

EXECUTIVE SUMMARY – ENFORCEMENT MATTER – CASE NO. 41629
GORDON DEAN ROGERS
RN101611390
Docket No. 2011-0786-MWD-E

Order Type:

Default Order

Findings Order Justification:

N/A

Media:

MWD

Small Business:

Yes

Location(s) Where Violation(s) Occurred:

adjacent to Sam Rayburn Reservoir, approximately 500 feet southeast of the intersection of State Highway 147 and Farm-to-Market Road 3123, and approximately 5.9 miles northeast of the intersection of State Highway 63 and State Highway 147, Angelina County

Type of Operation:

wastewater treatment plant

Other Significant Matters:

Additional Pending Enforcement Actions:	2011-1505-PWS-E
Past-Due Penalties:	None
Past-Due Fees:	None
Other:	None
Interested Third-Parties:	None

Texas Register Publication Date: May 25, 2012

Comments Received: None

Penalty Information

Total Penalty Assessed: \$46,274

Total Paid to General Revenue: \$0

Total Due to General Revenue: \$46,274

Compliance History Classifications:

Person/CN – Average
Site/RN – Average

Major Source: No

Statutory Limit Adjustment: None

Applicable Penalty Policy: September 2002

Investigation Information

Complaint Date(s): N/A

Date(s) of Investigation: April 21, 2011; July 12, 2011

Date(s) of NOV(s): N/A

Date(s) of NOE(s): May 5, 2011; September 5, 2011

GORDON DEAN ROGERS
RN101611390
Docket No. 2011-0786-MWD-E

Violation Information

1. Failed to submit monitoring results at the intervals specified in the permit [Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0014693001, 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(1) and (17), and TPDES Permit No. WQ0014693001, Sludge Provisions].
3. Failed to employ or contract a wastewater treatment facility operator holding the appropriate level of license [30 TEX. ADMIN. CODE §§ 30.350(d) and 305.125(1), and TPDES Permit No. WQ0014693001, Other Requirements No. 1].
4. Failed to properly operate and maintain all facilities and systems of treatment and control [30 TEX. ADMIN. CODE § 305.125(1) and (5), and TPDES Permit No. WQ0014693001, Operational Requirements No. 1].
5. Failed to collect and analyze samples for chlorine residual, pH, and dissolved oxygen for the monitoring periods ending June 30, 2010, through May 31, 2011 [30 TEX. ADMIN. CODE § 305.125(1) and (11)(a) and 319.4, and TPDES Permit No. WQ0014693001, Monitoring and Reporting Requirements No. 3.a.].
6. Failed to have sludge records, for at least a five year period, available for review [30 TEX. ADMIN. CODE §§ 305.125(1) and TPDES Permit No. WQ0014693001, Monitoring and Reporting Requirements No. 3.b.].
7. Failed to properly operate and maintain all facilities and systems of treatment and control [30 TEX. ADMIN. CODE § 305.125(1) and (5), and TPDES Permit No. WQ0014693001, Operational Requirements No. 1].
8. Failed to provide accurate flow measurements that conform to those prescribed in the Water Measurements Manual, United States Department of the Interior Bureau of Reclamation, Washington D.C., or methods that are equivalent as provided by the Executive Director [30 TEX. ADMIN. CODE §§ 305.125(1) and 319.11(d), and TPDES Permit No. WQ0014693001, Monitoring and Reporting Requirements No. 1].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

None

Technical Requirements:

1. Within 30 days:
 - a. Update the Facility's operational guidance and conduct employee training to ensure that self-reporting requirements are properly accomplished, including the timely submittal of completed, signed, and certified monthly DMRs and annual sludge reports;
 - b. Submit the missing DMRs for the monitoring periods ending February 2010, through January 2011, and the annual sludge report for the monitoring period ending July 31, 2010;
 - c. Ensure a properly certified operator operates the Facility at least five days per week;
 - d. Begin collecting and analyzing effluent samples at the frequency required by the permit;
 - e. Update the Facility's operational guidance to ensure that all effluent parameters, including chlorine residual, pH, and dissolved oxygen are monitored;
 - f. Begin maintaining all sludge records on-site; and

GORDON DEAN ROGERS
RN101611390
Docket No. 2011-0786-MWD-E

- g. Begin conducting process control tests and sampling at the frequencies described in Table 4 of the TCEQ Regulatory Guidance (RG-002), "Process Control Tests for Domestic Wastewater Treatment Facilities".
2. Within 60 days:
- a. Develop and implement a solids management plan ("SMP"). The SMP shall identify the appropriate range of solids to be maintained throughout the treatment units at the Facility and outline a program of internal process control testing to monitor the efficiency of the wastewater treatment and to maintain the proper solids balance at the Facility. The SMP shall be prepared by a Texas registered professional engineer or an "A" TCEQ Certified Wastewater Operator;
 - b. Remove and properly dispose of the floating solids from the clarifier;
 - c. Remove and properly dispose of the sludge in the chlorine contact chamber;
 - d. Control splashing from the aeration basin and clean and properly dispose of accumulated sludge around the aeration basin and on pipes at the Facility;
 - e. Install an operational back-up blower at the Facility; and
 - f. Install a staff gauge to properly monitor flow through the 90-degree V-notch weir.
3. Submit written certification to demonstrate compliance:
- a. Within 45 days for Technical Requirement No. 1; and
 - b. Within 75 days for Technical Requirement No. 2.

Litigation Information

Date Petition(s) Filed: March 7, 2012
Date Green Card(s) Signed: March 10, 2012,
Date Answer(s) Filed: N/A

Contact Information

TCEQ Attorneys: Rudy Calderon, Litigation Division, (512) 239-3400
Lena Roberts, Litigation Division, (512) 239-3400
Eli Martinez, Public Interest Counsel, (512) 239-6363

TCEQ Enforcement Coordinator: Steve Villatoro, Enforcement Division, (512) 239-4930

TCEQ Regional Contact: Ronald Hebert, Beaumont Regional Office, (409) 898-3838

Respondent: Gordon Dean Rogers, 5896 State Highway 147, Zavalla, Texas 75980

Respondent's Attorney: N/A

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Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

TCEQ

DATES	Assigned	9-May-2011	Screening	12-May-2011	EPA Due	
	PCW	30-Aug-2011				

RESPONDENT/FACILITY INFORMATION

Respondent	Gordon Dean Rogers		
Reg. Ent. Ref. No.	RN101611390		
Facility/Site Region	10-Beaumont	Major/Minor Source	Minor

CASE INFORMATION

Enf./Case ID No.	41629	No. of Violations	2
Docket No.	2011-0786-MWD-E	Order Type	1660
Media Program(s)	Water Quality	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Steve Villatoro
		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** **\$13,000**

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History **34.0%** Enhancement **Subtotals 2, 3, & 7** **\$4,420**

Notes: Enhancement for 17 NOVs with dissimilar violations.

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** **\$0**

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

Total EB Amounts **\$63**
 Approx. Cost of Compliance **\$600**
 *Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7 **Final Subtotal** **\$17,420**

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

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

Final Penalty Amount **\$17,420**

STATUTORY LIMIT ADJUSTMENT **Final Assessed Penalty** **\$17,420**

DEFERRAL **0.0%** Reduction **Adjustment** **\$0**

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

Notes:

Deferral not offered for non-expedited settlement.

