

EXECUTIVE SUMMARY - ENFORCEMENT MATTER

DOCKET NO.: 2010-0202-PWS-E TCEQ ID: RN102676269 CASE NO.: 39091

RESPONDENT NAME: City of Rose City

ORDER TYPE:		
<input type="checkbox"/> 1660 AGREED ORDER	<input checked="" 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"/> IMMEDIATE AND SUBSTANTIAL ENDANGERMENT ORDER
<input type="checkbox"/> AMENDED ORDER	<input type="checkbox"/> EMERGENCY ORDER	
CASE TYPE:		
<input type="checkbox"/> AIR	<input type="checkbox"/> MULTI-MEDIA (check all that apply)	<input type="checkbox"/> INDUSTRIAL AND HAZARDOUS WASTE
<input checked="" type="checkbox"/> PUBLIC WATER SUPPLY	<input type="checkbox"/> PETROLEUM STORAGE TANKS	<input type="checkbox"/> OCCUPATIONAL CERTIFICATION
<input 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>SITE WHERE VIOLATION(S) OCCURRED: City of Rose City, located approximately 176 feet southwest of the intersection of Carnellia Street and Cardinal Drive, Rose City, Orange County</p> <p>TYPE OF OPERATION: Public water supply</p> <p>SMALL BUSINESS: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>OTHER SIGNIFICANT MATTERS: There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.</p> <p>INTERESTED PARTIES: No one other than the ED and the Respondent has expressed an interest in this matter.</p> <p>COMMENTS RECEIVED: The <i>Texas Register</i> comment period expired on May 24, 2010. No comments were received.</p> <p>CONTACTS AND MAILING LIST: TCEQ Attorney/SEP Coordinator: None TCEQ Enforcement Coordinator: Ms. Anna Meier, Enforcement Division, Enforcement Team 2, MC 169, (512) 239-1370; Ms. Laurie Eaves, Enforcement Division, MC 219, (512) 239-4495 Respondent: The Honorable David E. Bush, Mayor, City of Rose City, 370 Rose City Drive, Vidor, Texas 77662 Respondent's Attorney: Not represented by counsel on this enforcement matter</p>		

VIOLATION SUMMARY CHART:

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p>Type of Investigation: <input type="checkbox"/> Complaint <input type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input checked="" type="checkbox"/> Records Review</p> <p>Date(s) of Complaints Relating to this Case: None</p> <p>Date of Investigation Relating to this Case: January 20, 2010</p> <p>Date of NOV/NOE Relating to this Case: January 22, 2010 (NOE)</p> <p>Background Facts: This was a record review.</p> <p>WATER</p> <p>Failure to comply with the maximum contaminant level ("MCL") of 0.080 milligrams per liter for total trihalomethanes ("TTHM") [30 TEX. ADMIN. CODE § 290.113(f)(4) and TEX. HEALTH & SAFETY CODE § 341.0315(c)].</p>	<p>Total Assessed: \$457</p> <p>Total Deferred: \$0 <input type="checkbox"/> Expedited Settlement <input type="checkbox"/> Financial Inability to Pay</p> <p>SEP Conditional Offset: \$0</p> <p>Total Paid to General Revenue: \$457</p> <p>Site Compliance History Classification <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Person Compliance History Classification <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Major Source: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>Applicable Penalty Policy: September 2002</p> <p>Findings Orders Justification: The Respondent has three repeated enforcement actions over the prior five year period for the same violation.</p>	<p>Ordering Provisions:</p> <p>The Order will require the Respondent to:</p> <p>a. Within 365 days after the effective date of this Agreed Order, return to compliance with the running annual average MCL for TTHM; and</p> <p>b. Within 380 days after the effective date of this Agreed Order, submit written certification and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision a.</p>

Additional ID No(s): PWS ID No. 1810139



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

DATES

Assigned PCW	25-Jan-2010	Screening	1-Feb-2010	EPA Due	28-Feb-2010
--------------	-------------	-----------	------------	---------	-------------

RESPONDENT/FACILITY INFORMATION

Respondent	City of Rose City		
Reg. Ent. Ref. No.	RN102676269		
Facility/Site Region	10-Beaumont	Major/Minor Source	Minor

CASE INFORMATION

Enf./Case ID No.	39091	No. of Violations	1
Docket No.	2010-0202-PWS-E	Order Type	Findings
Media Program(s)	Public Water Supply	Government/Non-Profit	Yes
Multi-Media		Enf. Coordinator	Anna Meier
		EC's Team	Enforcement Team 2
Admin. Penalty \$ Limit Minimum	\$50	Maximum	\$1,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties) Subtotal 1

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History Enhancement Subtotals 2, 3, & 7

Notes: Enhancement due to two NOVs that contain violations that are the same or similar to those in the current enforcement action, two agreed final enforcement orders that contain a denial of liability, and four dissimilar NOVs.

