

**Executive Summary – Enforcement Matter – Case No. 41273**

**City of Rosebud**

**RN101918423**

**Docket No. 2011-0367-MWD-E**

**Order Type:**

1660 Agreed Order

**Findings Order Justification:**

N/A

**Media:**

MWD

**Small Business:**

No

**Location(s) 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 approximately 1,000 feet south of Farm-to-Market Road 53, Falls County

**Type of Operation:**

Wastewater treatment facility

**Other Significant Matters:**

Additional Pending Enforcement Actions: No

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: None

**Texas Register Publication Date:** July 1, 2011

**Comments Received:** No

***Penalty Information***

**Total Penalty Assessed:** \$9,100

**Amount Deferred for Expedited Settlement:** \$1,820

**Amount Deferred for Financial Inability to Pay:** \$0

**Total Paid to General Revenue:** \$7,280

**Total Due to General Revenue:** \$0

Payment Plan: N/A

**SEP Conditional Offset:** \$0

Name of SEP: N/A

**Compliance History Classifications:**

Person/CN - Average

Site/RN - Average

**Major Source:** No

**Statutory Limit Adjustment:** N/A

**Applicable Penalty Policy:** September 2002

**Executive Summary – Enforcement Matter – Case No. 41273  
City of Rosebud  
RN101918423  
Docket No. 2011-0367-MWD-E**

***Investigation Information***

**Complaint Date(s):** N/A  
**Complaint Information:** N/A  
**Date(s) of Investigation:** February 18, 2011  
**Date(s) of NOE(s):** February 24, 2011

***Violation Information***

1. Failed to submit monitoring results at the intervals specified in the permit. Specifically, the Respondent failed to submit the discharge monitoring reports ("DMRs") for the months of July 2010 through October 2010 by the 20<sup>th</sup> day of the following month [30 TEX. ADMIN. CODE § 305.125(17) and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0010731001, Monitoring and Reporting Requirements No. 1].
2. Failed to submit the annual sludge report for the monitoring period ending July 31, 2010 by September 1, 2010 [30 TEX. ADMIN. CODE § 305.125(17) and TPDES Permit No. WQ0010731001, Sludge Provisions].

***Corrective Actions/Technical Requirements***

**Corrective Action(s) Completed:**

N/A

**Technical Requirements:**

The Order will require the Respondent to:

- a. Within 30 days, submit all missing DMRs and the annual sludge report for the monitoring period ending July 31, 2010;
- b. Within 30 days, update the Facility's operational guidance and conduct employee training to ensure that self-reporting requirements are properly accomplished, including the timely submittal of signed and certified DMRs and annual sludge reports; and
- c. Within 45 days, submit certification demonstrating compliance.

***Litigation Information***

**Date Petition(s) Filed:** N/A  
**Date Answer(s) Filed:** N/A  
**SOAH Referral Date:** N/A  
**Hearing Date(s):** N/A  
**Settlement Date:** N/A

**Executive Summary – Enforcement Matter – Case No. 41273**  
**City of Rosebud**  
**RN101918423**  
**Docket No. 2011-0367-MWD-E**

***Contact Information***

**TCEQ Attorney:** N/A

**TCEQ Enforcement Coordinator:** Cheryl Thompson, Enforcement Division,  
Enforcement Team 3, MC R-04, (817) 588-5886; Laurie Eaves, Enforcement Division,  
MC 219, (512) 239-4495

**TCEQ SEP Coordinator:** N/A

**Respondent:** The Honorable Patsy Fischer, Mayor, City of Rosebud, P.O. Box 657,  
Rosebud, Texas 76570

**Respondent's Attorney:** N/A



# Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

TCEQ

<b>DATES</b>	<b>Assigned</b>	28-Feb-2011	<b>Screening</b>	7-Mar-2011	<b>EPA Due</b>	
	<b>PCW</b>	9-Mar-2011				

## RESPONDENT/FACILITY INFORMATION

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

## CASE INFORMATION

<b>Enf./Case ID No.</b>	41273	<b>No. of Violations</b>	2
<b>Docket No.</b>	2011-0367-MWD-E	<b>Order Type</b>	1660
<b>Media Program(s)</b>	Water Quality	<b>Government/Non-Profit</b>	Yes
<b>Multi-Media</b>		<b>Enf. Coordinator</b>	Cheryl Thompson
		<b>EC's Team</b>	Enforcement Team 3
<b>Admin. Penalty \$ Limit Minimum</b>	\$0	<b>Maximum</b>	\$10,000

## 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 for 15 months of self-reported effluent violations, two NOV's with same/similar violations, one NOV with dissimilar violations, and two Agreed Orders with denial liability.