PAYABLE PENALTY **\$17,420**

Screening Date 12-May-2011

Docket No. 2011-0786-MWD-E

PCW

Respondent Gordon Dean Rogers

Policy Revision 2 (September 2002)

Case ID No. 41629

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101611390

Media [Statute] Water Quality

Enf. Coordinator Steve Villatoro

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>)		0%
	Other written NOVs	17	34%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (<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) 34%

>> 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 17 NOVs with dissimilar violations.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 34%

Screening Date 12-May-2011 **Docket No.** 2011-0786-MWD-E **PCW**
Respondent Gordon Dean Rogers *Policy Revision 2 (September 2002)*
Case ID No. 41629 *PCW Revision October 30, 2008*
Reg. Ent. Reference No. RN101611390
Media [Statute] Water Quality
Enf. Coordinator Steve Villatoro

Violation Number 1
Rule Cite(s) 30 Tex. Admin. Code §§ 305.125(1), 305.125(17) and 319.7(d), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0014693001 Monitoring and Reporting Requirements No. 1
Violation Description Failed to submit monitoring results at the intervals specified in the permit, as documented during a record review conducted on April 21, 2011. Specifically, the Respondent failed to submit Discharge Monitoring Reports ("DMRs") for the monitoring periods ending February 28, 2010, March 31, 2010, April 30, 2010, May 31, 2010, June 30, 2010, July 31, 2010, August 31, 2010, September 30, 2010, October 31, 2010, November 30, 2010, December 31, 2010, and January 31, 2011.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual				0%
	Potential				

>> Programmatic Matrix

	Falsification	Major	Moderate	Minor	Percent
		x			10%

Matrix Notes 100% of the permit requirement was not met.

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events 12 418 Number of violation days

mark only one with an x

daily	
weekly	
monthly	x
quarterly	
semiannual	
annual	
single event	

Violation Base Penalty \$12,000

Twelve monthly 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 \$12,000

Economic Benefit (EB) for this violation Statutory Limit Test

Estimated EB Amount \$63 **Violation Final Penalty Total** \$16,080

This violation Final Assessed Penalty (adjusted for limits) \$16,080

Economic Benefit Worksheet

Respondent Gordon Dean Rogers
Case ID No. 41629
Req. Ent. Reference No. RN101611390
Media Violation No. Water Quality
 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)	\$350	20-Mar-2010	30-Nov-2011	1.70	\$2	\$40	\$42
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$250	20-Mar-2010	30-Nov-2011	1.70	\$21	n/a	\$21

Notes for DELAYED costs Estimated cost to prepare and submit the DMRs (\$25 each) and annual sludge report (\$50 each) and conduct employee training. Date required is date the first report was due. Final date is the date 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 \$600

TOTAL \$63

Screening Date	12-May-2011	Docket No.	2011-0786-MWD-E	PCW
Respondent	Gordon Dean Rogers	<i>Policy Revision 2 (September 2002)</i>		
Case ID No.	41629	<i>PCW Revision October 30, 2008</i>		
Reg. Ent. Reference No.	RN101611390			
Media [Statute]	Water Quality			
Enf. Coordinator	Steve Villatoro			
Violation Number	2			
Rule Cite(s)	30 Tex. Admin. Code §§ 305.125(1) and 305.125(17) and TPDES Permit No. WQ0014693001 Sludge Provisions			
Violation Description	Failed to submit the annual sludge report for the monitoring period ending July 31, 2010, by September 1, 2010, as documented during a record review conducted on April 21, 2011.			
Base Penalty				\$10,000

>> Environmental, Property and Human Health Matrix

OR	Harm			
	Major	Moderate	Minor	
	Actual			Percent 0%
Potential				

>> Programmatic Matrix

	Falsification	Major	Moderate	Minor	
		x			Percent 10%
Matrix Notes	100% of the rule requirement was not met.				
Adjustment					\$9,000

\$1,000

Violation Events

Number of Violation Events	1	253	Number of violation days	
<i>mark only one with an x</i>	daily		Violation Base Penalty	\$1,000
	weekly			
	monthly			
	quarterly			
	semiannual			
	annual	x		
single event				
One annual 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	\$0	
Violation Final Penalty Total	\$1,340	
This violation Final Assessed Penalty (adjusted for limits)		\$1,340

Economic Benefit Worksheet

Respondent Gordon Dean Rogers
Case ID No. 41629
Req. Ent. Reference No. RN101611390
Media Violation No. Water Quality
 2

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

Equipment			0.00	\$0	\$0	\$0
Buildings			0.00	\$0	\$0	\$0
Other (as needed)			0.00	\$0	\$0	\$0
Engineering/construction			0.00	\$0	\$0	\$0
Land			0.00	\$0	n/a	\$0
Record Keeping System			0.00	\$0	n/a	\$0
Training/Sampling			0.00	\$0	n/a	\$0
Remediation/Disposal			0.00	\$0	n/a	\$0
Permit Costs			0.00	\$0	n/a	\$0
Other (as needed)			0.00	\$0	n/a	\$0

Notes for DELAYED costs

See economic benefit 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

TOTAL



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

TCEQ

DATES	Assigned	12-Sep-2011			
	PCW	7-Oct-2011	Screening	26-Sep-2011	EPA Due

RESPONDENT/FACILITY INFORMATION

Respondent	Gordon Dean Rogers			
Reg. Ent. Ref. No.	RN101611390			
Facility/Site Region	10-Beaumont	Major/Minor Source	Minor	

CASE INFORMATION

Enf./Case ID No.	41629	No. of Violations	6
Docket No.	2011-0786-MWD-E	Order Type	1660
Media Program(s)	Water Quality	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Steve Villatoro
		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** **\$15,000**

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History **32.0%** Enhancement **Subtotals 2, 3, & 7** **\$4,800**

Notes Enhancement for 16 NOVs with dissimilar violations.

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** **\$0**

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

Total EB Amounts **\$9,703**
 Approx. Cost of Compliance **\$47,550**
 *Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7 **Final Subtotal** **\$19,800**

OTHER FACTORS AS JUSTICE MAY REQUIRE **45.7%** **Adjustment** **\$9,054**

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes Enhancement to capture the avoided costs associated with Violations Nos. 1 and 3.

Final Penalty Amount **\$28,854**

STATUTORY LIMIT ADJUSTMENT **Final Assessed Penalty** **\$28,854**

DEFERRAL **0.0%** Reduction **Adjustment** **\$0**

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

Notes Deferral not offered for non-expedited settlement.

