from the permitted effluent limits by more than 40%. Specifically, the biochemical oxygen demand values for the months of April and November 2007 and January, February, and March 2008, exceeded the permitted limits by more than 40% and were not reported to TCEQ [30 TEX. ADMIN. CODE § 305.125(1) and TPDES Permit No. WQ0011636001, Standard Provisions No. 2.c].</p>		<p>g. Within 135 days after the effective date of this Agreed Order, submit written certification of compliance with Ordering Provisions f.i through f.iii; and</p> <p>h. Within 540 days after the effective date of this Agreed Order, submit written certification of compliance with the effluent limits of TPDES Permit No. WQ0011636001, 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.</p>
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Additional ID No(s): WQ0011636001





Policy Revision 2 (September 2002)

# Penalty Calculation Worksheet (PCW)

PCW Revision June 12, 2008

<b>DATES</b>	Assigned	23-Jun-2008	Screening	8-Aug-2008	EPA Due	
	PCW	11-Aug-2008				

<b>RESPONDENT/FACILITY INFORMATION</b>	
Respondent	City of Rochester
Reg. Ent. Ref. No.	RN101920114
Facility/Site Region	3-Abilene
Major/Minor Source	Minor

<b>CASE INFORMATION</b>			
Enf./Case ID No.	36358	No. of Violations	5
Docket No.	2008-1295-MWD-E	Order Type	1660
Media Program(s)	Water Quality	Government/Non-Profit	Yes
Multi-Media		Enf. Coordinator	Heather Brister
		EC's Team	Enforcement Team 1
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$10,000

## Penalty Calculation Section

<b>TOTAL BASE PENALTY (Sum of violation base penalties)</b>	<b>Subtotal 1</b>	\$11,000
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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.

<b>Compliance History</b>	7.0% Enhancement	<b>Subtotals 2, 3, &amp; 7</b>	\$770
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Notes: The Respondent received one Notice of Violation ("NOV") for violations that are same or similar and one NOV for violations that are not same or similar.

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

<b>Good Faith Effort to Comply Total Adjustments</b>	<b>Subtotal 5</b>	\$0
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<b>Economic Benefit</b>	0.0% Enhancement*	<b>Subtotal 6</b>	\$0
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Total EB Amounts	\$8,497
Approx. Cost of Compliance	\$153,250

\*Capped at the Total EB \$ Amount

<b>SUM OF SUBTOTALS 1-7</b>	<b>Final Subtotal</b>	\$11,770
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<b>OTHER FACTORS AS JUSTICE MAY REQUIRE</b>	-36.4%	<b>Adjustment</b>	-\$4,280
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes: Recommended reduction in the penalty so that paperwork violations do not overly impact the penalty amount.

<b>Final Penalty Amount</b>	\$7,490
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<b>STATUTORY LIMIT ADJUSTMENT</b>	<b>Final Assessed Penalty</b>	\$7,490
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<b>DEFERRAL</b>	20.0% Reduction	<b>Adjustment</b>	-\$1,498
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Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes: Deferral offered for expedited settlement.

<b>PAYABLE PENALTY</b>	\$5,992
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Screening Date 8-Aug-2008

Docket No. 2008-1295-MWD-E

PCW

Respondent City of Rochester

Policy Revision 2 (September 2002)

Case ID No. 36358

PCW Revision June 12, 2008

Reg. Ent. Reference No. RN101920114

Media [Statute] Water Quality

Enf. Coordinator Heather Brister

## Compliance History Worksheet

## &gt;&gt; Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written NOV's with same or similar violations as those in the current enforcement action (number of NOV's meeting criteria)	1	5%
	Other written NOV's	1	2%
Orders	Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (number of judgments or consent decrees meeting criteria)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (number of counts)	0	0%
Emissions	Chronic excessive emissions events (number of events)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which notices were submitted)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which violations were disclosed)	0	0%
Please Enter Yes or No			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 7%

## &gt;&gt; Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

## &gt;&gt; Compliance History Person Classification (Subtotal 7)

Average Performer

Adjustment Percentage (Subtotal 7) 0%

## &gt;&gt; Compliance History Summary

Compliance History Notes

The Respondent received one Notice of Violation ("NOV") for violations that are same or similar and one NOV for violations that are not same or similar.

