

**Executive Summary – Enforcement Matter – Case No. 41774**

**City of Santa Rosa**

**RN101918696**

**Docket No. 2011-0886-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 Santa Rosa Wastewater Treatment Facility, located approximately 0.4 mile northeast of the intersection of State Highway 107 and Farm-to-Market Road 506, northeast of Santa Rosa, Cameron County

**Type of Operation:**

Wastewater treatment plant

**Other Significant Matters:**

Additional Pending Enforcement Actions: No

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: None

**Texas Register Publication Date:** November 25, 2011

**Comments Received:** No

***Penalty Information***

**Total Penalty Assessed:** \$7,992

**Amount Deferred for Expedited Settlement:** \$1,598

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

**Total Paid to General Revenue:** \$6,394

**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. 41774**  
**City of Santa Rosa**  
**RN101918696**  
**Docket No. 2011-0886-MWD-E**

***Investigation Information***

**Complaint Date(s):** N/A

**Complaint Information:** N/A

**Date(s) of Investigation:** May 23, 2011

**Date(s) of NOE(s):** May 26, 2011

***Violation Information***

1. Failed to comply with the permitted effluent limitations for 5-day biochemical oxygen demand, dissolved oxygen, and total suspended solids [TEX. WATER CODE § 26.121(a)(1), 30 TEX. ADMIN. CODE § 305.125(1), and Texas Pollutant Discharge Elimination System (“TPDES”) Permit No. WQ0010330001, Interim Effluent Limitations and Monitoring Requirements Nos. 1 and 6].

2. Failed to timely submit the discharge monitoring reports (“DMRs”) for the monitoring periods ending July 31, 2010; August 31, 2010; September 30, 2010; October 31, 2010; November 30, 2010; December 31, 2010; and January 31, 2011, by the 20th day of the following month [30 TEX. ADMIN. CODE §§ 305.125(1), 305.125(17) and 319.7(d) and TPDES Permit No. WQ0010330001, Monitoring and Reporting Requirements No. 1].

3. Failed to submit the annual sludge report for the monitoring period ending July 31, 2010 [30 TEX. ADMIN. CODE § 305.125(1) and 305.125(17) and TPDES Permit No. WQ0010330001, Sludge Provisions].

***Corrective Actions/Technical Requirements***

**Corrective Action(s) Completed:**

The Executive Director recognizes that by August 19, 2011, the Respondent submitted DMRs for the monitoring periods ending July 31, 2010 through January 31, 2011.

**Technical Requirements:**

The Order will require the Respondent to:

a. Within 30 days:

i. 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 monthly DMRs, and annual sludge reports; and

ii. Submit the annual sludge report for the monitoring period ending July 31, 2010;

b. Within 45 days, submit written certification of compliance with Ordering Provision a.;

**Executive Summary – Enforcement Matter – Case No. 41774**

**City of Santa Rosa**

**RN101918696**

**Docket No. 2011-0886-MWD-E**

c. Within 90 days, submit written certification of compliance with the effluent limits of TPDES Permit No. WQ0010330001; and

d. The written certifications required by Ordering Provisions b. and c. shall include specific corrective actions that were implemented at the Facility to achieve compliance and copies of the most current self-reported discharge monitoring reports, demonstrating at least three consecutive months of compliance with all permitted effluent limitations.

***Litigation Information***

**Date Petition(s) Filed:** N/A

**Date Answer(s) Filed:** N/A

**SOAH Referral Date:** N/A

**Hearing Date(s):** N/A

**Settlement Date:** N/A

***Contact Information***

**TCEQ Attorney:** N/A

**TCEQ Enforcement Coordinator:** Jennifer Graves, Enforcement Division, Enforcement Team 1, MC R-15, (956) 430-6023; Debra Barber, Enforcement Division, MC 219, (512) 239-0412