Culpability Enhancement Subtotal 4

Notes: The Respondent was issued three alert letters for total trihalomethane ("TTHM") exceedances on March 30, 2009, March 27, 2008, and February 1, 2008.

Good Faith Effort to Comply Total Adjustments Subtotal 5

Economic Benefit Enhancement* Subtotal 6

Total EB Amounts	\$413
Approx. Cost of Compliance	\$5,000

*Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7 Final Subtotal

OTHER FACTORS AS JUSTICE MAY REQUIRE Adjustment

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes

Final Penalty Amount

STATUTORY LIMIT ADJUSTMENT Final Assessed Penalty

DEFERRAL Reduction Adjustment

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

Notes

No deferral due to culpability and Findings Order.

PAYABLE PENALTY

Screening Date 1-Feb-2010

Docket No. 2010-0202-PWS-E

PCW

Respondent City of Rose City

Policy Revision 2 (September 2002)

Case ID No. 39091

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN102676269

Media [Statute] Public Water Supply

Enf. Coordinator Anna Meier

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written NOVs with same or similar violations as those in the current enforcement action (number of NOVs meeting criteria)	2	10%
	Other written NOVs	4	8%
Orders	Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)	2	40%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (number of judgements or consent decrees meeting criteria)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (number of counts)	0	0%
Emissions	Chronic excessive emissions events (number of events)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which notices were submitted)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which violations were disclosed)	0	0%

Please Enter Yes or No

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

Adjustment Percentage (Subtotal 2) 58%

>> Repeat Violator (Subtotal 3)

N/A

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Average Performer

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance History Notes

Enhancement due to two NOVs that contain violations that are the same or similar to those in the current enforcement action, two agreed final enforcement orders that contain a denial of liability, and four dissimilar NOVs.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 58%

Screening Date 1-Feb-2010

Docket No. 2010-0202-PWS-E

PCW

Respondent City of Rose City

Policy Revision 2 (September 2002)

Case ID No. 39091

PCW Revision October 30, 2009

Reg. Ent. Reference No. RN102876269

Media [Statute] Public Water Supply

Enf. Coordinator Anna Meler

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code § 290.113(f)(4) and Tex. Health & Safety Code § 341.0315(c)

Violation Description Failed to comply with the maximum contaminant level ("MCL") of 0.080 milligrams per liter ("mg/L") for TTHM, based on a running annual average. Specifically, at the time of the record review, it was documented that the running annual average concentrations for TTHM were 0.088 mg/L for the second quarter of 2009 and 0.124 mg/L for the third quarter of 2009.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

Release	Harm			Percent
	Major	Moderate	Minor	
Actual		X		25%
Potential				

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
				0%

Matrix Notes Customers of the water supply have been exposed to significant amounts of contaminants which did not exceed levels protective of human health.

Adjustment \$750

\$250

Violation Events

Number of Violation Events 1 Number of violation days 182

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	X
single event	

Violation Base Penalty \$250

One annual event is recommended.

Good Faith Efforts to Comply

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

\$0

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 \$413

Violation Final Penalty Total \$458

This violation Final Assessed Penalty (adjusted for limits) \$458

Economic Benefit Worksheet

Respondent City of Rose City
Case ID No. 39091
Reg. Ent. Reference No. RN102676269
Media Public Water Supply
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

	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction	\$5,000	19-May-2009	24-Jul-2010	1.18	\$20	\$394	\$413
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs: The delayed costs include the amount necessary to implement an alternate method of disinfection. The date required is the sample collection date to show the first quarter of non-compliance. The final date is the estimated 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	\$5,000	TOTAL	\$413
----------------------------	---------	--------------	-------

Compliance History Report

Customer/Respondent/Owner-Operator: CN601312523 City of Rose City Classification: AVERAGE Rating: 13.00
Regulated Entity: RN102676269 CITY OF ROSE CITY Classification: AVERAGE Site Rating: 33.00