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

<b>Screening Date</b> 8-Aug-2008	<b>Docket No.</b> 2008-1295-MWD-E	<b>PCW</b>		
<b>Respondent</b> City of Rochester		<small>Policy Revision 2 (September 2002)</small>		
<b>Case ID No.</b> 36358		<small>PCW Revision June 12, 2008</small>		
<b>Reg. Ent. Reference No.</b> RN101920114				
<b>Media [Statute]</b> Water Quality				
<b>Enf. Coordinator</b> Heather Brister				
<b>Violation Number</b> <input type="text" value="1"/>				
<b>Rule Cite(s)</b>	30 Tex. Admin. Code § 305.125(1) and (5), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0011636001, Special Provisions No. 3			
<b>Violation Description</b>	Failed to properly operate and maintain the wastewater treatment ponds, as documented during an investigation conducted on April 18, 2008. Specifically, trees were observed on the embankment of the evaporation ponds and an excessive amount of sludge was observed in the ponds.			
	<b>Base Penalty</b>	<input type="text" value="\$10,000"/>		
<b>&gt;&gt; Environmental, Property and Human Health Matrix</b>				
<b>OR</b>	<b>Harm</b>			
	Release	Major	Moderate	Minor
	Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>
	Potential	<input type="text"/>	<input type="text"/>	x
			<b>Percent</b>	<input type="text" value="5%"/>
<b>&gt;&gt; Programmatic Matrix</b>				
	Falsification	Major	Moderate	Minor
	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
			<b>Percent</b>	<input type="text" value="0%"/>
<b>Matrix Notes</b>	Human health or the environment will or could be exposed to insignificant amounts of pollutants which would not exceed levels that are protective of human health or environmental receptors.			
	<b>Adjustment</b>	<input type="text" value="\$9,500"/>		
		<input type="text" value="\$500"/>		
<b>Violation Events</b>				
	<b>Number of Violation Events</b>	<input type="text" value="1"/>	<input type="text" value="112"/>	<b>Number of violation days</b>
	<small>mark only one with an x</small>	daily	<input type="text"/>	<b>Violation Base Penalty</b>
		monthly	<input type="text"/>	
		quarterly	<input type="text"/>	
		semiannual	<input type="text"/>	
		annual	<input type="text"/>	
		single event	x	
	One single event is recommended.			
<b>Good Faith Efforts to Comply</b>				
		<input type="text" value="0.0%"/>	<b>Reduction</b>	<input type="text" value="\$0"/>
		Before NOV	NOV to EDPRP/Settlement Offer	
	<b>Extraordinary</b>	<input type="text"/>	<input type="text"/>	
	<b>Ordinary</b>	<input type="text"/>	<input type="text"/>	
	<b>N/A</b>	x	(mark with x)	
	<b>Notes</b>	The Respondent does not meet the good faith criteria for this violation.		
		<b>Violation Subtotal</b>	<input type="text" value="\$500"/>	
<b>Economic Benefit (EB) for this violation</b>				
	<b>Estimated EB Amount</b>	<input type="text" value="\$4,863"/>	<b>Statutory Limit Test</b>	
			<b>Violation Final Penalty Total</b>	<input type="text" value="\$340"/>
			<b>This violation Final Assessed Penalty (adjusted for limits)</b>	<input type="text" value="\$340"/>

## Economic Benefit Worksheet

**Respondent** City of Rochester  
**Case ID No.** 36358  
**Reg. Ent. Reference No.** RN101920114  
**Media** Water Quality  
**Violation No.** 1

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**

Equipment			0.00	\$0	\$0	\$0	\$0
Buildings			0.00	\$0	\$0	\$0	\$0
Other (as needed)			0.00	\$0	\$0	\$0	\$0
Engineering/construction			0.00	\$0	\$0	\$0	\$0
Land			0.00	\$0	n/a	n/a	\$0
Record Keeping System			0.00	\$0	n/a	n/a	\$0
Training/Sampling			0.00	\$0	n/a	n/a	\$0
Remediation/Disposal			0.00	\$0	n/a	n/a	\$0
Permit Costs			0.00	\$0	n/a	n/a	\$0
Other (as needed)	\$100,000	18-Apr-2008	8-Apr-2009	0.97	\$4,863	n/a	\$4,863

**Notes for DELAYED costs**  
 Estimated cost to remove trees from around the perimeter of the ponds and estimated cost to dredge the ponds and remove trees from in the ponds. Date Required is the date of the investigation. Final Date is the anticipated date of compliance.