**TCEQ SEP Coordinator:** N/A

**Respondent:** The Honorable Ruben Ochoa, Jr., Mayor, City of Santa Rosa, P.O. Box 326, Santa Rosa, Texas 78593

**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>	31-May-2011	<b>Screening</b>	6-Jun-2011	<b>EPA Due</b>	
	<b>PCW</b>	7-Sep-2011				

<b>RESPONDENT/FACILITY INFORMATION</b>	
<b>Respondent</b>	City of Santa Rosa
<b>Reg. Ent. Ref. No.</b>	RN101918696
<b>Facility/Site Region</b>	15-Harlingen
<b>Major/Minor Source</b>	Minor

<b>CASE INFORMATION</b>			
<b>Enf./Case ID No.</b>	41774	<b>No. of Violations</b>	3
<b>Docket No.</b>	2011-0886-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>	Jennifer Graves
		<b>EC's Team</b>	Enforcement Team 1
<b>Admin. Penalty \$ Limit Minimum</b>	\$0	<b>Maximum</b>	\$10,000

## Penalty Calculation Section

<b>TOTAL BASE PENALTY (Sum of violation base penalties)</b>	<b>Subtotal 1</b>	\$3,700
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<b>ADJUSTMENTS (+/-) TO SUBTOTAL 1</b>		
Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.		
<b>Compliance History</b>	116.0% Enhancement	<b>Subtotals 2, 3, &amp; 7</b> \$4,292

Notes: Enhancement for 18 months of self-reported effluent violations, three NOV's with dissimilar violations, and one order with a denial of liability.

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

<b>Good Faith Effort to Comply Total Adjustments</b>	<b>Subtotal 5</b>	\$0
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<b>Economic Benefit</b>	0.0% Enhancement*	<b>Subtotal 6</b>	\$0
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Total EB Amounts \$7,340  
 Approx. Cost of Compliance \$50,475  
 \*Capped at the Total EB \$ Amount

<b>SUM OF SUBTOTALS 1-7</b>	<b>Final Subtotal</b>	\$7,992
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<b>OTHER FACTORS AS JUSTICE MAY REQUIRE</b>	0.0%	<b>Adjustment</b>	\$0
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes

<b>Final Penalty Amount</b>	\$7,992
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<b>STATUTORY LIMIT ADJUSTMENT</b>	<b>Final Assessed Penalty</b>	\$7,992
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<b>DEFERRAL</b>	20.0% Reduction	<b>Adjustment</b>	-\$1,598
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Reduces the Final Assessed Penalty by the indicted percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes

Deferral offered for expedited settlement.

<b>PAYABLE PENALTY</b>	\$6,394
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Screening Date 6-Jun-2011

Docket No. 2011-0886-MWD-E

PCW

Respondent City of Santa Rosa

Policy Revision 2 (September 2002)

Case ID No. 41774

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101918696

Media [Statute] Water Quality

Enf. Coordinator Jennifer Graves

### 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 (number of NOVs meeting criteria)	18	90%
	Other written NOVs	3	6%
Orders	Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)	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 (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) 116%

>> 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 18 months of self-reported effluent violations, three NOVs with dissimilar violations, and one order with a denial of liability.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 116%

Screening Date 6-Jun-2011

Docket No. 2011-0886-MWD-E

PCW

Respondent City of Santa Rosa

Policy Revision 2 (September 2002)

Case ID No. 41774

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101918696

Media [Statute] Water Quality

Enf. Coordinator Jennifer Graves

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. WQ0010330001, Interim Effluent Limitations and Monitoring Requirements Nos. 1 and 6

Violation Description Failed to comply with the permitted effluent limitations, as documented during a record review on May 23, 2011, and shown in the attached violation table.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm			Percent
	Major	Moderate	Minor	
Actual			X	10%
Potential				

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
				0%

Matrix Notes

A simplified model was used to evaluate biochemical oxygen demand to determine whether the discharged amount of pollutants exceeded levels protective of human health or the environment. Total suspended solids and dissolved oxygen were also considered. As a result of these discharges, human health or the environment has been exposed to insignificant amounts of pollutants which do not exceed levels that are protective of human health or environmental receptors.

