

EXECUTIVE SUMMARY - ENFORCEMENT MATTER
DOCKET NO.: 2010-1285-MWD-E **TCEQ ID:** RN101918423 **CASE NO.:** 40162
RESPONDENT NAME: City of Rosebud

ORDER TYPE:		
<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	
CASE TYPE:		
<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>SITE WHERE VIOLATION(S) OCCURRED: City of Rosebud, located approximately 0.9 mile west of the intersection of United States Highway 77 and Farm-to-Market Road 1963, and approximately 1,000 feet south of Farm-to-Market Road 53, Falls County</p> <p>TYPE OF OPERATION: Wastewater treatment plant</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 December 6, 2010. No comments were received.</p> <p>CONTACTS AND MAILING LIST: TCEQ Attorney/SEP Coordinator: None TCEQ Enforcement Coordinator: Ms. Heather Brister, Enforcement Division, Enforcement Team 1, MC R-09, (254) 761-3034; Ms. Laurie Eaves, Enforcement Division, MC 219, (512) 239-4495 Respondent: The Honorable Ken Hensel, Mayor, City of Rosebud, P.O. Box 657, Rosebud, Texas 76570 Mr. Eric L. Kuykendall, City Administrator, City of Rosebud, P.O. Box 657, Rosebud, Texas 76570 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: July 9, 2010</p> <p>Date of NOV/NOE Relating to this Case: July 30, 2010 (NOE)</p> <p>Background Facts: This was a records review.</p> <p>WATER</p> <p>Failed to comply with permitted effluent limits for ammonia nitrogen and chlorine residual [TEX. WATER CODE § 26.121(a)(1), 30 TEX. ADMIN. CODE § 305.125(1), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0010731001, Effluent Limitations and Monitoring Requirements Nos. 1 and 2].</p>	<p>Total Assessed: \$5,850</p> <p>Total Deferred: \$1,170 <input checked="" type="checkbox"/> Expedited Settlement <input type="checkbox"/> Financial Inability to Pay</p> <p>SEP Conditional Offset: \$0</p> <p>Total Paid to General Revenue: \$4,680</p> <p>Compliance History Classification: Person/CN – Average Site/RN – Average</p> <p>Major Source: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>Applicable Penalty Policy: September 2002</p>	<p>Corrective Actions Taken:</p> <p>The Executive Director recognizes that on February 28, 2010, the Respondent achieved compliance with the permitted effluent limits by increasing monitoring and sampling of ammonia nitrogen and making necessary adjustments.</p>

Additional ID No(s): WQ0010731001



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

TCEQ

DATES	Assigned	2-Aug-2010	Screening	6-Aug-2010	EPA Due	
	PCW	6-Aug-2010				

RESPONDENT/FACILITY INFORMATION

Respondent	City of Rosebud	
Reg. Ent. Ref. No.	RN101918423	
Facility/Site Region	9-Waco	Major/Minor Source Minor

CASE INFORMATION

Enf./Case ID No.	40162	No. of Violations	1
Docket No.	2010-1285-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

TOTAL BASE PENALTY (Sum of violation base penalties) **Subtotal 1** **\$3,000**

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History **120.0%** Enhancement **Subtotals 2, 3, & 7** **\$3,600**

Notes Enhancement for 19 months of self-reported violations, one NOV for same/similar violation, and one Agreed Order with a denial of liability.

Culpability **No** **0.0%** Enhancement **Subtotal 4** **\$0**

Notes The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply Total Adjustments **Subtotal 5** **\$750**

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

Total EB Amounts **\$56**
 Approx. Cost of Compliance **\$1,500**
 *Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7 **Final Subtotal** **\$5,850**

OTHER FACTORS AS JUSTICE MAY REQUIRE **0.0%** Adjustment **\$0**

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes

Final Penalty Amount **\$5,850**

STATUTORY LIMIT ADJUSTMENT **Final Assessed Penalty** **\$5,850**

DEFERRAL **20.0%** Reduction **Adjustment** **-\$1,170**

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

Notes

Deferral offered for expedited settlement.