**Avoided Costs**

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

Disposal			0.00	\$0	\$0	\$0	\$0
Personnel			0.00	\$0	\$0	\$0	\$0
Inspection/Reporting/Sampling			0.00	\$0	\$0	\$0	\$0
Supplies/equipment			0.00	\$0	\$0	\$0	\$0
Financial Assurance [2]			0.00	\$0	\$0	\$0	\$0
ONE-TIME avoided costs [3]			0.00	\$0	\$0	\$0	\$0
Other (as needed)			0.00	\$0	\$0	\$0	\$0

**Notes for AVOIDED costs**

**Approx. Cost of Compliance**    \$100,000    **TOTAL**    \$4,863

<b>Screening Date</b> 8-Aug-2008	<b>Docket No.</b> 2008-1295-MWD-E	<b>PCW</b>														
<b>Respondent</b> City of Rochester		<small>Policy Revision 2 (September 2002)</small>														
<b>Case ID No.</b> 36358		<small>PCW Revision June 12, 2008</small>														
<b>Reg. Ent. Reference No.</b> RN101920114																
<b>Media [Statute]</b> Water Quality																
<b>Enf. Coordinator</b> Heather Brister																
<b>Violation Number</b> <input type="text" value="2"/>																
<b>Rule Cite(s)</b>	<input type="text" value="30 Tex. Admin. Code § 305.125(1) and (5), and TPDES Permit No. WQ0011636001, Effluent Limitations and Monitoring Requirements B"/>															
<b>Violation Description</b>	<input type="text" value="Failed to accurately monitor flow, as documented during an investigation conducted on April 18, 2008. Specifically, the Respondent was using flow measurements recorded at the lift station instead of monitoring flow after the final treatment unit and prior to land application."/>															
	<b>Base Penalty</b>	<input type="text" value="\$10,000"/>														
<b>&gt;&gt; Environmental, Property and Human Health Matrix</b>																
OR	<b>Harm</b>															
	Release	Major	Moderate	Minor												
	Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>												
	Potential	<input type="text"/>	<input type="text"/>	x												
				<b>Percent</b> <input type="text" value="5%"/>												
<b>&gt;&gt; Programmatic Matrix</b>																
	Falsification	Major	Moderate	Minor												
	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>												
				<b>Percent</b> <input type="text" value="0%"/>												
<b>Matrix Notes</b>	<input type="text" value="Human health or the environment will or could be exposed to insignificant amounts of pollutants which would not exceed levels that are protective of human health or environmental receptors."/>															
	<b>Adjustment</b>	<input type="text" value="\$9,500"/>														
				<input type="text" value="\$500"/>												
<b>Violation Events</b>																
	Number of Violation Events	<input type="text" value="1"/>	Number of violation days	<input type="text" value="112"/>												
<small>mark only one with an x</small>		<table border="1" style="border-collapse: collapse;"> <tr><td>daily</td><td><input type="text"/></td></tr> <tr><td>monthly</td><td><input type="text"/></td></tr> <tr><td>quarterly</td><td><input type="text"/></td></tr> <tr><td>semiannual</td><td><input type="text"/></td></tr> <tr><td>annual</td><td><input type="text"/></td></tr> <tr><td>single event</td><td style="text-align: center;">x</td></tr> </table>	daily	<input type="text"/>	monthly	<input type="text"/>	quarterly	<input type="text"/>	semiannual	<input type="text"/>	annual	<input type="text"/>	single event	x	<b>Violation Base Penalty</b>	<input type="text" value="\$500"/>
daily	<input type="text"/>															
monthly	<input type="text"/>															
quarterly	<input type="text"/>															
semiannual	<input type="text"/>															
annual	<input type="text"/>															
single event	x															
	<input type="text" value="One single event is recommended."/>															
<b>Good Faith Efforts to Comply</b>																
	<b>0.0% Reduction</b>	<input type="text" value="\$0"/>														
		<small>Before NOV</small>	<small>NOV to EDPRP/Settlement Offer</small>													
	Extraordinary	<input type="text"/>	<input type="text"/>													
	Ordinary	<input type="text"/>	<input type="text"/>													
	N/A	x	<small>(mark with x)</small>													
<b>Notes</b>	<input type="text" value="The Respondent does not meet the good faith criteria for this violation."/>															
	<b>Violation Subtotal</b>	<input type="text" value="\$500"/>														
<b>Economic Benefit (EB) for this violation</b>																
<b>Statutory Limit Test</b>																
	<b>Estimated EB Amount</b>	<input type="text" value="\$204"/>	<b>Violation Final Penalty Total</b>	<input type="text" value="\$340"/>												
			<b>This violation Final Assessed Penalty (adjusted for limits)</b>	<input type="text" value="\$340"/>												

## Economic Benefit Worksheet

**Respondent** City of Rochester  
**Case ID No.** 36358  
**Reg. Ent. Reference No.** RN101920114  
**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	\$3,000	18-Apr-2008	8-Apr-2009	0.97	\$10	\$195	\$204
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

Estimated cost to install a new flow meter at the Facility. Date Required is the date of the investigation. Final Date is the anticipated date of compliance.