ID Number(s): PUBLIC WATER SYSTEM/SUPPLY REGISTRATION 1810139
WATER LICENSING LICENSE 1810139
Location: APPROXIMATELY 176 FT. S.W. OF INTERSECTION OF CAMELLIA ST. AND CARDINAL DR. IN ROSE CITY,
ORANGE COUNTY, TX

TCEQ Region: REGION 10 - BEAUMONT

Date Compliance History Prepared: February 19, 2010

Agency Decision Requiring Compliance History: Enforcement

Compliance Period: February 19, 2005 to February 19, 2010

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

Name: Anna Meier Phone: (512) 239-1370

Site Compliance History Components

1. Has the site been in existence and/or operation for the full five year compliance period? Yes
2. Has there been a (known) change in ownership/operator of the site during the compliance period? No
3. If Yes, who is the current owner/operator? N/A
4. If Yes, who was/were the prior owner(s)/operator(s) ? N/A
5. When did the change(s) in owner or operator occur? N/A
- 6.

Components (Multimedia) for the Site :

- A. Final Enforcement Orders, court judgements, and consent decrees of the state of Texas and the federal government.

Effective Date: 05/12/2006

ADMINORDER 2004-1303-PWS-E

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.113(f)(5)

5A THC Chapter 341, SubChapter A 341.0315(c)

Description: Exceeded the MCL based on a running annual average for HAA5 during the second quarter of 2004.

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.113(f)(4)

5A THC Chapter 341, SubChapter A 341.0315(c)

Description: Exceeded the MCL based on a running annual average for TTHM during second quarter of 2004.

Effective Date: 08/15/2008

ADMINORDER 2007-1817-MLM-E

Classification: Major

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

Rqmt Prov: SP PERMIT

Description: Failure to dispose of sludge at a TCEQ registered or permitted land application site,

commercial land application site or co-disposal landfill authorized to accept water treatment plant sludge. The City disposed water treatment plant sludge at the ACR-LP site located behind Rose City Sand Corporation in Vidor, Texas, on or about April 21, 2007. The ACR-LP site is not registered as a land application site or landfill authorized to accept water treatment plant sludge.

Classification: Moderate

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

Rqmt Prov: OpR No. 2 PERMIT

Description: Failure to comply with all provisions of 30 TAC 312 concerning water treatment plant sludge use and disposal. The City of Rose City used Ramco Group LLC, to transport the water treatment plant sludge to an unauthorized disposal site. RAMCO Group LLC does not hold a sludge transporter registration.

Classification: Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(17)

30 TAC Chapter 312, SubChapter F 312.123

Rqmt Prov: SP I E PERMIT

Description: Failure to submit complete annual sludge reports to the Region 10 office and the Database and Administration team of the Enforcement Division by September 1 of each year. During a review of the Regional file, it was noted that the permittee had not submitted ASRs to the Regional office for the 2007 reporting period. During the review of the records at the facility on September 7, 2007, Mr. Foust stated, that the 2007 ASR had not been completed or submitted.

Classification: Moderate

Citation: 30 TAC Chapter 319, SubChapter A 319.7(c)

Rqmt Prov: M&RR No.1 PERMIT

Description: Failure to submit discharge monitoring reports (DMR) for the months of November 2005 and December 2005. During a review self reported effluent data, it was noted the permittee had not submitted the DMRs for the two months following the issuance of the permit. Subsequently, during the records review at the facility on September 7, 2007, Mr. Foust stated, based on his records, the two DMRs had not been completed or submitted.

Classification: Minor

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

Rqmt Prov: OpR No. 1 PERMIT

Description: Failure to properly operate and maintain all systems of collection, treatment, and disposal. Excessive vegetation was noted in the backwash/sludge blowdown reservoir. Dense emergent vegetation was observed covering approximately 90 percent of reservoir potentially impacting the mean resident time leading to inadequate settling.

Classification: Minor

Citation: 30 TAC Chapter 290, SubChapter D 290.42(d)(2)(E)

Description: Failure to provide the filter to waste connection with a suitable air gap. The newly constructed filter to waste, serving the potable water plant, is subject to submergence. The discharge point of the filter to waste line into the reservoir is at or below the discharge point of the reservoir and is entirely located below the height of the levee.