PAYABLE PENALTY **\$4,680**

Screening Date 6-Aug-2010

Docket No. 2010-1285-MWD-E

PCW

Respondent City of Rosebud

Policy Revision 2 (September 2002)

Case ID No. 40162

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101918423

Media [Statute] Water Quality

Enf. Coordinator Heather Brister

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action (<i>number of NOVs meeting criteria</i>)	20	100%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	1	20%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (<i>number of judgements or consent decrees meeting criteria</i>)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (<i>number of counts</i>)	0	0%
Emissions	Chronic excessive emissions events (<i>number of events</i>)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which notices were submitted</i>)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which violations were disclosed</i>)	0	0%

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) 120%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Average Performer

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance History Notes

Enhancement for 19 months of self-reported violations, one NOV for same/similar violation, and one Agreed Order with a denial of liability.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 120%

Screening Date: 6-Aug-2010

Docket No: 2010-1285-MWD-E

PCW

Respondent: City of Rosebud

Policy Revision 2 (September 2002)

Case ID No: 40162

PCW Revision October 30, 2008

Reg. Ent. Reference No: RN101918423

Media [Statute]: Water Quality

Enf. Coordinator: Heather Brister

Violation Number: 1

Rule Cite(s)

Tex. Water Code § 26.121(a)(1), 30 Tex. Admin. Code § 305.125(1), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0010731001, Effluent Limitations and Monitoring Requirements Nos. 1 and 2

Violation Description

Failed to comply with permitted effluent limits, as documented during a record review conducted on July 9, 2010. See attached table.

Base Penalty: \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			X
Potential			

Percent: 10%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent: 0%

Matrix Notes

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

Adjustment: \$9,000

\$1,000

Violation Events

Number of Violation Events: 3

93 Number of violation days

mark only one with an x

daily	
weekly	
monthly	
quarterly	X
semiannual	
annual	
single event	

Violation Base Penalty: \$3,000

Three quarterly events are recommended.

Good Faith Efforts to Comply

25.0% Reduction

\$750

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

Notes: The Respondent achieved compliance by February 28, 2010.

Violation Subtotal: \$2,250

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount: \$56

Violation Final Penalty Total: \$5,850

This violation Final Assessed Penalty (adjusted for limits): \$5,850

Economic Benefit Worksheet

Respondent: City of Rosebud
Case ID No.: 40162
Reg. Ent. Reference No.: RN101918423
Media: Water Quality
Violation No.: 1

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$1,500	31-May-2009	28-Feb-2010	0.75	\$56	n/a	\$56

Notes for DELAYED costs

Estimated cost to increase monitoring and sampling for ammonia nitrogen and to make necessary adjustments to achieve compliance with the permitted effluent limits. Date required is the initial month of noncompliance. Final date is the 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

\$1,500

TOTAL

\$56

Effluent Limit Violation Table

Table rev.

Respondent	City of Rosebud
ID Number(s)	WQ0010731001
Docket Number	2010-1285-MWD-E
Enf. Coordinator	Heather Brister

Corresponds to Violation Number: 1

EFFLUENT PARAMETER				
Permit Limit				
	Ammonia Nitrogen Daily Average Concentration 3 Milligrams per Liter	Ammonia Nitrogen Single Grab Concentration 15 Milligrams per Liter	Ammonia Nitrogen Daily Average Loading 6 Pounds per Day	Chlorine Residual Minimum 1.0 Milligrams per Liter
Month/Year				
May 31, 2009	c	c	c	0.69
August 31, 2009	5.91	c	c	c
January 31, 2010	c	30.8	9.13	c

c = compliant

1

Compliance History Report

Customer/Respondent/Owner-Operator:	CN600241574	City of Rosebud	Classification: AVERAGE	Rating: 2.66
Regulated Entity:	RN101918423	CITY OF ROSEBUD	Classification: AVERAGE	Site Rating: 1.96
ID Number(s):	WASTEWATER		PERMIT	WQ0010731001
	WASTEWATER		EPA ID	TX0023981
	WASTEWATER LICENSING		LICENSE	WQ0010731001

Location: Located approximately 0.9 mile west of the intersection of U.S. Highway 77 and Farm-to-Market Road 1963, approximately 1,000 feet south of Farm-to-Market Road 53 in Falls County, Texas

TCEQ Region: REGION 09 - WACO
 Date Compliance History Prepared: August 05, 2010
 Agency Decision Requiring Compliance History: Enforcement
 Compliance Period: August 05, 2005 to August 05, 2010
 TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History
 Name: Heather Brister Phone: (254) 761-3034