PAYABLE PENALTY **\$28,854**

Screening Date	26-Sep-2011	Docket No.	2011-0786-MWD-E	PCW
Respondent	Gordon Dean Rogers			<i>Policy Revision 2 (September 2002)</i>
Case ID No.	41629			<i>PCW Revision October 30, 2008</i>
Reg. Ent. Reference No.	RN101611390			
Media [Statute]	Water Quality			
Enf. Coordinator	Steve Villatoro			

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>)	0	0%
	Other written NOVs	16	32%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (<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) 32%

>> **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 16 NOVs with dissimilar violations.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 32%

Screening Date	26-Sep-2011	Docket No.	2011-0786-MWD-E	PCW
Respondent	Gordon Dean Rogers			<i>Policy Revision 2 (September 2002)</i>
Case ID No.	41629			<i>PCW Revision October 30, 2008</i>
Reg. Ent. Reference No.	RN101611390			
Media [Statute]	Water Quality			
Enf. Coordinator	Steve Villatoro			

Violation Number

Rule Cite(s)
 30 Texas Admin. Code §§ 30.350(d) and 305.125(1) and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0014693001 Other Requirements No. 1

Violation Description
 Failed to employ or contract a wastewater treatment facility operator holding the appropriate level of license, as documented during an investigation conducted on July 12, 2011. Specifically, the operator onsite during the investigation was not licensed.

Base Penalty

>> **Environmental, Property and Human Health Matrix**

OR		Harm			
	Release	Major	Moderate	Minor	
	Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>	Percent <input type="text" value="25%"/>
Potential	<input type="text" value="x"/>	<input type="text"/>	<input type="text"/>		

>> **Programmatic Matrix**

	Falsification	Major	Moderate	Minor	
	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	Percent <input type="text" value="0%"/>

Matrix Notes
 Human health or the environment will or could be exposed to pollutants which would exceed levels that are protective of human health or environmental receptors as a result of this violation

Adjustment

Violation Events

Number of Violation Events Number of violation days

mark only one with an x

daily	<input type="text"/>
weekly	<input type="text"/>
monthly	<input type="text" value="x"/>
quarterly	<input type="text"/>
semiannual	<input type="text"/>
annual	<input type="text"/>
single event	<input type="text"/>

Violation Base Penalty

Three monthly events are recommended from the investigation date (July 12, 2011) to the date of screening (September 26, 2011).

Good Faith Efforts to Comply Reduction

	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary	<input type="text"/>	<input type="text"/>
Ordinary	<input type="text"/>	<input type="text"/>
N/A	<input type="text" value="x"/>	(mark with x)

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

Violation Subtotal

Economic Benefit (EB) for this violation **Statutory Limit Test**

Estimated EB Amount **Violation Final Penalty Total**

This violation Final Assessed Penalty (adjusted for limits)

Economic Benefit Worksheet

Respondent Gordon Dean Rogers
Case ID No. 41629
Req. Ent. Reference No. RN101611390
Media Violation No. Water Quality
 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)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Avoided Costs

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

Disposal				0.00	\$0	\$0	\$0
Personnel	\$35,000	12-Jul-2011	26-Sep-2011	0.21	\$364	\$7,288	\$7,652
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

Estimated avoided cost to hire a licensed operator to operate the Facility at least five times per week.
Date required is the investigation date. Final date is the screening date.

Approx. Cost of Compliance

\$35,000

TOTAL

\$7,652

Screening Date	26-Sep-2011	Docket No.	2011-0786-MWD-E	PCW
Respondent	Gordon Dean Rogers			<i>Policy Revision 2 (September 2002)</i>
Case ID No.	41629			<i>PCW Revision October 30, 2008</i>
Reg. Ent. Reference No.	RN101611390			
Media [Statute]	Water Quality			
Enf. Coordinator	Steve Villatoro			

Violation Number

Rule Cite(s)

Violation Description

Failed to properly operate and maintain all facilities and systems of treatment and control, as documented during an investigation conducted on July 12, 2011. Specifically, dried sludge was noted outside of the aeration basin and on the wastewater treatment plant piping, the chlorine contact chamber had one foot of dark brown sludge, floating solids were accumulating in the clarifier, and only one blower was operational at the Facility.

Base Penalty

>> **Environmental, Property and Human Health Matrix**

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text" value="10%"/>
	Potential	<input type="text"/>	<input checked="" type="text" value="x"/>	<input type="text"/>	

>> **Programmatic Matrix**

	Falsification	Major	Moderate	Minor	Percent
	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text" value="0%"/>

Matrix Notes

Human health or the environment will or could be exposed to significant amounts of pollutants which would not exceed levels that are protective of human health or environmental receptors as a result of this violation

Adjustment

Violation Events

Number of Violation Events Number of violation days

<i>mark only one with an x</i>	daily	<input type="text"/>
	weekly	<input type="text"/>
	monthly	<input type="text"/>
	quarterly	<input checked="" type="text" value="x"/>
	semiannual	<input type="text"/>
	annual	<input type="text"/>
single event	<input type="text"/>	

Violation Base Penalty

One quarterly event is recommended from the investigation date (July 12, 2011) to the date of screening (September 26, 2011).

Good Faith Efforts to Comply

Reduction

	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary	<input type="text"/>	<input type="text"/>
Ordinary	<input type="text"/>	<input type="text"/>
N/A	<input checked="" type="text" value="x"/>	(mark with x)

Notes

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

Violation Subtotal

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount

Violation Final Penalty Total

This violation Final Assessed Penalty (adjusted for limits)

Economic Benefit Worksheet

Respondent Gordon Dean Rogers
Case ID No. 41629
Req. Ent. Reference No. RN101611390
Media Violation No. Water Quality
 2

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)	\$8,000	12-Jul-2011	31-May-2012	0.89	\$24	\$473	\$497
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	\$2,000	12-Jul-2011	31-May-2012	0.89	\$89	n/a	\$89
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs
 Estimated cost to develop and implement a solids management plan, repair the second blower, remove and properly dispose of sludge from the chlorine contact chamber and accumulation around the aeration basin, and remove and properly dispose of solids from the clarifier. Date required is the investigation date. 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	\$10,000	TOTAL	\$586
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Screening Date	26-Sep-2011	Docket No.	2011-0786-MWD-E	PCW
Respondent	Gordon Dean Rogers			<i>Policy Revision 2 (September 2002)</i>
Case ID No.	41629			<i>PCW Revision October 30, 2008</i>
Reg. Ent. Reference No.	RN101611390			
Media [Statute]	Water Quality			
Enf. Coordinator	Steve Villatoro			

Violation Number

Rule Cite(s)

30 Tex. Admin. Code §§ 305.125(1), 305.125(11)(a) and 319.4, and TPDES Permit No. WQ0014693001 Monitoring and Reporting Requirements No 3.a

Violation Description

Failed to collect and analyze samples for chlorine residual, pH, and dissolved oxygen for the monitoring periods ending June 30, 2010 through May 31, 2011, as documented during an investigation conducted on July 12, 2011.

Base Penalty

>> **Environmental, Property and Human Health Matrix**

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text" value="10%"/>
	Potential	<input type="text"/>	<input checked="" type="text" value="x"/>	<input type="text"/>	

>> **Programmatic Matrix**

	Falsification	Major	Moderate	Minor	Percent
	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text" value="0%"/>

Matrix Notes

Human health or the environment will or could be exposed to significant amounts of pollutants which would not exceed levels that are protective of human health or environmental receptors as a result of this violation

Adjustment

Violation Events

Number of Violation Events Number of violation days

mark only one with an x

daily	<input type="text"/>
weekly	<input type="text"/>
monthly	<input type="text"/>
quarterly	<input checked="" type="text" value="x"/>
semiannual	<input type="text"/>
annual	<input type="text"/>
single event	<input type="text"/>

Violation Base Penalty

Four quarterly events are recommended.