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events 2 150 Number of violation days

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

Violation Base Penalty \$2,000

Two quarterly events are 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 \$2,000

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$7,307

Violation Final Penalty Total \$4,320

This violation Final Assessed Penalty (adjusted for limits) \$4,320

## Economic Benefit Worksheet

**Respondent** City of Santa Rosa  
**Case ID No.** 41774  
**Req. Ent. Reference No.** RN101918696  
**Media** Water Quality  
**Violation No.** 1

Percent Interest	Years of Depreciation
5.0	15

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

### Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)	\$50,000	28-Feb-2010	31-Mar-2012	2.09	\$348	\$6,959	\$7,307
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to conduct an engineering assessment of the wastewater treatment system to determine the cause of noncompliance. Date required is the initial month of noncompliance. Final date is the expected 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

\$50,000

**TOTAL**

\$7,307

Screening Date 6-Jun-2011

Docket No. 2011-0886-MWD-E

PCW

Respondent City of Santa Rosa

Policy Revision 2 (September 2002)

Case ID No. 41774

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101918696

Media [Statute] Water Quality

Enf. Coordinator Jennifer Graves

Violation Number 2

Rule Cite(s) 30 Tex. Admin. Code §§ 305.125(1), 305.125(17) and 319.7(d) and TPDES Permit No. WQ0010330001, Monitoring and Reporting Requirements No. 1

Violation Description

Failed to timely submit the discharge monitoring reports ("DMRs") for the monitoring periods ending July 31, 2010, August 31, 2010, September 30, 2010, October 31, 2010, November 30, 2010, December 31, 2010, and January 31, 2011, by the 20th day of the following month, as documented during a record review conducted on May 23, 2011.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential			

Percent 0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor
			x

Percent 1%

Matrix Notes

70% of the permit requirement was met.

Adjustment \$9,900

\$100

Violation Events

Number of Violation Events 7

184 Number of violation days

mark only one with an x

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty \$700

Seven single events are 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 \$700

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$24

Violation Final Penalty Total \$1,512

This violation Final Assessed Penalty (adjusted for limits) \$1,512

## Economic Benefit Worksheet

**Respondent** City of Santa Rosa  
**Case ID No.** 41774  
**Req. Ent. Reference No.** RN101918696  
**Media** Water Quality  
**Violation No.** 2

Percent Interest	Years of Depreciation
5.0	15

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

### Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)	\$250	23-May-2011	31-Mar-2012	0.86	\$1	\$14	\$15
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)	\$175	20-Aug-2010	19-Aug-2011	1.00	\$9	n/a	\$9

Notes for DELAYED costs

The estimated cost to update operational guidance and conduct employee training to ensure that all reporting requirements are met. Date required is the record review date. Final date is the expected date of compliance. The estimated cost to prepare and submit the DMRs (\$25 x 7 DMRs = \$175). Date required is the date the first DMR was due. 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

\$425

**TOTAL**

\$24

Screening Date 6-Jun-2011

Docket No. 2011-0886-MWD-E

PCW

Respondent City of Santa Rosa

Policy Revision 2 (September 2002)

Case ID No. 41774

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101918696

Media [Statute] Water Quality

Enf. Coordinator Jennifer Graves

Violation Number 3

Rule Cite(s) 30 Tex. Admin. Code § 305.125(1) and 305.125(17) and TPDES Permit No. WQ0010330001, Sludge Provisions

Violation Description Failed to submit the annual sludge report for the monitoring period ending July 31, 2010, as documented during a record review conducted on May 23, 2011.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential			

Percent 0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor
	x		

Percent 10%

Matrix Notes

100% of the permit requirement was not met.