Site Compliance History Components

- | | |
|--|-----|
| 1. Has the site been in existence and/or operation for the full five year compliance period? | Yes |
| 2. Has there been a (known) change in ownership/operator of the site during the compliance period? | No |
| 3. If Yes, who is the current owner/operator? | N/A |
| 4. If Yes, who was/were the prior owner(s)/operator(s)? | N/A |
| 5. When did the change(s) in owner or operator occur? | N/A |
| 6. Rating Date: 9/1/2009 Repeat Violator: NO | |

Components (Multimedia) for the Site :

A. Final Enforcement Orders, court judgments, and consent decrees of the State of Texas and the federal government.

Effective Date:	04/20/2009	ADMINORDER 2007-1390-MWD-E
Classification:	Moderate	
Citation:	2D TWC Chapter 26, SubChapter A 26.121(a)(1) 30 TAC Chapter 305, SubChapter F 305.125(1)	
Rqmt Prov:	Effluent Limits PERMIT	
Description:	Failure to comply with permit effluent limits as documented by a TCEQ record review of self-reported data.	

B. Any criminal convictions of the state of Texas and the federal government. N/A

C. Chronic excessive emissions events. N/A

D. The approval dates of investigations. (CCEDS Inv. Track. No.)

- | | | |
|----|------------|----------|
| 1 | 09/21/2005 | (441700) |
| 2 | 09/29/2005 | (441699) |
| 3 | 10/25/2005 | (470176) |
| 4 | 11/29/2005 | (470177) |
| 5 | 12/22/2005 | (470178) |
| 6 | 01/20/2006 | (470179) |
| 7 | 02/28/2006 | (470174) |
| 8 | 03/24/2006 | (470175) |
| 9 | 04/20/2006 | (499313) |
| 10 | 05/18/2006 | (499314) |
| 11 | 06/12/2006 | (499315) |
| 12 | 07/13/2006 | (521358) |
| 13 | 09/11/2006 | (521360) |
| 14 | 09/26/2006 | (521359) |
| 15 | 10/06/2006 | (545890) |
| 16 | 11/06/2006 | (545891) |
| 17 | 12/15/2006 | (545892) |
| 18 | 01/08/2007 | (577785) |
| 19 | 02/15/2007 | (577779) |
| 20 | 04/12/2007 | (577781) |
| 21 | 05/07/2007 | (577782) |
| 22 | 06/14/2007 | (577783) |
| 23 | 07/05/2007 | (577780) |
| 24 | 07/09/2007 | (577784) |
| 25 | 07/18/2007 | (564211) |
| 26 | 08/06/2007 | (602283) |
| 27 | 09/11/2007 | (602284) |

28 10/15/2007 (602285)
 29 12/12/2007 (620463)
 30 01/15/2008 (620464)
 31 02/11/2008 (672746)
 32 03/17/2008 (672746)
 33 01/26/2009 (728119)
 34 01/26/2009 (728120)
 35 01/26/2009 (728121)
 36 01/26/2009 (728122)
 37 01/26/2009 (728123)
 38 01/26/2009 (728124)
 39 02/18/2009 (751064)
 40 02/18/2009 (751065)
 41 02/18/2009 (751066)
 42 02/18/2009 (751067)
 43 03/31/2009 (727003)
 44 05/19/2009 (768948)
 45 06/13/2009 (768949)
 46 07/21/2009 (760008)
 47 07/31/2009 (806659)
 48 08/31/2009 (806660)
 49 09/11/2009 (766018)
 50 09/29/2009 (806661)
 51 10/22/2009 (806662)
 52 12/07/2009 (806663)
 53 01/08/2010 (806665)
 54 02/26/2010 (806658)
 55 05/13/2010 (831582)
 56 05/14/2010 (806664)
 57 05/14/2010 (831583)
 58 06/24/2010 (824915)
 59 06/24/2010 (831584)
 60 07/30/2010 (830480)

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

Date: 11/30/2005 (470178) CN600241574
 Self Report? YES Classification: Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 TWC Chapter 26 26.121(a)
 Description: Failure to meet the limit for one or more permit parameter

Date: 01/31/2006 (470174) CN600241574
 Self Report? YES Classification: Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 TWC Chapter 26 26.121(a)
 Description: Failure to meet the limit for one or more permit parameter