Good Faith Efforts to Comply

Reduction

	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary	<input type="text"/>	<input type="text"/>
Ordinary	<input type="text"/>	<input type="text"/>
N/A	<input checked="" type="text" value="x"/>	(mark with x)

Notes

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

Violation Subtotal

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount

Violation Final Penalty Total

This violation Final Assessed Penalty (adjusted for limits)

Economic Benefit Worksheet

Respondent Gordon Dean Rogers
Case ID No. 41629
Req. Ent. Reference No. RN101611390
Media Violation No. Water Quality
 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)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System	\$100	12-Jul-2011	31-May-2012	0.89	\$4	n/a	\$4
Training/Sampling	\$250	12-Jul-2011	31-May-2012	0.89	\$11	n/a	\$11
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 update the Facility's operational guidance and conduct employee training to ensure that all effluent parameters are monitored and records are maintained as required. Date required is the investigation date. 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	\$1,200	1-Jun-2010	12-Jul-2011	1.11	\$67	\$1,335	\$1,402
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
 Estimated avoided cost to collect and analyze effluent samples (\$100/month). Date required is the monitoring period beginning June 1, 2010. Final date is the investigation date July 12, 2011.

Approx. Cost of Compliance \$1,550

TOTAL \$1,417

Screening Date	26-Sep-2011	Docket No.	2011-0786-MWD-E	PCW
Respondent	Gordon Dean Rogers	<i>Policy Revision 2 (September 2002)</i>		
Case ID No.	41629	<i>PCW Revision October 30, 2008</i>		
Reg. Ent. Reference No.	RN101611390			
Media [Statute]	Water Quality			
Enf. Coordinator	Steve Villatoro			

Violation Number

Rule Cite(s) 30 Tex. Admin. Code § 305.125(1) and TPDES Permit No. WQ0014693001, Monitoring and Reporting Requirements No. 3.b

Violation Description Failed to have sludge records, for at least a five year period, available for review, as documented during an investigation conducted on July 12, 2011.

Base Penalty

>> Environmental, Property and Human Health Matrix

OR	Harm			Percent <input type="text" value="0%"/>	
	Release	Major	Moderate		Minor
	Actual	<input type="text"/>	<input type="text"/>		<input type="text"/>
Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>		

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent <input type="text" value="10%"/>
<input type="text"/>	<input checked="" type="text" value="x"/>	<input type="text"/>	<input type="text"/>	

Matrix Notes

100% of the permit requirement was not met.

Adjustment

Violation Events

Number of Violation Events Number of violation days

mark only one with an x

daily	<input type="text"/>
weekly	<input type="text"/>
monthly	<input type="text"/>
quarterly	<input type="text"/>
semiannual	<input type="text"/>
annual	<input type="text"/>
single event	<input checked="" type="text" value="x"/>

Violation Base Penalty

One single event is recommended.

Good Faith Efforts to Comply

Reduction

	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary	<input type="text"/>	<input type="text"/>
Ordinary	<input type="text"/>	<input type="text"/>
N/A	<input checked="" type="text" value="x"/>	(mark with x)

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

Violation Subtotal

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount

Violation Final Penalty Total

This violation Final Assessed Penalty (adjusted for limits)

Economic Benefit Worksheet

Respondent Gordon Dean Rogers
Case ID No. 41629
Req. Ent. Reference No. RN101611390
Media Violation No. Water Quality
 4

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

Equipment			0.00	\$0	\$0	\$0
Buildings			0.00	\$0	\$0	\$0
Other (as needed)			0.00	\$0	\$0	\$0
Engineering/construction			0.00	\$0	\$0	\$0
Land			0.00	\$0	n/a	\$0
Record Keeping System			0.00	\$0	n/a	\$0
Training/Sampling			0.00	\$0	n/a	\$0
Remediation/Disposal			0.00	\$0	n/a	\$0
Permit Costs			0.00	\$0	n/a	\$0
Other (as needed)			0.00	\$0	n/a	\$0

Notes for DELAYED costs

See economic benefit for Violation No 3.

Avoided Costs

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

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

Notes for AVOIDED costs

Approx. Cost of Compliance

TOTAL

Screening Date	26-Sep-2011	Docket No.	2011-0786-MWD-E	PCW
Respondent	Gordon Dean Rogers	<i>Policy Revision 2 (September 2002)</i>		
Case ID No.	41629	<i>PCW Revision October 30, 2008</i>		
Reg. Ent. Reference No.	RN101611390			
Media [Statute]	Water Quality			
Enf. Coordinator	Steve Villatoro			

Violation Number

Rule Cite(s)

Violation Description

Base Penalty

>> **Environmental, Property and Human Health Matrix**

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text" value="10%"/>
	Potential	<input type="text"/>	<input checked="" type="text" value="x"/>	<input type="text"/>	

>> **Programmatic Matrix**

	Falsification	Major	Moderate	Minor	Percent
	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text" value="0%"/>

Matrix Notes

Adjustment

Violation Events

Number of Violation Events Number of violation days

<i>mark only one with an x</i>	daily	<input type="text"/>
	weekly	<input type="text"/>
	monthly	<input type="text"/>
	quarterly	<input checked="" type="text" value="x"/>
	semiannual	<input type="text"/>
	annual	<input type="text"/>
single event	<input type="text"/>	

Violation Base Penalty

Good Faith Efforts to Comply

Reduction

	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary	<input type="text"/>	<input type="text"/>
Ordinary	<input type="text"/>	<input type="text"/>
N/A	<input checked="" type="text" value="x"/>	(mark with x)

Notes

Violation Subtotal

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount

Violation Final Penalty Total

This violation Final Assessed Penalty (adjusted for limits)

Economic Benefit Worksheet

Respondent Gordon Dean Rogers
Case ID No. 41629
Req. Ent. Reference No. RN101611390
Media Violation No. Water Quality
 5

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

Equipment			0.00	\$0	\$0	\$0
Buildings			0.00	\$0	\$0	\$0
Other (as needed)			0.00	\$0	\$0	\$0
Engineering/construction			0.00	\$0	\$0	\$0
Land			0.00	\$0	n/a	\$0
Record Keeping System			0.00	\$0	n/a	\$0
Training/Sampling			0.00	\$0	n/a	\$0
Remediation/Disposal			0.00	\$0	n/a	\$0
Permit Costs			0.00	\$0	n/a	\$0
Other (as needed)			0.00	\$0	n/a	\$0

Notes for DELAYED costs

See economic benefit 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

TOTAL

Screening Date	26-Sep-2011	Docket No.	2011-0786-MWD-E	PCW
Respondent	Gordon Dean Rogers	<i>Policy Revision 2 (September 2002)</i>		
Case ID No.	41629	<i>PCW Revision October 30, 2008</i>		
Reg. Ent. Reference No.	RN101611390			
Media [Statute]	Water Quality			
Enf. Coordinator	Steve Villatoro			

Violation Number

Rule Cite(s)

Violation Description

Base Penalty

>> **Environmental, Property and Human Health Matrix**

OR

Release	Harm			Percent
	Major	Moderate	Minor	
Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text" value="5%"/>
Potential	<input type="text"/>	<input type="text"/>	<input type="text" value="x"/>	