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	09/06/2005	(401582)
2	03/22/2006	(494041)
3	03/22/2006	(494042)
4	06/15/2006	(507131)
5	06/15/2006	(507132)
6	07/13/2006	(479733)
7	01/03/2007	(534490)
8	08/24/2007	(568289)
9	11/01/2007	(597560)
10	10/08/2008	(687614)
11	06/11/2009	(788353)

12 06/16/2009 (741132)
13 09/16/2009 (743593)
14 10/23/2009 (788365)
15 11/16/2009 (780630)
16 01/21/2010 (788995)

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

Date: 09/06/2005 (401582) CN601312523
Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 290, SubChapter D 290.42(f)(1)(E)(fl)
Description: Failure to provide secondary containment for the bulk coagulant storage tank facilities.
Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 290, SubChapter D 290.42(d)(11)(C)(iii)(II)
Description: Failure to maintain a high rate dual media filter with the appropriate level of anthracite.
Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 290, SubChapter D 290.42(d)(11)(D)(I)
Description: Failure to equip each filter unit with a manually adjustable rate-of-flow controller with rate-of-flow indication or flow control valves with indicators
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.111(e)
Description: Failure to properly complete Surface Water Monthly Operating Reports.
Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 290, SubChapter D 290.46(m)(1)
Description: Failure to ensure the good working condition of the system's facilities and equipment.
Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 290, SubChapter D 290.46(m)
Description: Failure to ensure the good working condition of the system's facilities and equipment.
Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 290, SubChapter D 290.42(d)(5)
Description: Failure to provide a flow meter to measure the amount of treated water used to backwash the filters.

Date: 07/13/2006 (479733) CN601312523
Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 290, SubChapter D 290.42(f)(1)(E)(ii)
Description: Failure to provide secondary containment for the bulk coagulant storage tank facilities.
Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 290, SubChapter D 290.42(d)(11)(C)(iii)(II)
Description: Failure to maintain a high rate dual media filter with the appropriate level of anthracite.
Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 290, SubChapter D 290.42(d)(11)(D)(i)
Description: Failure to equip each filter unit with a manually adjustable rate-of-flow controller with rate-of-flow indication or flow control valves with indicators
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.111(e)
Description: Failure to properly complete Surface Water Monthly Operating Reports.
Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 290, SubChapter D 290.46(m)(1)
Description: Failure to ensure the good working condition of the system's facilities and equipment.
Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 290, SubChapter D 290.46(m)
Description: Failure to ensure the good working condition of the system's facilities and equipment.
Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 290, SubChapter D 290.42(d)(5)

Description: Failure to provide a flow meter to measure the amount of treated water used to backwash the filters.
 Self Report? NO Classification: Minor
 Citation: 30 TAC Chapter 290, SubChapter D 290.42(j)

Description: Failure to provide ANSI/NSF certificate for ammonia used.
 Self Report? NO Classification: Minor
 Citation: 30 TAC Chapter 290, SubChapter D 290.46(f)(4)(B)

Description: Failure to correctly complete the SWMOR.
 Self Report? NO Classification: Minor
 Citation: 30 TAC Chapter 290, SubChapter D 290.42(e)(5)

Description: Failure to seal the top of the polymer and caustic solution containers.
 Self Report? NO Classification: Minor
 Citation: 30 TAC Chapter 290, SubChapter D 290.46(m)(1)(A)

Description: Failure to seal an opening on the top of the ground storage tank.
 Self Report? NO Classification: Minor
 Citation: 30 TAC Chapter 290, SubChapter D 290.46(v)

Description: Failure to have electrical wires in conduit.
 Self Report? NO Classification: Minor
 Citation: 30 TAC Chapter 290, SubChapter D 290.42(e)(3)(D)

Description: Failure to provide a working scale for one of the chlorine cylinders.
 Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 290, SubChapter D 290.46(f)(3)(A)(i)(II)

Description: Failure to record the amount of chemicals used each day.
 Self Report? NO Classification: Minor
 Citation: 30 TAC Chapter 290, SubChapter D 290.42(d)(13)(A)

Description: Failure to identify water lines using a consistent color code.

Date: 08/23/2007 (568289) CN601312523

Self Report? NO Classification: Minor
 Citation: 30 TAC Chapter 290, SubChapter D 290.42(d)(11)(C)(iii)(II)

Description: Failure to maintain a high rate dual media filter with the appropriate level of anthracite.
 Self Report? NO Classification: Minor
 Citation: 30 TAC Chapter 290, SubChapter D 290.46(m)(1)

Description: Failure to ensure the good working condition of the system's facilities and equipment.
 Self Report? NO Classification: Minor
 Citation: 30 TAC Chapter 290, SubChapter D 290.46(f)(3)(A)(I)(I)

Description: Failure to record the amount of chemicals used each day.
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 OpR, No. 11(f) PERMIT