**Culpability**   Enhancement **Subtotal 4**

Notes: The Respondent does not meet the culpability criteria.

**Good Faith Effort to Comply Total Adjustments** **Subtotal 5**

**Economic Benefit**  Enhancement\* **Subtotal 6**

Total EB Amounts   
 Approx. Cost of Compliance  \*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

Deferral offered for expedited settlement.

**PAYABLE PENALTY**

Screening Date 7-Mar-2011

Docket No. 2011-0367-MWD-E

PCW

Respondent City of Rosebud

Policy Revision 2 (September 2002)

Case ID No. 41273

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101918423

Media [Statute] Water Quality

Enf. Coordinator Cheryl Thompson

### 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> )	2	10%
	Other written NOVs	16	32%
Orders	Any agreed final enforcement orders containing a denial of liability ( <i>number of orders meeting criteria</i> )	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 ( <i>number of judgements or consent decrees meeting criteria</i> )	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government ( <i>number of counts</i> )	0	0%
Emissions	Chronic excessive emissions events ( <i>number of events</i> )	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 ( <i>number of audits for which notices were submitted</i> )	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 ( <i>number of audits for which violations were disclosed</i> )	0	0%
<i>Please Enter Yes or No</i>			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 82%

>> 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 15 months of self-reported effluent violations, two NOVs with same/similar violations, one NOV with dissimilar violations, and two Agreed Orders with denial liability.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 82%

Screening Date 7-Mar-2011

Docket No. 2011-0367-MWD-E

PCW

Respondent City of Rosebud

Policy Revision 2 (September 2002)

Case ID No. 41273

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101918423

Media [Statute] Water Quality

Enf. Coordinator Cheryl Thompson

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code § 305.125(17) and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0010731001, Monitoring and Reporting Requirements No. 1

Violation Description Failed to submit monitoring results at the intervals specified in the permit. Specifically, the Respondent failed to submit discharge monitoring reports ("DMRs") for the months of July 2010 through October 2010 by the 20th day of the following month.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual				0%
	Potential				

>> Programmatic Matrix

Matrix Notes	Falsification	Harm			Percent
		Major	Moderate	Minor	
		x			10%
100% of the rule requirement was not met.					

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events 4 123 Number of violation days

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

Violation Base Penalty \$4,000

Four single events are recommended (one event for each missing report)

Good Faith Efforts to Comply

0.0% Reduction \$0

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

Notes The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$4,000

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$21

Violation Final Penalty Total \$7,280

This violation Final Assessed Penalty (adjusted for limits) \$7,280

## Economic Benefit Worksheet

**Respondent** City of Rosebud  
**Case ID No.** 41273  
**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	\$250	20-Aug-2010	31-Oct-2011	1.20	\$15	n/a	\$15
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$200	20-Aug-2010	31-Oct-2011	1.20	\$12	n/a	\$12

#### Notes for DELAYED costs

Estimated cost to prepare and submit the missing DMRs (\$200), and to update the Facility's operational guidance and to conduct employee training (\$250). Date required is the date the first missing DMR was due. Final date is the projected 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

\$450

**TOTAL**

\$27

Screening Date 7-Mar-2011

Docket No. 2011-0367-MWD-E

PCW

Respondent City of Rosebud

Policy Revision 2 (September 2002)

Case ID No. 41273

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101918423

Media [Statute] Water Quality

Enf. Coordinator Cheryl Thompson

Violation Number 2

Rule Cite(s) 30 Tex. Admin. Code § 305.125(17) and TPDES Permit No. WQ0010731001, Sludge Provisions

Violation Description Failed to submit the annual sludge report for the monitoring period ending July 31, 2010 by September 1, 2010.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual				0%
	Potential				

>> Programmatic Matrix

Matrix Notes	Falsification	Harm			Percent
		Major	Moderate	Minor	
		x			10%
100% of the rule requirement was not met.					

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events: 1 Number of violation days: 1

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

Violation Base Penalty \$1,000

One single event is recommended.

Good Faith Efforts to Comply

0.0% Reduction \$0

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

Notes The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$1,000

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$3

Violation Final Penalty Total \$1,820

This violation Final Assessed Penalty (adjusted for limits) \$1,820

# Economic Benefit Worksheet

**Respondent** City of Rosebud  
**Case ID No.** 41273  
**Reg. Ent. Reference No.** RN101918423  
**Media** Water Quality  
**Violation No.** 2

<b>Percent Interest</b>	<b>Years of Depreciation</b>
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)	\$50	1-Sep-2010	31-Oct-2011	1.16	\$3	n/a	\$3

**Notes for DELAYED costs**

Estimated cost to prepare and submit the annual sludge report for the monitoring period ending July 31, 2010. Date required is the date the report was due. Final date is the projected date of compliance. The cost of training is included in the economic benefit for violation no. 1.