>> **Programmatic Matrix**

Falsification	Major	Moderate	Minor	Percent
<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text" value="0%"/>

Matrix Notes

Adjustment

Violation Events

Number of Violation Events Number of violation days

mark only one with an x

daily	<input type="text"/>
weekly	<input type="text"/>
monthly	<input type="text"/>
quarterly	<input type="text"/>
semiannual	<input type="text"/>
annual	<input type="text"/>
single event	<input type="text" value="x"/>

Violation Base Penalty

Good Faith Efforts to Comply Reduction

	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary	<input type="text"/>	<input type="text"/>
Ordinary	<input type="text"/>	<input type="text"/>
N/A	<input type="text" value="x"/>	(mark with x)

Notes

Violation Subtotal

Economic Benefit (EB) for this violation **Statutory Limit Test**

Estimated EB Amount Violation Final Penalty Total

This violation Final Assessed Penalty (adjusted for limits)

Economic Benefit Worksheet

Respondent Gordon Dean Rogers
Case ID No. 41629
Req. Ent. Reference No. RN101611390
Media Violation No. Water Quality
 6

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)	\$1,000	12-Jul-2011	30-Jun-2012	0.97	\$48	n/a	\$48

Notes for DELAYED costs Estimated cost to install an accurate flow measuring device. Date required is the investigation date. 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	\$1,000	TOTAL	\$48
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Compliance History

CH 1 of 2

Customer/Respondent/Owner-Operator: CN602768392 ROGERS, GORDON DEAN Classification: AVERAGE Rating: 0.40
Regulated Entity: RN101611390 LAKEVIEW RV PARK & MOTEL Classification: AVERAGE Site Rating: 0.80
ID Number(s): WASTEWATER EPA ID TX0066753
WASTEWATER EPA ID TX0066753
WASTEWATER PERMIT WQ0014693001
PUBLIC WATER SYSTEM/SUPPLY REGISTRATION 0030042

Location: Adjacent to Sam Rayburn Reservoir, approximately 500 feet southeast of the intersection of State Highway 147 and Farm-to-Market Road 3123, approximately 5.9 miles northeast of the intersection of State Highway 63 and State Highway 147 in Angellina County, Texas

TCEQ Region: REGION 10 - BEAUMONT

Date Compliance History Prepared: May 08, 2012

Agency Decision Requiring Compliance History: Enforcement

Compliance Period: July 13, 2006 to July 13, 2011

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

Name: Steve Villatoro Phone: (512) 239-4930

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: 9/1/2011 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.
N/A

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

C. Chronic excessive emissions events.
N/A

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

1	11/01/2006	(517664)	13	06/30/2011	(936382)
2	10/03/2007	(596383)	14	06/30/2011	(936397)
3	03/25/2009	(738940)	15	06/30/2011	(936398)
4	10/05/2009	(767961)	16	06/30/2011	(936414)
5	12/07/2007	(833217)	17	06/30/2011	(936424)
6	12/07/2007	(833218)	18	06/30/2011	(936433)
7	12/07/2007	(833219)	19	06/30/2011	(936439)
8	12/07/2007	(833220)	20	06/30/2011	(936446)
9	05/05/2011	(913902)	21	06/30/2011	(936456)
10	06/29/2011	(936239)	22	06/30/2011	(936485)
11	06/29/2011	(936244)	23	07/01/2011	(936568)
12	06/30/2011	(936369)			

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

Date: 11/02/2006 (517664)

Self Report? NO Classification: Major

Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)(1)

Description: Failure to obtain permit authorization prior to discharging effluent from the wastewater treatment plant serving the Lakeview RV Park and Motel.

Date: 03/24/2009 (738940)

Self Report? NO Classification: Moderate

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

Description: OpR 4 PERMIT
Failure by Gordon Dean Rogers dba Lakeview RV Park & Motel 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: 05/26/2009 (936244) CN602768392

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(i)

Description: 5A THSC Chapter 341, SubChapter A 341.033(d)
TCR Routine Monitoring Violation 03/2009 - Failure to collect any routine monitoring sample(s).

Date: 06/24/2009 (936382) CN602768392

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.109(f)(3)

Description: 5A THSC Chapter 341, SubChapter A 341.031(a)
TCR MCL Violation 06/2009 - System exceeded a Maximum Contaminant Level (MCL) Violation.

Date: 07/14/2009 (936398) CN602768392
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(3)(A)(ii)
 Description: TCR Repeat Monitoring Violation 05/2009 - Failure to collect any repeats following a coliform found result.

Date: 07/30/2009 (936446) CN602768392
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter F 290.109(f)(3)
 5A THSC Chapter 341, SubChapter A 341.031(a)
 Description: TCR MCL Violation 07/2009 - System exceeded a Maximum Contaminant Level (MCL) Violation.

Date: 08/04/2009 (936382) CN602768392
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(3)(A)(ii)
 Description: TCR Repeat Monitoring Violation 06/2009 - Failure to collect all repeats following a coliform found result.

Date: 09/16/2009 (936446) CN602768392
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(3)(A)(ii)
 Description: TCR Repeat Monitoring Violation 07/2009 - Failure to collect all repeats following a coliform found result.

Date: 11/05/2009 (936456) CN602768392
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(i)
 5A THSC Chapter 341, SubChapter A 341.033(d)
 Description: TCR Routine Monitoring Violation 09/2009 - Failure to collect any routine monitoring sample(s).

Date: 03/29/2010 (936369) CN602768392
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(i)
 5A THSC Chapter 341, SubChapter A 341.033(d)
 Description: TCR Routine Monitoring Violation 02/2010 - Failure to collect any routine monitoring sample(s).

Date: 05/11/2010 (936485) CN602768392
 Self Report? NO Classification: Major
 Citation: 30 TAC Chapter 290, SubChapter F 290.106(e)
 Description: This system failed to monitor and/or failed to report nitrate levels at EP001 to the TCEQ for the annual monitoring period from 01/01/2009 to 12/31/2009.

Date: 07/23/2010 (936397) CN602768392
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(i)
 5A THSC Chapter 341, SubChapter A 341.033(d)
 Description: TCR Routine Monitoring Violation 06/2010 - Failure to collect any routine monitoring sample(s).

Date: 10/25/2010 (936414) CN602768392
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(3)(A)(i)
 Description: TCR Repeat Monitoring Violation 08/2010 - Failure to collect all repeats following a coliform found result.

Date: 10/26/2010 (936424) CN602768392
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(F)
 Description: TCR Increase Monitoring Violation 09/2010 - Failure to collect any 5 distribution samples following a coliform found month.

Date: 12/07/2010 (936433) CN602768392
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(i)
 5A THSC Chapter 341, SubChapter A 341.033(d)
 Description: TCR Routine Monitoring Violation 10/2010 - Failure to collect any routine monitoring sample(s).

Date: 06/03/2011 (936439) CN602768392
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(3)(A)(ii)
 Description: TCR Repeat Monitoring Violation 04/2011 - Failure to collect all repeats following a coliform found result.

Date: 06/29/2011 (936239) CN602768392
 Self Report? NO Classification: Major
 Citation: 30 TAC Chapter 290, SubChapter F 290.106(e)
 Description: This system failed to monitor and/or failed to report nitrate levels at EP001 to the TCEQ for the annual monitoring period from 01/01/2010 to 12/31/2010.