Description: Failure to maintain management records for all sludge removed from any wastewater treatment process.
 Self Report? NO Classification: Minor
 Citation: 30 TAC Chapter 290, SubChapter D 290.46(f)(3)(B)(v)

Description: Failure to maintain records of the raw and treated water flow meter calibrations.
 Self Report? NO Classification: Minor
 Citation: 30 TAC Chapter 290, SubChapter D 290.46(s)(2)(A)(iii)

Description: Failure to calibrate the on-line pH meter at least once every 30 days.
 Self Report? NO Classification: Minor
 Citation: 30 TAC Chapter 290, SubChapter D 290.46(s)(2)(C)(ii)

Description: Failure to calibrate the continuous disinfectant residual analyzers at least once every 90 days using chlorine solutions of known concentrations.
 Self Report? NO Classification: Minor
 Citation: 30 TAC Chapter 290, SubChapter D 290.46(f)(4)(C)

Description: Failure to have signed copies of the monthly operating report.
 Self Report? NO Classification: Minor
 Citation: 30 TAC Chapter 290, SubChapter D 290.46(f)(3)(A)(iv)

Description: Failure to record the dates the dead-end mains are flushed.
 Self Report? NO Classification: Minor
 Citation: 30 TAC Chapter 290, SubChapter F 290.111(c)(2)(A)

Description: Failure to monitor the combined effluent turbidity at least every four hours that the

system serves the public.

Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 290, SubChapter D 290.46(s)(2)(B)(iv)
Description: Failure to verify the calibration of the IFE turbidimeters at least once per week.
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter D 290.46(f)(4)(B)
Description: Failure to submit reports containing all the information required by the drinking water standards and the results of any special monitoring tests which have been required

Date: 10/08/2008 (687614) CN601312523

Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 290, SubChapter D 290.46(m)(1)
Description: Failure to ensure the good working condition of the system's facilities and equipment.
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
OpR, No. 11(f) PERMIT
Description: Failure to maintain management records for all sludge removed from any wastewater treatment process.

Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 290, SubChapter D 290.46(f)(3)(B)(v)
Description: Failure to maintain records of the raw and treated water flow meter calibrations.
Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 290, SubChapter D 290.46(s)(2)(C)(ii)
Description: Failure to calibrate the continuous disinfectant residual analyzers at least once every 90 days using chlorine solutions of known concentrations.

Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 290, SubChapter D 290.46(f)(4)(C)
Description: Failure to have signed copies of the monthly operating report.

Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 290, SubChapter D 290.46(f)(3)(A)(iv)
Description: Failure to record the dates the dead-end mains are flushed.

Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 290, SubChapter F 290.111(c)(2)(A)
Description: Failure to monitor the combined effluent turbidity at least every four hours that the system serves the public.

Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 290, SubChapter D 290.46(s)(2)(B)(iv)
Description: Failure to verify the calibration of the IFE turbidimeters at least once per week.

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter D 290.46(f)(4)(B)
Description: Failure to submit reports containing all the information required by the drinking water standards and the results of any special monitoring tests which have been required

Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 290, SubChapter F 290.110(b)(2)
30 TAC Chapter 290, SubChapter F 290.110(b)(4)
Description: Failure to maintain the minimum disinfectant residual leaving the plant and in distribution. Minor 3D

Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 290, SubChapter D 290.46(m)
Description: Failure to maintain the chlorination building. Minor 3D

Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 290, SubChapter D 290.46(m)
Description: Failure to maintain adequate drainage around the chemical building. Minor 3D

Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 290, SubChapter D 290.46(f)(3)(A)(vii)
Description: Failure to maintain records of the number of hours worked by each contract operator.

Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 290, SubChapter D 290.42(d)(5)
Description: Failure to provide a flow meter for the recycled decant water. Minor 3A

Date: 06/11/2009 (788353)

CN601312523

Self Report? NO

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.113(f)(4)

Description: Violated the maximum contaminant level for trihalomethanes during the second quarter of 2009.

Date: 10/23/2009 (788365)

CN601312523

Self Report? NO

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.113(f)(4)

Description: Violated the maximum contaminant level for trihalomethanes during the third quarter of 2009.

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 ROSE CITY
RN102676269

§
§
§
§
§

BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

**AGREED ORDER
DOCKET NO. 2010-0202-PWS-E**

At its _____ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding the City of Rose City ("the Respondent") under the authority of TEX. HEALTH & SAFETY CODE ch. 341. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent presented this agreement to the Commission.