**Avoided Costs**

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

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance	\$3,000	TOTAL	\$204
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<b>Screening Date</b> 8-Aug-2008	<b>Docket No.</b> 2008-1295-MWD-E	<b>PCW</b>																		
<b>Respondent</b> City of Rochester		<small>Policy Revision 2 (September 2002)</small>																		
<b>Case ID No.</b> 36358		<small>PCW Revision June 12, 2008</small>																		
<b>Reg. Ent. Reference No.</b> RN101920114																				
<b>Media [Statute]</b> Water Quality																				
<b>Enf. Coordinator</b> Heather Brister																				
<b>Violation Number</b> <input type="text" value="3"/>																				
<b>Rule Cite(s)</b>	30 Tex. Admin. Code § 305.125(1) and (5), and TPDES Permit No. WQ0011638001, Special Provisions No. 3																			
<b>Violation Description</b>	Failed to adequately maintain the Facility to achieve optimum efficiency of treatment capability, as documented during an investigation conducted on April 18, 2008. Specifically, the oxidation ditch's aeration rotor was inoperable and a significant amount of sludge was observed in and around the oxidation ditch, the chlorine contact chamber, and the clarifier. In addition, an excessive amount of vegetation was observed in the sludge drying beds, the Facility grounds were not maintained, and the lift station had only one operable pump.																			
	<b>Base Penalty</b>	\$10,000																		
<b>&gt;&gt; Environmental, Property and Human Health Matrix</b>																				
OR	<table border="1" style="margin-left: auto; margin-right: auto;"> <tr> <td></td> <th colspan="3">Harm</th> <td></td> </tr> <tr> <td></td> <th>Major</th> <th>Moderate</th> <th>Minor</th> <td></td> </tr> <tr> <td>Actual</td> <td><input type="text"/></td> <td><input type="text"/></td> <td><input type="text"/></td> <td rowspan="2" style="vertical-align: middle;"><b>Percent</b> <input type="text" value="10%"/></td> </tr> <tr> <td>Potential</td> <td><input type="text"/></td> <td style="text-align: center;">x</td> <td><input type="text"/></td> </tr> </table>		Harm					Major	Moderate	Minor		Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>	<b>Percent</b> <input type="text" value="10%"/>	Potential	<input type="text"/>	x	<input type="text"/>
	Harm																			
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	Major	Moderate	Minor																	
Falsification	<input type="text"/>	<input type="text"/>	<input type="text"/>	<b>Percent</b> <input type="text" value="0%"/>																
<b>Matrix Notes</b>	Human health or the environment will or could be exposed to significant amounts of pollutants which would not exceed levels that are protective of human health or environmental receptors.																			
	<b>Adjustment</b>	\$9,000																		
		\$1,000																		
<b>Violation Events</b>																				
	Number of Violation Events <input type="text" value="2"/>	Number of violation days <input type="text" value="112"/>																		
<small>mark only one with an x</small>	<table style="width: 100%;"> <tr><td>daily</td><td><input type="text"/></td></tr> <tr><td>monthly</td><td><input type="text"/></td></tr> <tr><td>quarterly</td><td style="text-align: center;">x</td></tr> <tr><td>semiannual</td><td><input type="text"/></td></tr> <tr><td>annual</td><td><input type="text"/></td></tr> <tr><td>single event</td><td><input type="text"/></td></tr> </table>	daily	<input type="text"/>	monthly	<input type="text"/>	quarterly	x	semiannual	<input type="text"/>	annual	<input type="text"/>	single event	<input type="text"/>	<b>Violation Base Penalty</b> <input type="text" value="\$2,000"/>						
daily	<input type="text"/>																			
monthly	<input type="text"/>																			
quarterly	x																			
semiannual	<input type="text"/>																			
annual	<input type="text"/>																			
single event	<input type="text"/>																			
	Two quarterly events are recommended from the investigation date (April 18, 2008) to the screening date (August 8, 2008).																			
<b>Good Faith Efforts to Comply</b>																				
	<table border="1" style="margin-left: auto; margin-right: auto;"> <tr> <td></td> <td style="text-align: center;">0.0% Reduction</td> <td></td> </tr> <tr> <td></td> <td style="text-align: center;">Before NOV</td> <td style="text-align: center;">NOV to EDPRP/Settlement Offer</td> </tr> <tr> <td>Extraordinary</td> <td><input type="text"/></td> <td><input type="text"/></td> </tr> <tr> <td>Ordinary</td> <td><input type="text"/></td> <td><input type="text"/></td> </tr> <tr> <td>N/A</td> <td style="text-align: center;">x</td> <td style="text-align: center;">(mark with x)</td> </tr> </table>		0.0% Reduction			Before NOV	NOV to EDPRP/Settlement Offer	Extraordinary	<input type="text"/>	<input type="text"/>	Ordinary	<input type="text"/>	<input type="text"/>	N/A	x	(mark with x)	<input type="text" value="\$0"/>			
	0.0% Reduction																			
	Before NOV	NOV to EDPRP/Settlement Offer																		
Extraordinary	<input type="text"/>	<input type="text"/>																		
Ordinary	<input type="text"/>	<input type="text"/>																		
N/A	x	(mark with x)																		
<b>Notes</b>	The Respondent does not meet the good faith criteria for this violation.																			
	<b>Violation Subtotal</b>	\$2,000																		
<b>Economic Benefit (EB) for this violation</b>																				
	<b>Estimated EB Amount</b>	\$3,404																		
<b>Statutory Limit Test</b>																				
	<b>Violation Final Penalty Total</b>	\$1,362																		
	<b>This violation Final Assessed Penalty (adjusted for limits)</b>	\$1,362																		