- 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

Compliance History

Customer/Respondent/Owner-Operator:	CN602768392 ROGERS, GORDON DEAN	Classification: AVERAGE	Rating: 0.40
Regulated Entity:	RN101611390 LAKEVIEW RV PARK & MOTEL	Classification: AVERAGE	Site Rating: 0.80
ID Number(s):	WASTEWATER	EPA ID	TX0066753
	WASTEWATER	EPA ID	TX0066753
	WASTEWATER	PERMIT	WQ0014693001
	PUBLIC WATER SYSTEM/SUPPLY	REGISTRATION	0030042

Location: Adjacent to Sam Rayburn Reservoir, approximately 500 feet southeast of the intersection of State Highway 147 and Farm-to-Market Road 3123, approximately 5.9 miles northeast of the intersection of State Highway 63 and State Highway 147 in Angelina County, Texas

TCEQ Region: REGION 10 - BEAUMONT
 Date Compliance History Prepared: December 09, 2011
 Agency Decision Requiring Compliance History: Enforcement
 Compliance Period: December 09, 2006 to December 09, 2011
 TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History

Name: Steve Villatoro Phone: (512) 239-4930

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: 9/1/2011 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.
N/A
- B. Any criminal convictions of the state of Texas and the federal government.
N/A
- C. Chronic excessive emissions events.
N/A
- D. The approval dates of investigations. (CCEDS Inv. Track. No.)

1	11/01/2006	(517664)	13	06/30/2011	(936382)
2	10/03/2007	(596383)	14	06/30/2011	(936397)
3	03/25/2009	(738940)	15	06/30/2011	(936398)
4	10/05/2009	(767961)	16	06/30/2011	(936414)
5	12/07/2007	(833217)	17	06/30/2011	(936424)
6	12/07/2007	(833218)	18	06/30/2011	(936433)
7	12/07/2007	(833219)	19	06/30/2011	(936439)
8	12/07/2007	(833220)	20	06/30/2011	(936446)
9	05/05/2011	(913902)	21	06/30/2011	(936456)
10	06/29/2011	(936239)	22	06/30/2011	(936485)
11	06/29/2011	(936244)	23	07/01/2011	(936568)
12	06/30/2011	(936369)	24	08/11/2011	(936930)
			25	09/06/2011	(945222)
- E. Written notices of violations (NOV). (CCEDS Inv. Track)

Date:	03/24/2009	(738940)			
Self Report?	NO			Classification:	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(5) OpR 4 PERMIT				
Description:	Failure by Gordon Dean Rogers dba Lakeview RV Park & Motel 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:	05/26/2009	(936244)	CN602768392		
Self Report?	NO			Classification:	Moderate
Citation:	30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(i) 5A THSC Chapter 341, SubChapter A 341.033(d)				
Description:	TCR Routine Monitoring Violation 03/2009 - Failure to collect any routine monitoring sample(s).				
Date:	06/24/2009	(936382)	CN602768392		
Self Report?	NO			Classification:	Moderate
Citation:	30 TAC Chapter 290, SubChapter F 290.109(f)(3) 5A THSC Chapter 341, SubChapter A 341.031(a)				
Description:	TCR MCL Violation 06/2009 - System exceeded a Maximum Contaminant Level (MCL) Violation.				
Date:	07/14/2009	(936398)	CN602768392		
Self Report?	NO			Classification:	Moderate
Citation:	30 TAC Chapter 290, SubChapter F 290.109(c)(3)(A)(ii)				
Description:	TCR Repeat Monitoring Violation 05/2009 - Failure to collect any repeats following a coliform found result.				

Date: 07/30/2009 (936446) CN602768392
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter F 290.109(f)(3)
 5A THSC Chapter 341, SubChapter A 341.031(a)
 Description: TCR MCL Violation 07/2009 - System exceeded a Maximum Contaminant Level (MCL) Violation.

Date: 08/04/2009 (936382) CN602768392
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(3)(A)(ii)
 Description: TCR Repeat Monitoring Violation 06/2009 - Failure to collect all repeats following a coliform found result.

Date: 09/16/2009 (936446) CN602768392
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(3)(A)(ii)
 Description: TCR Repeat Monitoring Violation 07/2009 - Failure to collect all repeats following a coliform found result.

Date: 11/05/2009 (936456) CN602768392
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(i)
 5A THSC Chapter 341, SubChapter A 341.033(d)
 Description: TCR Routine Monitoring Violation 09/2009 - Failure to collect any routine monitoring sample(s).

Date: 03/29/2010 (936369) CN602768392
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(i)
 5A THSC Chapter 341, SubChapter A 341.033(d)
 Description: TCR Routine Monitoring Violation 02/2010 - Failure to collect any routine monitoring sample(s).

Date: 05/11/2010 (936485) CN602768392
 Self Report? NO Classification: Major
 Citation: 30 TAC Chapter 290, SubChapter F 290.106(e)
 Description: This system failed to monitor and/or failed to report nitrate levels at EP001 to the TCEQ for the annual monitoring period from 01/01/2009 to 12/31/2009.

Date: 07/23/2010 (936397) CN602768392
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(i)
 5A THSC Chapter 341, SubChapter A 341.033(d)
 Description: TCR Routine Monitoring Violation 06/2010 - Failure to collect any routine monitoring sample(s).

Date: 10/25/2010 (936414) CN602768392
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(3)(A)(i)
 Description: TCR Repeat Monitoring Violation 08/2010 - Failure to collect all repeats following a coliform found result.

Date: 10/26/2010 (936424) CN602768392
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(F)
 Description: TCR Increase Monitoring Violation 09/2010 - Failure to collect any 5 distribution samples following a coliform found month.

Date: 12/07/2010 (936433) CN602768392
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(i)
 5A THSC Chapter 341, SubChapter A 341.033(d)
 Description: TCR Routine Monitoring Violation 10/2010 - Failure to collect any routine monitoring sample(s).

Date: 06/03/2011 (936439) CN602768392
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(3)(A)(ii)
 Description: TCR Repeat Monitoring Violation 04/2011 - Failure to collect all repeats following a coliform found result.

Date: 06/29/2011 (936239) CN602768392
 Self Report? NO Classification: Major
 Citation: 30 TAC Chapter 290, SubChapter F 290.106(e)
 Description: This system failed to monitor and/or failed to report nitrate levels at EP001 to the TCEQ for the annual monitoring period from 01/01/2010 to 12/31/2010.

- 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
GORDON DEAN ROGERS;
RN101611390**

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**BEFORE THE

TEXAS COMMISSION ON

ENVIRONMENTAL QUALITY**

DEFAULT ORDER

DOCKET NO. 2011-0786-MWD-E

At its _____ agenda meeting, the Texas Commission on Environmental Quality ("Commission" or "TCEQ") considered the Executive Director's Preliminary Report and Petition filed pursuant to TEX. WATER CODE chs. 7 and 26 and the rules of the TCEQ, which requests appropriate relief, including the imposition of an administrative penalty and corrective action of the respondent. The respondent made the subject of this Order is Gordon Dean Rogers ("Respondent").