Date: 02/28/2006 (470175) CN600241574
 Self Report? YES Classification: Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 TWC Chapter 26 26.121(a)
 Description: Failure to meet the limit for one or more permit parameter

Date: 06/30/2006 (521358) CN600241574
 Self Report? YES Classification: Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 TWC Chapter 26 26.121(a)
 Description: Failure to meet the limit for one or more permit parameter

Date: 07/31/2006 (521359) CN600241574
 Self Report? YES Classification: Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 TWC Chapter 26 26.121(a)
 Description: Failure to meet the limit for one or more permit parameter

Date: **08/31/2006** (521360) CN600241574
Self Report? YES Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)
Description: Failure to meet the limit for one or more permit parameter

Date: **09/30/2006** (545890) CN600241574
Self Report? YES Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)
Description: Failure to meet the limit for one or more permit parameter

Date: **11/30/2006** (545892) CN600241574
Self Report? YES Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)
Description: Failure to meet the limit for one or more permit parameter

Date: **02/28/2007** (577780) CN600241574
Self Report? YES Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)
Description: Failure to meet the limit for one or more permit parameter

Date: **04/30/2007** (577782) CN600241574
Self Report? YES Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)
Description: Failure to meet the limit for one or more permit parameter

Date: **05/31/2007** (577783) CN600241574
Self Report? YES Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)
Description: Failure to meet the limit for one or more permit parameter

Date: **06/30/2007** (577784) CN600241574
Self Report? YES Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)
Description: Failure to meet the limit for one or more permit parameter

Date: **12/31/2007** (620464) CN600241574
Self Report? YES Classification: Moderate
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(1)
Description: Failure to meet the limit for one or more permit parameter

Date: **02/29/2008** (672746) CN600241574
Self Report? YES Classification: Moderate
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(1)
Description: Failure to meet the limit for one or more permit parameter

Date: **12/31/2008** (751067) CN600241574
Self Report? YES Classification: Moderate
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(1)
Description: Failure to meet the limit for one or more permit parameter

Date: 01/31/2009 (751064) CN600241574
Self Report? YES Classification: Moderate
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(1)
Description: Failure to meet the limit for one or more permit parameter

Date: 04/07/2009 (727003) CN600241574
Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 305, SubChapter F 305.125(5)
Operational Requirements; No. 1, Pg. 9 PERMIT
Description: Failure by the permittee to ensure that all systems of collection, treatment, and disposal are properly operated and maintained.

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
30 TAC Chapter 307 307.4(b)(6)
Effluent Limitations; No. 4, Pg. 2 PERMIT
Description: Failure to discharge effluent in compliance with permitted effluent limitations.

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
30 TAC Chapter 319, SubChapter A 319.11(a)
Monitoring Requirements; No. 2, Pg. 4 PERMIT
Description: Failure to comply with procedures specified in 30 TAC 319.11 - 319.12.

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
30 TAC Chapter 319, SubChapter A 319.11(d)
Monitoring Requirements; No. 1, Pg. 4 PERMIT
Description: Failure to comply with procedures specified in 30 TAC 319.11 - 319.12.

Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
Reporting Reqs.; No. 3(c)(ii), Pg. 5 PERMIT
Description: Failure by the permittee to maintain adequate records of monitoring activities.

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
30 TAC Chapter 319, SubChapter A 319.7(c)
Sludge Provisions; Sect. III(G), Pg. 22 PERMIT
Description: Failure to maintain records of monitoring information related to sewage sludge use and disposal activities for a period of at least five years.

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
30 TAC Chapter 319, SubChapter A 319.7(d)
Reporting Requirements; No. 1, Pg. 4 PERMIT
Description: Failure to submit monthly discharge monitoring reports (DMRs) by the 20th of the following month.

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
30 TAC Chapter 319, SubChapter A 319.7(c)
Reporting Requirements; No. 3(b), Pg. 5 PERMIT
Description: Failure by the permittee to maintain monitoring and reporting records for a period of three years.

Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
Permit Conditions; No. 1(a), Pg. 7 PERMIT
Description: Failure to correctly report sludge disposal methods to the Commission.

Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
Permit Conditions; No. 1(a), Pg. 7 PERMIT
Description: Failure by the permittee to submit accurate discharge monitoring reports (DMRs).

Self Report? NO Classification: Moderate
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)(1)
30 TAC Chapter 305, SubChapter F 305.125(1)
Effluent Limitations; No. 1, Pg. 2 PERMIT
Description: Failure to discharge effluent in compliance with permitted effluent limitations.