## Economic Benefit Worksheet

**Respondent** City of Rochester  
**Case ID No.** 36358  
**Reg. Ent. Reference No.** RN101920114  
**Media** Water Quality  
**Violation No.** 3

<b>Percent Interest</b>	<b>Years of Depreciation</b>
5.0	15

**Item Cost**    **Date Required**    **Final Date**    **Yrs**    **Interest Saved**    **Onetime Costs**    **EB Amount**  
**Item Description**    No commas or \$

**Delayed Costs**

	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Equipment	\$50,000	18-Apr-2008	8-Apr-2009	0.97	\$162	\$3,242	\$3,404
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**    Estimated cost to purchase a shredder to mow the overgrown vegetation, cost of new pump for the lift station, and cost to have the rotor removed, repaired or replaced. Date Required is the date of the investigation. Final Date is the anticipated date of compliance.

**Avoided Costs**

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

	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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**    \$50,000

**TOTAL**    \$3,404

**Screening Date** 8-Aug-2008 **Docket No.** 2008-1295-MWD-E **PCW**  
**Respondent** City of Rochester *Policy Revision 2 (September 2002)*  
**Case ID No.** 36358 *PCW Revision June 12, 2008*  
**Reg. Ent. Reference No.** RN101920114  
**Media [Statute]** Water Quality  
**Enf. Coordinator** Heather Brister  
**Violation Number** 4  
**Rule Cite(s)** 30 Tex. Admin. Code § 305.125(1), Tex. Water Code § 26.121(a), and TPDES Permit No. WQ0011636001, Effluent Limitations and Monitoring Requirements A  
**Violation Description** Failed to maintain compliance with the permit effluent limits, as documented during an investigation conducted on April 18, 2008, and as shown in the attached table.  
**Base Penalty** \$10,000

>> Environmental, Property and Human Health Matrix

Release	Harm			Percent
	Major	Moderate	Minor	
Actual			X	10%
Potential				

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
				0%

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

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events 3 212 Number of violation days

mark only one with an x	daily	
	monthly	
	quarterly	X
	semiannual	
	annual	
	single event	

Violation Base Penalty \$3,000

Three quarterly events are recommended.

Good Faith Efforts to Comply 0.0% Reduction \$0

	Reduction	
	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 \$0

Violation Final Penalty Total \$2,043

This violation Final Assessed Penalty (adjusted for limits) \$2,043

## Economic Benefit Worksheet

**Respondent** City of Rochester  
**Case ID No.** 36358  
**Reg. Ent. Reference No.** RN101920114  
**Media** Water Quality  
**Violation No.** 4

<b>Percent Interest</b>	<b>Years of Depreciation</b>
5.0	15

**Item Cost**    **Date Required**    **Final Date**    **Yrs**    **Interest Saved**    **Onetime Costs**    **EB Amount**  
 Item Description    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 Worksheet for Violation No. 3.