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

FINDINGS OF FACT

1. Respondent owns and operates a wastewater treatment plant located adjacent to Sam Rayburn Reservoir, approximately 500 feet southeast of the intersection of State Highway 147 and Farm-to-Market Road 3123, and approximately 5.9 miles northeast of the intersection of State Highway 63 and State Highway 147 in Angelina County, Texas (the "Facility"). The Facility adjoins, is contiguous with, surrounds, or is near or adjacent to state water as defined in TEX. WATER CODE § 11.021 and 30 TEX. ADMIN. CODE § 297.1(50).
2. During a record review conducted on April 21, 2011, a TCEQ Central Office investigator documented that Respondent:
 - a. Failed to submit monitoring results at the intervals specified in the permit. Specifically, Respondent failed to submit Discharge Monitoring Reports ("DMRs") for the monitoring periods ending February 28, 2010, through January 31, 2011; and
 - b. Failed to submit the annual sludge report for the monitoring period ending July 31, 2010, by September 1, 2010.
3. During an investigation conducted on July 12, 2011, a TCEQ Beaumont Regional Office investigator documented that Respondent:
 - a. Failed to employ or contract a wastewater treatment facility operator holding the appropriate level of license. Specifically, the operator on site during the investigation was not licensed;
 - b. Failed to properly operate and maintain all facilities and systems of treatment and control. Specifically, dried sludge was noted outside the aeration basin and on the wastewater treatment plant piping, the chlorine contact chamber had one foot of dark brown sludge, floating solids were accumulating in the clarifier, and only one blower was operational at the Facility;

- c. Failed to collect and analyze samples for chlorine residual, pH, and dissolved oxygen for the monitoring periods ending June 30, 2010, through May 31, 2011;
 - d. Failed to have sludge records, for at least a five year period, available for review;
 - e. Failed to properly operate and maintain all facilities and systems of treatment and control. Specifically, the Facility operator was not performing any process control testing; and
 - f. Failed to provide accurate flow measurements that conform to those prescribed in the Water Measurements Manual, United States Department of the Interior Bureau of Reclamation, Washington D.C., or methods that are equivalent as provided by the Executive Director. Specifically, the staff gauge was not installed upstream of the weir at four times the distance of the maximum head in feet.
4. Respondent received notice of the violations alleged in Findings of Fact Nos. 2.a. and 2.b. on or about May 10, 2011. Respondent received notice of the violations alleged in Findings of Fact Nos. 3.a. through 3.f. on or about September 10, 2011.
 5. The Executive Director filed the "Executive Director's Preliminary Report and Petition Recommending that the Texas Commission on Environmental Quality Enter an Enforcement Order Assessing an Administrative Penalty Against and Requiring Certain Actions of Gordon Dean Rogers" (the "EDPRP") in the TCEQ Chief Clerk's office on March 7, 2012.
 6. By letter dated March 7, 2012, sent to Respondent's last known address via certified mail, return receipt requested, and via first class mail, postage prepaid, the Executive Director served Respondent with notice of the EDPRP. According to the return receipt "green card," Respondent received notice of the EDPRP on March 10, 2012, as evidenced by the signature on the card.
 7. More than 20 days have elapsed since Respondent received notice of the EDPRP. Respondent failed to file an answer and failed to request a hearing.

CONCLUSIONS OF LAW

1. As evidenced by Finding of Fact No. 1, Respondent is subject to the jurisdiction of the TCEQ pursuant to TEX. WATER CODE ch. 26 and the rules of the Commission.
2. As evidenced by Finding of Fact No. 2.a., Respondent failed to submit monitoring results at the intervals specified in the permit, in violation of 30 TEX. ADMIN. CODE §§ 305.125(1) and (17), and 319.7(d), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0014693001, Monitoring and Reporting Requirements No. 1.
3. As evidenced by Finding of Fact No. 2.b., Respondent 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(1) and (17), and TPDES Permit No. WQ0014693001, Sludge Provisions.

4. As evidenced by Finding of Fact No. 3.a., Respondent failed to employ or contract a wastewater treatment facility operator holding the appropriate level of license, in violation of 30 TEX. ADMIN. CODE §§ 30.350(d) and 305.125(1), and TPDES Permit No. WQ0014693001, Other Requirements No. 1.
5. As evidenced by Finding of Fact No. 3.b., Respondent failed to properly operate and maintain all facilities and systems of treatment and control, in violation of 30 TEX. ADMIN. CODE §§ 305.125(1) and (5), and TPDES Permit No. WQ0014693001, Operational Requirements No. 1.
6. As evidenced by Finding of Fact No. 3.c., Respondent failed to collect and analyze samples for chlorine residual, pH, and dissolved oxygen for the monitoring periods ending June 30, 2010, through May 31, 2011, in violation of 30 TEX. ADMIN. CODE § 305.125(1) and (11)(a) and 319.4, and TPDES Permit No. WQ0014693001, Monitoring and Reporting Requirements No. 3.a.
7. As evidenced by Finding of Fact No. 3.d., Respondent failed to have sludge records, for at least a five year period, available for review, in violation of 30 TEX. ADMIN. CODE §§ 305.125(1) and TPDES Permit No. WQ0014693001, Monitoring and Reporting Requirements No. 3.b.
8. As evidenced by Finding of Fact No. 3.e., Respondent failed to properly operate and maintain all facilities and systems of treatment and control, in violation of 30 TEX. ADMIN. CODE §§ 305.125(1) and (5), and TPDES Permit No. WQ0014693001, Operational Requirements No. 1.
9. As evidenced by Finding of Fact No. 3.f., Respondent failed to provide accurate flow measurements that conform to those prescribed in the Water Measurements Manual, United States Department of the Interior Bureau of Reclamation, Washington D.C., or methods that are equivalent as provided by the Executive Director, in violation of 30 TEX. ADMIN. CODE §§ 305.125(1) and 319.11(d), and TPDES Permit No. WQ0014693001, Monitoring and Reporting Requirements No. 1.
10. As evidenced by Findings of Fact Nos. 5 and 6, the Executive Director timely served Respondent with proper notice of the EDPRP, as required by TEX. WATER CODE § 7.055 and 30 TEX. ADMIN. CODE § 70.104(a).
11. As evidenced by Finding of Fact No. 7, Respondent failed to file a timely answer as required by TEX. WATER CODE § 7.056 and 30 TEX. ADMIN. CODE § 70.105. Pursuant to TEX. WATER CODE § 7.057 and 30 TEX. ADMIN. CODE § 70.106, the Commission may enter a Default Order against Respondent and assess the penalty recommended by the Executive Director.
12. Pursuant to TEX. WATER CODE § 7.051, the Commission has the authority to assess an administrative penalty against Respondent for violations of state statutes within the Commission's jurisdiction, for violations of rules adopted under such statutes, or for violations of orders or permits issued under such statutes.
13. An administrative penalty in the amount of forty-six thousand two hundred seventy-four dollars (\$46,274.00) is justified by the facts recited in this Order, and considered in light of the factors set forth in TEX. WATER CODE § 7.053.

14. TEX. WATER CODE §§ 5.102 and 7.002 authorize the Commission to issue orders and make determinations necessary to effectuate the purposes of the statutes within its jurisdiction.