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events 1

278 Number of violation days

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

mark only one with an 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 \$9

Violation Final Penalty Total \$2,160

This violation Final Assessed Penalty (adjusted for limits) \$2,160

# Economic Benefit Worksheet

**Respondent** City of Santa Rosa  
**Case ID No.** 41774  
**Reg. Ent. Reference No.** RN101918696  
**Media** Water Quality  
**Violation No.** 3

Percent Interest	Years of Depreciation
5.0	15

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

### Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)	\$50	1-Sep-2010	31-Mar-2012	1.58	\$0	\$5	\$6
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost of preparing and submitting the annual sludge report. Date required is the date the report was due. The final date is the expected 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 \$50

**TOTAL** \$6

**EFFLUENT VIOLATION TABLE**

City of Santa Rosa

TPDES Permit No. WQ0010330001

Docket No. 2011-0886-MWD-E

Months	BOD <sub>5</sub> Daily Avg. Conc.	DO Monthly Min. Conc.	TSS Daily Avg. Conc.	TSS Max. Single Grab
	Limit = 20 mg/L	Limit = 2 mg/L	Limit = 20 mg/L	Limit = 65 mg/L
February 2010	c	1.0	c	c
March 2010	c	1.2	c	c
April 2010	c	1.4	26	c
May 2010	c	1.2	36	67
June 2010	24	c	c	c

BOD<sub>5</sub> = five day biochemical oxygen demand

DO = dissolved oxygen

TSS = total suspended solids

Avg. = average

Conc. = concentration

Min. = minimum

Max. = maximum

mg/L = milligrams per liter

c = compliant



# Compliance History

Customer/Respondent/Owner-Operator: CN600735518 City of Santa Rosa Classification: AVERAGE Rating: 2.33  
Regulated Entity: RN101918696 CITY OF SANTA ROSA Classification: AVERAGE Site Rating: 1.65  
WASTEWATER TREATMENT FACILITY

ID Number(s): WASTEWATER PERMIT WQ0010330001  
WASTEWATER EPA ID TX0075451  
WASTEWATER LICENSING LICENSE WQ0010330001

Location: APPROX. 0.4 MILE NE OF THE INTX OF ST HWY 107 AND FM 506, NE OF THE CITY OF SANTA ROSA IN CAMERON CO, TX

TCEQ Region: REGION 15 - HARLINGEN

Date Compliance History Prepared: June 06, 2011

Agency Decision Requiring Compliance History: Enforcement

Compliance Period: June 06, 2006 to June 06, 2011

TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History  
Name: Jennifer Graves Phone: (956) 430-6023

## 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: 06/26/2010

ADMINORDER 2009-1899-MWD-E

Classification: Moderate

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

Rqmt Prov: Permit, Operational Req, Item 4, Page 10 OP

Description: Failure to maintain adequate safeguards to prevent the discharge of untreated or inadequately treated wastes during electrical power failures by means of alternate power sources, standby generators, and/or retention of inadequately treated wastewater.

- B. Any criminal convictions of the state of Texas and the federal government.

N/A

- C. Chronic excessive emissions events.

N/A

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

1	06/15/2006	(503005)
2	08/14/2006	(525339)
3	07/13/2006	(525340)
4	09/18/2006	(525341)
5	10/16/2006	(550062)
6	11/13/2006	(550063)
7	12/18/2006	(550064)
8	02/20/2007	(584989)
9	04/16/2007	(584990)
10	05/18/2007	(584991)