**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

<b>Screening Date</b> 8-Aug-2008 <b>Respondent</b> City of Rochester <b>Case ID No.</b> 36358 <b>Reg. Ent. Reference No.</b> RN101920114 <b>Media [Statute]</b> Water Quality <b>Enf. Coordinator</b> Heather Brister <b>Violation Number</b> <input type="text" value="5"/> <b>Rule Cite(s)</b> 30 Tex. Admin. Code § 305.125(1) and TPDES Permit No. WQ0011636001, Standard Provisions No. 2.c  <b>Violation Description</b> Failed to submit noncompliance notification reports for effluent violations that deviated from the permitted effluent limits by more than 40%, as documented during an investigation conducted on April 18, 2008. Specifically, the biochemical oxygen demand ("BOD") values for the months of April and November 2007 and January, February, and March 2008, exceeded the permitted limits by more than 40% and were not reported to TCEQ.	<b>Docket No.</b> 2008-1295-MWD-E <b>PCW</b> <i>Policy Revision 2 (September 2002)</i> <i>PCW Revision June 12, 2008</i>																														
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	<b>Violation Final Penalty Total</b> <input type="text" value="\$3,405"/>																														
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## Economic Benefit Worksheet

**Respondent** City of Rochester  
**Case ID No.** 36358  
**Reg. Ent. Reference No.** RN101920114  
**Media** Water Quality  
**Violation No.** 5

<b>Percent Interest</b>	<b>Years of Depreciation</b>
5.0	15

<b>Item Cost</b>	<b>Date Required</b>	<b>Final Date</b>	<b>Yrs</b>	<b>Interest Saved</b>	<b>Onetime Costs</b>	<b>EB Amount</b>
<b>Item Description</b> 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)	\$250	5-Apr-2007	8-Apr-2009	2.01	\$25	n/a

**Notes for DELAYED costs** Estimated cost to update operation guidance and conduct employee training to ensure that non-compliance notifications are submitted. Date Required is the date the first report was due. 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 \$250

**TOTAL** \$25

**Effluent Limit Violation Table**

table rev.

<b>Respondent</b>	City of Rochester	
<b>ID Number(s)</b>	WQ0011636001	
<b>Docket Number</b>	2008-1295-MWD-E	
<b>Enf. Coordinator</b>	Heather Brister	

**Corresponds to Violation Number:** 4

<i>EFFLUENT PARAMETER</i>	
<i>Permit Limit</i>	
	Biochemical Oxygen Demand 65 Milligrams per Liter
<i>Month/Year</i>	
Apr-07	100
May-07	89
Jun-07	78
Nov-07	120
Jan-08	150
Feb-08	150
Mar-08	180



# Compliance History

Customer/Respondent/Owner-Operator:	CN600638308	City of Rochester	Classification: AVERAGE	Rating: 2.50
Regulated Entity:	RN101920114	CITY OF ROCHESTER WWTP	Classification: AVERAGE	Site Rating: 2.00
ID Number(s):	WASTEWATER	PERMIT	WQ0011636001	
	SLUDGE	REGISTRATION	22124	
	WASTEWATER LICENSING	LICENSE	WQ0011636001	

Location: Located approximately 2,000 feet north of the city limits of Rochester and adjacent to the Santa Fe Railroad and State Highway 283 in Haskell County Texas. Rating Date: 9/1/2007  
Repeat Violator: NO

TCEQ Region: REGION 03 - ABILENE  
 Date Compliance History Prepared: June 27, 2008  
 Agency Decision Requiring Compliance History: Enforcement  
 Compliance Period: June 27, 2003 to June 27, 2008  
 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 of the site during the compliance period?    | No  |
| 3. If Yes, who is the current owner?   | N/A |
| 4. If Yes, who was/were the prior owner(s)?  | N/A |
| 5. When did the change(s) in ownership occur?  | N/A |

### Components (Multimedia) for the Site :

- |  |     |
|--|-----|
| A. Final Enforcement Orders, court judgements, 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 06/28/2004 (277532)
- 2 04/06/2007 (555986)

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

Date: **06/25/2004** (277532)

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
 30 TAC Chapter 305, SubChapter F 305.125(5)

Description: Failure to properly operate and maintain the wastewater treatment ponds.

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
 Rqmt Prov: PERMIT WQ0011636-001

Description: Failure to monitor effluent flow instantaneously as required by Water Quality Permit No. WQ0011636001.

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
 Rqmt Prov: PERMIT WQ0011636-001

Description: Failure to collect effluent samples for pH analysis at least once per month.

Date: **09/22/2006** (513712)

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(5)  
 Description: Failure to maintain the pump guide rails for both pumps at the lift station.