**Avoided Costs**

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

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

**Notes for AVOIDED costs**

Approx. Cost of Compliance

\$50

**TOTAL**

\$3

## Compliance History

Customer/Respondent/Owner-Operator: CN600241574 City of Rosebud Classification: AVERAGE Rating: 2.68

Regulated Entity: RN101918423 CITY OF ROSEBUD Classification: AVERAGE Site Rating: 2.02

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 United States Highway 77 and Farm-to-Market Road 1963 approximately 1000 feet south of Farm-to-Market Road 53 in Falls County, Texas

TCEQ Region: REGION 09 - WACO

Date Compliance History Prepared: March 07, 2011

Agency Decision Requiring Compliance History: Enforcement

Compliance Period: March 07, 2006 to March 07, 2011

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

Name: Cheryl Thompson Phone: (512) 588-5886

### 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: 9/1/2010 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.
- Effective Date: 02/20/2011 ADMINORDER 2010-1285-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: Eff. Limit. and Mon. Reqs. Nos. 1 and 2 PERMIT  
 Description: Failure to comply with permitted effluent limits, as documented during a record review conducted on July 9, 2010.
- 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  | 03/24/2006 | (470175) |
| 2  | 04/20/2006 | (499313) |
| 3  | 05/18/2006 | (499314) |
| 4  | 06/12/2006 | (499315) |
| 5  | 07/13/2006 | (521358) |
| 6  | 09/26/2006 | (521359) |
| 7  | 09/11/2006 | (521360) |
| 8  | 10/06/2006 | (545890) |
| 9  | 11/06/2006 | (545891) |
| 10 | 12/15/2006 | (545892) |
| 11 | 07/18/2007 | (564211) |
| 12 | 02/15/2007 | (577779) |

13	07/05/2007	(577780)
14	04/12/2007	(577781)
15	05/07/2007	(577782)
16	06/14/2007	(577783)
17	07/09/2007	(577784)
18	01/08/2007	(577785)
19	08/06/2007	(602283)
20	09/11/2007	(602284)
21	10/15/2007	(602285)
22	12/12/2007	(620463)
23	01/15/2008	(620464)
24	02/11/2008	(672745)
25	03/17/2008	(672746)
26	03/31/2009	(727003)
27	01/26/2009	(728119)
28	01/26/2009	(728120)
29	01/26/2009	(728121)
30	01/26/2009	(728122)
31	01/26/2009	(728123)
32	01/26/2009	(728124)
33	02/18/2009	(751064)
34	02/18/2009	(751065)
35	02/18/2009	(751066)
36	02/18/2009	(751067)
37	07/21/2009	(760008)
38	09/11/2009	(766018)
39	05/19/2009	(768948)
40	06/13/2009	(768949)
41	02/26/2010	(806658)
42	07/31/2009	(806659)
43	08/31/2009	(806660)
44	09/29/2009	(806661)
45	10/22/2009	(806662)
46	12/07/2009	(806663)
47	05/14/2010	(806664)
48	01/08/2010	(806665)
49	06/24/2010	(824915)
50	07/30/2010	(830480)
51	05/13/2010	(831582)
52	05/14/2010	(831583)
53	06/24/2010	(831584)
54	07/11/2010	(846488)
55	07/12/2010	(861053)
56	11/22/2010	(878142)
57	02/28/2011	(893883)
58	02/25/2011	(899641)

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

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? NO Classification: Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
 Description: Failure by the permittee to comply with the permitted effluent limitations for Ammonia Nitrogen and Total Suspended Solids.  
 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  
 Date 12/01/2010 (878142) CN600241574  
 Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 317 317.7(e)  
 Description: The permittee failed to submit compliance documentation demonstrating that the facility has been adequately secured by the January 3, 2011 due date.  
 Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
 Monitoring Requirements No. 3(b) Pg. 5 PERMIT  
 Description: The permittee failed to submit a copy of the Discharge Monitoring Report for May 2010, as compliance documentation by the January 3, 2011 due date.  
 Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
 Monitoring Requirements No. 3(b) Pg. 5 PERMIT  
 Description: The permittee failed to submit a copy of the Annual Sludge Report as compliance documentation by the January 3, 2011 due date.  
 Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
 Operational Requirements, No. 1 Pg. 9 PERMIT  
 Description: The permittee failed to submit photographic compliance documentation of the installation of a new staff gauge by the January 3, 2011 due date.  
 Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 305, SubChapter F 305.125(5)  
 Operational Requirements No. 1, Pg. 9 PERMIT  
 Description: The permittee failed to submit compliance documentation of corrective actions taken to remove the sludge and solids from CCC by the January 3, 2011 due date.  
 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 Requirements No. 1, Pg. 2 PERMIT  
 Description: The permittee failed to submit compliance documentation describing the corrective actions that have been taken by the January 3, 2011 due date.