The Respondent understands that it has certain procedural rights at certain points in the enforcement process, including, but not limited to, the right to formal notice of violations, notice of an evidentiary hearing, the right to an evidentiary hearing, and a right to appeal. By entering into this Agreed Order, the Respondent agrees to waive all notice and procedural rights.

It is further understood and agreed that this Order represents the complete and fully-integrated settlement of the parties. 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. The duties and responsibilities imposed by this Agreed Order are binding upon the Respondent.

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

I. FINDINGS OF FACT

1. The Respondent owns and operates a public water supply approximately 176 feet southwest of the intersection of Camellia Street and Cardinal Drive in Rose City, Orange County, Texas (the

“Facility”) that has approximately 261 service connections and serves at least 25 people per day for at least 60 days per year.

2. During a record review on January 20, 2010, TCEQ staff documented that the Respondent did not comply with the maximum contaminant level ("MCL") of 0.080 milligrams per liter ("mg/L") for total trihalomethanes ("TTHM"), based on a running annual average. Specifically, at the time of the record review, it was documented that the running annual average concentrations for TTHM were 0.088 mg/L for the second quarter of 2009 and 0.124 mg/L for the third quarter of 2009.
3. The Respondent received notice of the violations on January 27, 2010.

II. CONCLUSIONS OF LAW

1. The Respondent is subject to the jurisdiction of the TCEQ pursuant to TEX. HEALTH & SAFETY CODE ch. 341 and the rules of the Commission.
2. As evidenced by Findings of Fact No. 2, the Respondent failed to comply with the MCL of 0.080 mg/L for TTHM, in violation of 30 TEX. ADMIN. CODE § 290.113(f)(4) and TEX. HEALTH & SAFETY CODE § 341.0315(c).
3. Pursuant to TEX. HEALTH & SAFETY CODE § 341.049, the Commission has the authority to assess an administrative penalty against the Respondent for violations of the Texas Water Code and the Texas Health and Safety Code within the Commission's jurisdiction; for violations of rules adopted under such statutes; or for violations of orders or permits issued under such statutes.
4. An administrative penalty in the amount of Four Hundred Fifty-Seven Dollars (\$457) is justified by the facts recited in this Agreed Order, and considered in light of the factors set forth in TEX. HEALTH & SAFETY CODE § 341.049(b). The Respondent has paid the Four Hundred Fifty-Seven Dollar (\$457) administrative penalty.

III. ORDERING PROVISIONS

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

1. The Respondent is assessed an administrative penalty in the amount of Four Hundred Fifty-Seven Dollars (\$457) as set forth in Section II, Paragraph 4 above, for violations of TCEQ rules and state statutes. The payment of this administrative penalty and the Respondent's compliance with all the terms and conditions set forth in this Agreed Order completely resolve the violations set forth by this Agreed Order in this action. However, the Commission shall not be constrained in any manner from requiring corrective actions or penalties for other violations that are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: City of Rose City, Docket No. 2010-0202-PWS-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. The Respondent shall undertake the following technical requirements:
 - a. Within 365 days after the effective date of this Agreed Order, return to compliance with the running annual average MCL for TTHM, in accordance with 30 TEX. ADMIN. CODE § 290.113.
 - b. Within 380 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
Beaumont Regional Office
Texas Commission on Environmental Quality
3870 Eastex Freeway
Beaumont, Texas 77703-1892

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. 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.
5. The Executive Director may refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings without notice to the Respondent if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
6. 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.
7. 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.
8. This Agreed Order may be executed in multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreed Order may be transmitted by facsimile transmission to the other parties, which shall constitute an original signature for all purposes under this Agreed Order.
9. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties. By law, the effective date of this Agreed Order is the third day after the mailing date, as provided by 30 TEX. ADMIN. CODE § 70.10(b) and TEX. GOV'T CODE § 2001.142.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission



For the Executive Director

Date 4/20/2010

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

I understand that by entering into this Agreed Order, the City of Rose City waives certain procedural rights, including, but not limited to, the right to formal notice of violations addressed by this Agreed Order, notice of an evidentiary hearing, the right to an evidentiary hearing, and the right to appeal. I agree to the terms of the Agreed Order in lieu of an evidentiary hearing. This Agreed Order constitutes full and final adjudication by the Commission of the violations set forth in this Agreed Order.

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

Date 03/16/2010

DAVID E. Bush

Name (Printed or typed)
Authorized Representative of
City of Rose City

Title Mayor

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