- |  |     |
|--|-----|
| 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  
CITY OF ROCHESTER  
RN101920114

§  
§  
§  
§  
§

BEFORE THE  
TEXAS COMMISSION ON  
ENVIRONMENTAL QUALITY

## AGREED ORDER DOCKET NO. 2008-1295-MWD-E

### I. JURISDICTION AND STIPULATIONS

At its \_\_\_\_\_ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding City of Rochester ("the City") under the authority of TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, through the Enforcement Division, and the City appear before the Commission and together stipulate that:

1. The City owns and operates a wastewater treatment plant located approximately 2,000 feet north of the city limits of Rochester and adjacent to the Santa Fe Railroad and State Highway 283 in Haskell County, Texas (the "Facility").
2. The City has committed any other act or engaged in any other activity which in itself or in conjunction with any other discharge or activity causes, continues to cause, or will cause pollution of any water in the state under TEX. WATER CODE ch. 26.
3. The Commission and the City agree that the Commission has jurisdiction to enter this Agreed Order, and that the City is subject to the Commission's jurisdiction.
4. The City received notice of the violations alleged in Section II ("Allegations") on or about June 22, 2008.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by the City of any violation alleged in Section II ("Allegations"), nor of any statute or rule.



6. An administrative penalty in the amount of Seven Thousand Four Hundred Ninety Dollars (\$7,490) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The City has paid Three Hundred Fifty-Two Dollars (\$352) of the administrative penalty and One Thousand Four Hundred Ninety-Eight Dollars (\$1,498) is deferred contingent upon the City'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 City fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require the City to pay all or part of the deferred penalty.

The remaining amount of Five Thousand Six Hundred Forty Dollars (\$5,640) of the administrative penalty shall be payable in 24 monthly payments of Two Hundred Thirty-Five Dollars (\$235) each. The next monthly payment shall be paid within 30 days after the effective date of this Agreed Order. The subsequent payments shall each be paid not later than 30 days following the due date of the previous payment until paid in full. If the City fails to timely and satisfactorily comply with the payment requirements of this Agreed Order, the Executive Director may, at the Executive Director's option, accelerate the maturity of the remaining installments, in which event the unpaid balance shall become immediately due and payable without demand or notice. In addition, the failure of the City to meet the payment schedule of this Agreed Order constitutes the failure by the City to timely and satisfactorily comply with all the terms of this Agreed Order.

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 of the TCEQ and the City have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
9. 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 City has not complied with one or more of the terms or conditions in this Agreed Order.
10. 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.
11. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

## II. ALLEGATIONS

As owner and operator of the Facility, the City is alleged to have:

1. Failed to properly operate and maintain the wastewater treatment ponds, in violation of 30 TEX. ADMIN. CODE § 305.125(1) and (5), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0011636001, Special Provisions No. 3, as documented during an investigation conducted on April 18, 2008. Specifically, trees were observed on the embankment of the evaporation ponds and an excessive amount of sludge was observed in the ponds.



2. Failed to accurately monitor flow, in violation of 30 TEX. ADMIN. CODE § 305.125(1) and (5), and TPDES Permit No. WQ0011636001, Effluent Limitations and Monitoring Requirements B, as documented during an investigation conducted on April 18, 2008. Specifically, the City was using flow measurements recorded at the lift station instead of monitoring flow after the final treatment unit and prior to land application.
3. Failed to adequately maintain the Facility to achieve optimum efficiency of treatment capability, in violation of 30 TEX. ADMIN. CODE § 305.125(1) and (5), and TPDES Permit No. WQ0011636001, Special Provisions No. 3, as documented during an investigation conducted on April 18, 2008. Specifically, the oxidation ditch's aeration rotor was inoperable and a significant amount of sludge was observed in and around the oxidation ditch, the chlorine contact chamber, and the clarifier. In addition, an excessive amount of vegetation was observed in the sludge drying beds, the Facility grounds were not maintained, and the lift station had only one operable pump.
4. Failed to maintain compliance with the permit effluent limits, in violation of 30 TEX. ADMIN. CODE § 305.125(1), TEX. WATER CODE § 26.121(a), and TPDES Permit No. WQ0011636001, Effluent Limitations and Monitoring Requirements A, as documented during an investigation conducted on April 18, 2008, and as shown in the following table:

<b>EFFLUENT PARAMETER</b>	
<b>Permit Limit</b>	
	Biochemical Oxygen Demand 65 Milligrams per Liter
<b>Month/Year</b>	
Apr-07	100
May-07	89
Jun-07	78
Nov-07	120
Jan-08	150
Feb-08	150
Mar-08	180

5. Failed to submit noncompliance notification reports for effluent violations that deviated from the permitted effluent limits by more than 40%, in violation of 30 TEX. ADMIN. CODE § 305.125(1) and TPDES Permit No. WQ0011636001, Standard Provisions No. 2.c, as documented during an investigation conducted on April 18, 2008. Specifically, the biochemical oxygen demand values for the months of April and November 2007 and January, February, and March 2008, exceeded the permitted limits by more than 40% and were not reported to TCEQ.