Date: 05/31/2009 (768949) CN600241574
Self Report? YES Classification: Moderate
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(1)
Description: Failure to meet the limit for one or more permit parameter

Date: 08/31/2009 (806661) CN600241574
Self Report? YES Classification: Moderate
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(1)
Description: Failure to meet the limit for one or more permit parameter

Date: 01/31/2010 (806658) CN600241574
Self Report? YES Classification: Moderate
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(1)
Description: Failure to meet the limit for one or more permit parameter

- 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 ROSEBUD
RN101918423**

§
§
§
§
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**BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY**

AGREED ORDER DOCKET NO. 2010-1285-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 Rosebud ("the Respondent") under the authority of TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent appear before the Commission and together stipulate that:

1. The Respondent owns and operates a wastewater treatment plant located approximately 0.9 mile west of the intersection of United States Highway 77 and Farm-to-Market Road 1963, approximately 1,000 feet south of Farm-to-Market Road 53 in Falls County, Texas (the "Facility").
2. The Respondent has discharged municipal waste into or adjacent to any water in the state under TEX. WATER CODE ch. 26.
3. The Commission and the Respondent agree that the Commission has jurisdiction to enter this Agreed Order, and that the Respondent is subject to the Commission's jurisdiction.
4. The Respondent received notice of the violations alleged in Section II ("Allegations") on or about August 4, 2010.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by the Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
6. An administrative penalty in the amount of Five Thousand Eight Hundred Fifty Dollars (\$5,850) is assessed by the Commission in settlement of the violations alleged in Section

II ("Allegations"). The Respondent has paid Four Thousand Six Hundred Eighty Dollars (\$4,680) of the administrative penalty and One Thousand One Hundred Seventy Dollars (\$1,170) is deferred contingent upon the Respondent's timely and satisfactory compliance with all the terms of this Agreed Order. The deferred amount will be waived upon full compliance with the terms of this Agreed Order. If the Respondent fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require the Respondent to pay all or part of the deferred penalty.

7. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.
8. The Executive Director of the TCEQ and the Respondent have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
9. The Executive Director recognizes that on February 28, 2010, the Respondent achieved compliance with the permitted effluent limits by increasing monitoring and sampling of ammonia nitrogen and making necessary adjustments.
10. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
11. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
12. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

II. ALLEGATIONS

As owner and operator of the Facility, the Respondent is alleged to have failed to comply with permitted effluent limits, in violation of TEX. WATER CODE § 26.121(a)(1), 30 TEX. ADMIN. CODE § 305.125(1), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0010731001, Effluent Limitations and Monitoring Requirements Nos. 1 and 2, as documented during a record review conducted on July 9, 2010 and as seen in the following table:

EFFLUENT PARAMETER				
Permit Limit				
	Ammonia Nitrogen Daily Average Concentration 3 Milligrams per Liter	Ammonia Nitrogen Single Grab Concentration 15 Milligrams per Liter	Ammonia Nitrogen Daily Average Loading 6 Pounds per Day	Chlorine Residual Minimum 1.0 Milligrams per Liter
Month/Year				
May 31, 2009	c	c	c	0.69
August 31, 2009	5.91	c	c	c
January 31, 2010	c	30.8	9.13	c

c = compliant

III. DENIALS

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

IV. ORDERING PROVISIONS

- It is, therefore, ordered by the TCEQ that the Respondent pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and the Respondent's compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective action or penalties for violations which are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: City of Rosebud, Docket No. 2010-1285-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
- 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.
- 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.
- 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.

5. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to the Respondent, or three days after the date on which the Commission mails notice of the Order to the Respondent, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission



For the Executive Director

Date 12/27/2010

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

I also understand that failure to comply with the Ordering Provisions, if any, in this order and/or failure to timely pay the penalty amount, may result in:

- A negative impact on compliance history;
- Greater scrutiny of any permit applications submitted;
- Referral of this case to the Attorney General's Office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions;
- Automatic referral to the Attorney General's Office of any future enforcement actions; and
- TCEQ seeking other relief as authorized by law.

In addition, any falsification of any compliance documents may result in criminal prosecution.



Signature

Date 9-24-2010

Eric L. Kuykendall

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

City Administrator
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.