11 01/18/2007 (584992)  
 12 07/16/2007 (604415)  
 13 08/20/2007 (604416)  
 14 09/20/2007 (604417)  
 15 10/18/2007 (623455)  
 16 11/19/2007 (623456)  
 17 12/13/2007 (623457)  
 18 01/17/2007 (623458)  
 19 05/30/2008 (670933)  
 20 02/08/2008 (674771)  
 21 06/27/2008 (681733)  
 22 03/24/2008 (693095)  
 23 04/22/2008 (693096)  
 24 05/12/2008 (693097)  
 25 05/21/2008 (693098)  
 26 05/21/2008 (693099)  
 27 06/13/2008 (714327)  
 28 07/14/2008 (714328)  
 29 08/20/2008 (714329)  
 30 09/18/2008 (714330)  
 31 03/26/2009 (725807)  
 32 10/13/2008 (730307)  
 33 11/12/2008 (730308)  
 34 12/15/2008 (730309)  
 35 03/18/2009 (737910)  
 36 04/08/2009 (741106)  
 37 02/12/2009 (753518)  
 38 04/13/2009 (753519)  
 39 01/15/2009 (753520)  
 40 03/13/2009 (770986)  
 41 05/13/2009 (770987)  
 42 10/30/2009 (779024)  
 43 02/16/2010 (812816)  
 44 07/02/2009 (812817)  
 45 08/12/2009 (812818)  
 46 09/17/2009 (812819)  
 47 10/15/2009 (812820)  
 48 11/12/2009 (812821)  
 49 12/14/2009 (812822)  
 50 01/13/2010 (812823)  
 51 03/12/2010 (833719)  
 52 04/14/2010 (833720)  
 53 05/20/2010 (833721)  
 54 07/13/2009 (833722)  
 55 06/14/2010 (847144)  
 56 09/14/2010 (867944)  
 57 01/03/2011 (886712)  
 58 05/27/2011 (921974)

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

Date: 03/31/2007 (584990) CN600735518  
 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 (693098) CN600735518  
 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: 05/30/2008 (670933) CN600735518  
 Self Report? NO Classification: Minor  
 Citation: 30 TAC Chapter 317 317.6(b)(1)(E)  
 TPDES Permit PERMIT  
 Description: Failure to ensure that the facility and all of its systems of collection, treatment,  
 and disposal are properly operated and maintained.

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 317 317.4(a)(8)  
TPDES Permit PERMIT

Description: Failure to ensure that backflow prevention assemblies are tested once per year.

Date: 08/31/2008 (714330) CN600735518

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: 09/30/2008 (730307) CN600735518

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: 10/03/2008 (702884) CN600735518

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 305, SubChapter F 305.125(5)  
Permit, Operational Requirements, 1. PERMIT

Description: Failure to properly operate and maintain the collection system.

Date: 01/31/2009 (753518) CN600735518

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: 02/28/2009 (770986) CN600735518

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: 04/02/2009 (741106) CN600735518

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
Permit, Operational Req, Item 4, Page 10 OP

Description: Failure to maintain adequate safeguards to prevent the discharge of untreated or inadequately treated wastes during electrical power failures by means of alternate power sources, standby generators, and/or retention of inadequately treated wastewater.

Date: 04/30/2009 (770987) CN600735518

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: 05/31/2009 (812817) CN600735518

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: 06/30/2009 (833722) CN600735518

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: 09/30/2009 (812820) CN600735518  
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: 11/30/2009 (812822) CN600735518  
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: 12/31/2009 (812823) CN600735518  
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 (812816) CN600735518  
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: 02/28/2010 (833719) CN600735518  
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: 03/31/2010 (833720) CN600735518  
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: 04/30/2010 (833721) CN600735518  
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: 05/31/2010 (847144) CN600735518  
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: 06/30/2010 (867944) CN600735518  
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 SANTA ROSA  
RN101918696**

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

## **AGREED ORDER DOCKET NO. 2011-0886-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 Santa Rosa ("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 0.4 mile northeast of the intersection of State Highway 107 and Farm-to-Market Road 506, northeast of Santa Rosa, Cameron 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 May 31, 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 Seven Thousand Nine Hundred Ninety-Two Dollars (\$7,992) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid Six Thousand Three Hundred

Ninety-Four Dollars (\$6,394) of the administrative penalty and One Thousand Five Hundred Ninety-Eight Dollars (\$1,598) 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 by August 19, 2011, the Respondent submitted discharge monitoring reports ("DMRs") for the monitoring periods ending July 31, 2010 through January 31, 2011.
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:

1. Failed to comply with the permitted effluent limitations, 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. WQ0010330001, Interim Effluent Limitations and Monitoring Requirements Nos. 1 and 6, as documented during a record review on May 23, 2011, and shown in the violation table below:

EFFLUENT VIOLATION TABLE				
Months	BOD <sub>5</sub> Daily Avg. Conc.	DO Monthly Min. Conc.	TSS Daily Avg. Conc.	TSS Max. Single Grab
	Limit = 20 mg/L	Limit = 2 mg/L	Limit = 20 mg/L	Limit = 65 mg/L
February 2010	c	1.0	c	c
March 2010	c	1.2	c	c
April 2010	c	1.4	26	c
May 2010	c	1.2	36	67
June 2010	24	c	c	c

BOD<sub>5</sub> = five day biochemical oxygen demand  
 DO = dissolved oxygen  
 TSS = total suspended solids  
 Avg. = average  
 Conc. = concentration

Min. = minimum  
 Max. = maximum  
 mg/L = milligrams per liter  
 c = compliant

- Failed to timely submit the DMRs for the monitoring periods ending July 31, 2010; August 31, 2010; September 30, 2010; October 31, 2010; November 30, 2010; December 31, 2010; and January 31, 2011, by the 20th day of the following month, in violation of 30 TEX. ADMIN. CODE §§ 305.125(1), 305.125(17) and 319.7(d) and TPDES Permit No. WQ0010330001, Monitoring and Reporting Requirements No. 1, as documented during a record review conducted on May 23, 2011.
- Failed to submit the annual sludge report for the monitoring period ending July 31, 2010, in violation of 30 TEX. ADMIN. CODE § 305.125(1) and 305.125(17) and TPDES Permit No. WQ0010330001, Sludge Provisions, as documented during a record review conducted on May 23, 2011.

### 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 Santa Rosa, Docket No. 2011-0886-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:
    - i. 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 monthly DMRs, and annual sludge reports, in accordance with TPDES Permit No. WQ0010330001; and
    - ii. Submit the annual sludge report for the monitoring period ending July 31, 2010, in accordance with TPDES Permit No. WQ0010330001, Sludge Provisions;
  - b. Within 45 days after the effective date of this Agreed Order, submit written certification of compliance with Ordering Provision No. 2.a, in accordance with Ordering Provision No. 2.d;
  - c. Within 90 days after the effective date of this Agreed Order, submit written certification of compliance with the effluent limits of TPDES Permit No. WQ0010330001; and
  - d. The written certifications required by Ordering Provision Nos. 2.b and 2.c, shall include specific corrective actions that were implemented at the Facility to achieve compliance and copies of the most current self-reported discharge monitoring reports, demonstrating at least three consecutive months of compliance with all permitted effluent limitations. The certification shall 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 this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false

information, including the possibility of fine and imprisonment for knowing violations.”

The certification shall be submitted to:

Order Compliance Team  
Enforcement Division, MC 149A  
Texas Commission on Environmental Quality  
P.O. Box 13087  
Austin, Texas 78711-3087

with a copy to:

Water Section, Manager  
Harlingen Regional Office  
Texas Commission on Environmental Quality  
1804 West Jefferson Avenue  
Harlingen, Texas 78550-5247

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

  
\_\_\_\_\_  
For the Executive Director

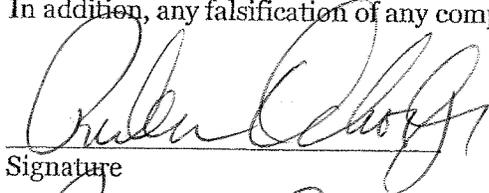
12/2/11  
\_\_\_\_\_  
Date

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

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

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

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

  
\_\_\_\_\_  
Signature

10/7/11  
\_\_\_\_\_  
Date

RUBEN OCHOA JR  
\_\_\_\_\_  
Name (Printed or typed)  
Authorized Representative of  
City of Santa Rosa

MAYOR  
\_\_\_\_\_  
Title

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