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**

§  
§  
§  
§  
§

**BEFORE THE  
TEXAS COMMISSION ON  
ENVIRONMENTAL QUALITY**

**AGREED ORDER  
DOCKET NO. 2011-0367-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 the 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 facility 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 caused, suffered, allowed or permitted the discharge of any waste or the performance of any activity in violation of TEX. WATER CODE ch. 26 or any rule, permit, or order of the Commission.
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 March 1, 2011.
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 Nine Thousand One Hundred Dollars (\$9,100) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid Seven Thousand Two Hundred Eighty Dollars (\$7,280) of the administrative penalty and One Thousand Eight Hundred Twenty Dollars (\$1,820) 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 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.
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 Respondent is alleged to have:

1. Failed to submit monitoring results at the intervals specified in the permit, in violation of 30 TEX. ADMIN. CODE § 305.125(17) and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0010731001, Monitoring and Reporting Requirements No. 1, as documented during a record review conducted on February 18, 2011. Specifically, the Respondent failed to submit the discharge monitoring reports ("DMRs") for the months of July 2010 through October 2010 by the 20<sup>th</sup> day of the following month.
2. Failed to submit the annual sludge report for the monitoring period ending July 31, 2010 by September 1, 2010, in violation of 30 TEX. ADMIN. CODE § 305.125(17) and TPDES Permit No. WQ0010731001, Sludge Provisions, as documented during a record review conducted on February 18, 2011.

### III. DENIALS

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

### IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that the Respondent pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and the Respondent's compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective action or penalties for violations which are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: City of Rosebud, Docket No. 2011-0367-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 Respondent shall undertake the following technical requirements:

- a. Within 30 days after the effective date of this Agreed Order, submit all missing DMRs and the annual sludge report for the monitoring period ending July 31, 2010, in accordance with the requirements of TPDES Permit No. WQ0010731001 to:

Compliance Monitoring Team (MC 224)  
Enforcement Division  
Texas Commission on Environmental Quality  
P.O. Box 13087  
Austin, Texas 78711-3087

- b. Within 30 days after the effective date of this Agreed Order, update the Facility's operational guidance and conduct employee training to ensure that self-reporting requirements are properly accomplished, including the timely submittal of signed and certified DMRs and annual sludge reports, in accordance with TPDES Permit No. WQ0010731001; and
- c. Within 45 days after the effective date of this Agreed Order, submit certification of compliance with Ordering Provision Nos. 2.a. and 2.b. The certification shall include detailed supporting documentation including receipts, and/or other records to demonstrate compliance, 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  
Waco Regional Office  
Texas Commission on Environmental Quality  
6801 Sanger Avenue, Suite 2500  
Waco, Texas 76710-7826

3. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
4. If the Respondent fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, the Respondent's failure to comply is not a violation of this Agreed Order. The Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The Respondent shall notify the Executive Director within seven days after the Respondent becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
5. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by the Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
6. This Agreed Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the

Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.

7. This Agreed Order may be executed in separate and multiple counterparts, which together shall constitute a single instrument. Any page of this Agreed Order may be copied, scanned, digitized, converted to electronic portable document format ("pdf"), or otherwise reproduced and may be transmitted by digital or electronic transmission, including but not limited to facsimile transmission and electronic mail. Any signature affixed to this Agreed Order shall constitute an original signature for all purposes and may be used, filed, substituted, or issued for any purpose for which an original signature could be used. The term "signature" shall include manual signatures and true and accurate reproductions of manual signatures created, executed, endorsed, adopted, or authorized by the person or persons to whom the signatures are attributable. Signatures may be copied or reproduced digitally, electronically, by photocopying, engraving, imprinting, lithographing, electronic mail, facsimile transmission, stamping, or any other means or process which the Executive Director deems acceptable. In this paragraph exclusively, the terms "electronic transmission", "owner", "person", "writing", and "written" shall have the meanings assigned to them under TEX. BUS. ORG. CODE § 1.002.
8. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to the Respondent, or three days after the date on which the Commission mails notice of the Order to the Respondent, whichever is earlier. 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

*John Srdler*  
For the Executive Director

7/13/2011  
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.

*Patsy L Fischer*  
Signature

5-27-11  
Date

Patsy L Fischer  
Name (Printed or typed)  
Authorized Representative of  
City of Rosebud

Mayor, City of Rosebud  
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.