### III. DENIALS

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



#### IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that the City pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and the City'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: City of Rochester, Docket No. 2008-1295-MWD-E" to:

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

2. It is further ordered that the City shall undertake the following technical requirements:
  - a. Within 30 days after the effective date of this Agreed Order:
    - i. Remove trees from areas that may compromise the integrity of the ponds;
    - ii. Repair or replace the lift station pump; and
    - iii. Update the Facility's operation guidance and conduct employee training to ensure that reporting requirements are properly accomplished, in accordance with TPDES Permit No. WQ0011636001, Standard Provisions No. 2.c.
  - b. Within 45 days after the effective date of this Agreed Order, submit written certification of compliance with Ordering Provision Nos. 2.a.i through 2.a.iii, in accordance with Ordering Provision No. 2.h below.
  - c. Within 60 days after the effective date of this Agreed Order, and on a semi-annual basis thereafter, submit a report to the Commission, documenting the progress of the engineering study and corrective actions that are planned and/or have been completed to ensure the effluent meets the permitted limits. The reports shall be submitted to the addresses in Ordering Provision No. 2.h below;
  - d. Within 90 days after the effective date of this Agreed Order, repair the aeration rotor in the oxidation ditch.
  - e. Within 105 days after the effective date of this Agreed Order, submit written certification of compliance with Ordering Provision No. 2.d, in accordance with Ordering Provision No. 2.h below.
  - f. Within 120 days after the effective date of this Agreed Order:
    - i. Remove excess sludge from the ponds;
    - ii. Remove vegetation from the sludge drying beds; and



- iii. Begin monitoring the effluent flow of the wastewater treatment plant in a location after the final treatment unit and prior to land application.
- g. Within 135 days after the effective date of this Agreed Order, submit written certification of compliance with Ordering Provision Nos. 2.f.i through 2.f.iii, in accordance with Ordering Provision No. 2.h below.
- h. Within 540 days after the effective date of this Agreed Order, submit written certification of compliance with the effluent limits of TPDES Permit No. WQ0011636001, 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 this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, 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."

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  
Abilene Regional Office  
Texas Commission on Environmental Quality  
1977 Industrial Boulevard  
Abilene, Texas 79602-7833

- 3. The provisions of this Agreed Order shall apply to and be binding upon the City. The City 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 City 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 City's failure to comply is not a violation of this Agreed Order. The City shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The City shall notify the Executive Director within seven days after the City 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 City shall be made in writing to the Executive Director. Extensions are not effective until the City 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 City 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 agreement may be executed in multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreement may be transmitted by facsimile transmission to the other parties, which shall constitute an original signature for all purposes.
  8. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to the City, or three days after the date on which the Commission mails notice of the Order to the City, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.
-

The first part of the document discusses the importance of maintaining accurate records of all transactions. It emphasizes that every entry should be supported by a valid receipt or invoice. This ensures transparency and allows for easy verification of the data. The second part of the document provides a detailed breakdown of the financial data for the quarter. It includes a table showing the revenue generated from various sources, as well as the associated costs and expenses. The final part of the document concludes with a summary of the overall financial performance and offers recommendations for future improvements. It suggests that by implementing more rigorous controls and streamlining processes, the organization can achieve better financial results in the coming year.

## SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

\_\_\_\_\_  
For the Commission

*John S. Siler*  
For the Executive Director

3/9/2009  
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.

*Marvin Stegemöller*  
Signature

1-12-09  
Date

Marvin Stegemöller  
Name (Printed or typed)  
Authorized Representative of  
City of Rochester

Mayor  
Title

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

# THE HISTORY OF THE

REPUBLIC OF THE UNITED STATES

OF AMERICA

FROM 1776 TO 1876

BY

W. H. CHAPMAN

AND

W. D. HOWLAND

EDITORS

THE HISTORY OF THE REPUBLIC OF THE UNITED STATES OF AMERICA FROM 1776 TO 1876. BY W. H. CHAPMAN AND W. D. HOWLAND, EDITORS. VOL. I. NEW YORK: G. P. PUTNAM'S SONS, 1876.

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