ORDERING PROVISIONS

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

1. Respondent is assessed an administrative penalty in the amount of forty-six thousand two hundred seventy-four dollars (\$46,274.00) for violations of state statutes and rules of the TCEQ. The payment of this administrative penalty and Respondent's compliance with all the terms and conditions set forth in this Order completely resolve the matters set forth by this Order in this action. The Commission shall not be constrained in any manner from requiring corrective actions or penalties for other violations which are not raised here.
2. The administrative penalty assessed by this Order shall be paid within 30 days after the effective date of this Order. All checks submitted to pay the penalty imposed by this Order shall be made out to "Texas Commission on Environmental Quality" and shall be sent with the notation "Re: Gordon Dean Rogers; Docket No. 2011-0786-MWD-E" to:

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

3. Respondent shall undertake the following technical requirements:
 - a. Within 30 days after the effective date of this Order, Respondent shall:
 - 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 completed, signed, and certified monthly DMRs and annual sludge reports in accordance with TPDES Permit No. WQ0014693001, Monitoring and Reporting Requirements No. 1 and Sludge Provisions (Conclusions of Law Nos. 2 and 3);
 - ii. Submit the missing DMRs for the monitoring periods ending February 2010, through January 2011, and the annual sludge report for the monitoring period ending July 31, 2010 (Conclusions of Law Nos. 2 and 3), to:

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

- iii. Ensure a properly certified operator operates the Facility at least five days per week, in accordance with 30 TEX. ADMIN. CODE § 30.350(d) and TPDES Permit No. WQ0014693001, Other Requirements No. 1 (Conclusion of Law No. 4);

- iv. Begin collecting and analyzing effluent samples at the frequency required by the permit, in accordance with TPDES Permit No. WQ0014693001 Effluent Limitations and Monitoring Requirements No. 1 and Monitoring and Reporting Requirements No 3.a. (Conclusion of Law No. 6);
 - v. Update the Facility's operational guidance to ensure that all effluent parameters, including chlorine residual, pH, and dissolved oxygen are monitored in accordance with TPDES Permit No. WQ0014693001 Effluent Limitations and Monitoring Requirements No. 1 and Monitoring and Reporting Requirements No 3.a. (Conclusion of Law No. 6);
 - vi. Begin maintaining all sludge records on-site, in accordance with 30 TEX. ADMIN. CODE § 319.7(c), and TPDES Permit No. WQ0014693001, Monitoring and Reporting Requirements No. 3.b. (Conclusion of Law No. 7); and
 - vii. Begin conducting process control tests and sampling at the frequencies described in Table 4 of the TCEQ Regulatory Guidance (RG-002), "Process Control Tests for Domestic Wastewater Treatment Facilities" (Conclusion of Law No. 8).
- b. Within 45 days after the effective date of this Order, Respondent shall submit written certification in accordance with Ordering Provision No. 3.e., below, to demonstrate compliance with Ordering Provisions Nos. 3.a.i. through 3.a.vii.
- c. Within 60 days after the effective date of this Order, Respondent shall:
- i. Develop and implement a solids management plan ("SMP"). The SMP shall identify the appropriate range of solids to be maintained throughout the treatment units at the Facility and outline a program of internal process control testing to monitor the efficiency of the wastewater treatment and to maintain the proper solids balance at the Facility. The SMP shall be prepared by a Texas registered professional engineer or an "A" TCEQ Certified Wastewater Operator (Conclusion of Law No. 8);
 - ii. Remove and properly dispose of the floating solids from the clarifier (Conclusion of Law No. 5);
 - iii. Remove and properly dispose of the sludge in the chlorine contact chamber (Conclusion of Law No. 5);
 - iv. Control splashing from the aeration basin and clean and properly dispose of accumulated sludge around the aeration basin and on pipes at the Facility (Conclusion of Law No. 5);
 - v. Install an operational back-up blower at the Facility (Conclusion of Law No. 5); and
 - vi. Install a staff gauge to properly monitor flow through the 90-degree V-notch weir, in accordance with 30 TEX. ADMIN. CODE § 319.11(d) (Conclusion of Law No. 9).
- d. Within 75 days after the effective date of this Order, Respondent shall submit written certification in accordance with Ordering Provision No. 3.e., below, to demonstrate compliance with Ordering Provisions Nos. 3.c.i. through 3.c.vi.

- e. The certifications required by these Ordering Provisions shall be accompanied by detailed supporting documentation, including photographs, receipts, and/or other records, shall be notarized by a State of Texas Notary Public, and shall 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 fine and imprisonment for knowing violations."

Respondent shall submit the written certifications and supporting documentation necessary to demonstrate compliance with these Ordering Provisions to:

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

and:

Ronald Hebert, Water Section Manager
Beaumont Regional Office
Texas Commission on Environmental Quality
3870 Eastex Freeway
Beaumont, TX 77703-1830

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

8. The Executive Director may refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings without notice to Respondent if the Executive Director determines that Respondent has not complied with one or more of the terms or conditions in this Order.
9. This Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Order, whichever is later.
10. The Chief Clerk shall provide a copy of this Order to each of the parties. By law, the effective date of this Order shall be the date the Order is final, as provided by 30 TEX. ADMIN. CODE § 70.106(d) and TEX. GOV'T CODE § 2001.144.

S I G N A T U R E P A G E

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

AFFIDAVIT OF XAVIER GUERRA

STATE OF TEXAS

§

COUNTY OF BEXAR

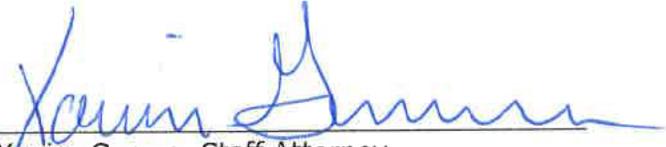
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"My name is Xavier Guerra. I am of sound mind, capable of making this affidavit, and the facts stated in this affidavit are within my personal knowledge and are true and correct.

On behalf of the Executive Director of the Texas Commission on Environmental Quality, the "Executive Director's Preliminary Report and Petition Recommending that the Texas Commission on Environmental Quality Enter an Enforcement Order Assessing an Administrative Penalty Against and Requiring Certain Actions of Gordon Dean Rogers" (the "EDPRP") was filed in the TCEQ Chief Clerk's office on March 7, 2012.

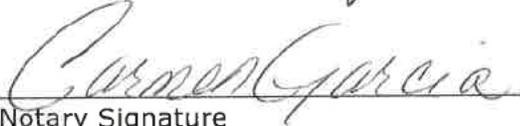
The EDPRP was mailed to Respondent's last known address on March 7, 2012, via certified mail, return receipt requested, and via first class mail, postage prepaid. According to the return receipt "green card," Respondent received notice of the EDPRP on March 10, 2012, as evidenced by the signature on the card.

More than 20 days have elapsed since Respondent received notice of the EDPRP. Respondent failed to file an answer and failed to request a hearing."


Xavier Guerra, Staff Attorney
Office of Legal Services, Litigation Division
Texas Commission on Environmental Quality

Before me, the undersigned authority, on this day personally appeared Xavier Guerra, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed the same for the purposes and consideration herein expressed.

Given under my hand and seal of office this 8th day of May, A.D. 2012.


Notary Signature

