

**Executive Summary – Enforcement Matter – Case No. 42723**

**City of Rosebud**

**RN101918423**

**Docket No. 2011-1884-MWD-E**

**Order Type:**

Findings Agreed Order

**Findings Order Justification:**

Three or more enforcement actions (NOVs, orders, etc.) over the prior five year period for the same violation(s).

**Media:**

MWD

**Small Business:**

No

**Location(s) Where Violation(s) Occurred:**

Rosebud Wastewater Treatment Plant, 0.9 mile west of the intersection of United States Highway 77 and Farm-to-Market (“FM”) Road 1963 approximately 1,000 feet south of FM Road 53, Falls County

**Type of Operation:**

Wastewater treatment facility

**Other Significant Matters:**

Additional Pending Enforcement Actions: No

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: None

**Texas Register Publication Date:** July 6, 2012

**Comments Received:** No

***Penalty Information***

**Total Penalty Assessed:** \$34,050

**Amount Deferred for Expedited Settlement:** \$0

**Amount Deferred for Financial Inability to Pay:** \$34,050

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

**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. 42723**  
**City of Rosebud**  
**RN101918423**  
**Docket No. 2011-1884-MWD-E**

***Investigation Information***

**Complaint Date(s):** N/A  
**Complaint Information:** N/A  
**Date(s) of Investigation:** July 26, 2011  
**Date(s) of NOE(s):** August 19, 2011

***Violation Information***

1. Failed to comply with the permitted effluent limitations for ammonia nitrogen, total suspended solids, and carbonaceous biochemical oxygen demand [30 TEX. ADMIN. CODE § 305.125(1)].
2. Failed to maintain records of monitoring activities and make them readily available for review upon request [30 TEX. ADMIN. CODE § 305.125(1)].

***Corrective Actions/Technical Requirements***

**Corrective Action(s) Completed:**

- a. By August 15, 2011, began maintaining records of all monitoring activities and having them readily available for review, and repaired/replaced the rotors; and
- b. On September 22, 2011, submitted the May 2010 discharge monitoring report and the 2010 annual sludge report.

**Technical Requirements:**

Within 90 days, submit written certification demonstrating compliance with permitted effluent limits.

***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:** Harvey Wilson, Enforcement Division, Enforcement Team 3, MC 169, (512) 239-0321; Debra Barber, Enforcement Division, MC 219, (512) 239-0412  
**TCEQ SEP Coordinator:** N/A  
**Respondent:** The Honorable Patsy Fischer, Mayor, City of Rosebud, P.O. Box 657, Rosebud, Texas 76570  
**Respondent's Attorney:** N/A



# Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

**TCEQ**

|              |                             |                       |                              |                                     |
|--------------|-----------------------------|-----------------------|------------------------------|-------------------------------------|
| <b>DATES</b> | <b>Assigned</b> 22-Aug-2011 | <b>PCW</b> 5-Oct-2011 | <b>Screening</b> 10-Oct-2011 | <b>EPA Due</b> <input type="text"/> |
|--------------|-----------------------------|-----------------------|------------------------------|-------------------------------------|

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

|  |                                  |                              |                                       |
|--|----------------------------------|------------------------------|---------------------------------------|
| <b>CASE INFORMATION</b>                |                                  |                              |                                       |
| <b>Enf./Case ID No.</b>                | 42723                            | <b>No. of Violations</b>     | 3                                     |
| <b>Docket No.</b>                      | 2011-1884-MWD-E                  | <b>Order Type</b>            | Findings                              |
| <b>Media Program(s)</b>                | Water Quality                    | <b>Government/Non-Profit</b> | Yes                                   |
| <b>Multi-Media</b>                     | <input type="text"/>             | <b>Enf. Coordinator</b>      | Harvey Wilson                         |
|  |                                  | <b>EC's Team</b>             | Enforcement Team 3                    |
| <b>Admin. Penalty \$ Limit Minimum</b> | <input type="text" value="\$0"/> | <b>Maximum</b>               | <input type="text" value="\$10,000"/> |

## Penalty Calculation Section

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

### ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

**Compliance History**  Enhancement **Subtotals 2, 3, & 7**

Notes

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

Notes

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

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

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

**SUM OF SUBTOTALS 1-7** **Final Subtotal**

**OTHER FACTORS AS JUSTICE MAY REQUIRE**  **Adjustment**

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes

**Final Penalty Amount**

**STATUTORY LIMIT ADJUSTMENT** **Final Assessed Penalty**

**DEFERRAL**  Reduction **Adjustment**

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

Notes

**PAYABLE PENALTY**

Screening Date 10-Oct-2011

Docket No. 2011-1884-MWD-E

PCW

Respondent City of Rosebud

Policy Revision 2 (September 2002)

Case ID No. 42723

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101918423

Media [Statute] Water Quality

Enf. Coordinator Harvey Wilson

### 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> )  | 24                | 120%    |
|                               | Other written NOVs   | 0                 | 0%      |
| Orders                        | Any agreed final enforcement orders containing a denial of liability ( <i>number of orders meeting criteria</i> )  | 2                 | 40%     |
|                               | Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission | 0                 | 0%      |
| Judgments and Consent Decrees | Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government ( <i>number of judgements or consent decrees meeting criteria</i> )                              | 0                 | 0%      |
|                               | Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government  | 0                 | 0%      |
| Convictions                   | Any criminal convictions of this state or the federal government ( <i>number of counts</i> )   | 0                 | 0%      |
| Emissions                     | Chronic excessive emissions events ( <i>number of events</i> )   | 0                 | 0%      |
| Audits                        | Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 ( <i>number of audits for which notices were submitted</i> )     | 0                 | 0%      |
|                               | Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 ( <i>number of audits for which violations were disclosed</i> )  | 0                 | 0%      |
| <i>Please Enter Yes or No</i> |  |                   |         |
| Other                         | Environmental management systems in place for one year or more   | No                | 0%      |
|                               | Voluntary on-site compliance assessments conducted by the executive director under a special assistance program  | No                | 0%      |
|                               | Participation in a voluntary pollution reduction program   | No                | 0%      |
|                               | Early compliance with, or offer of a product that meets future state or federal government environmental requirements  | No                | 0%      |

**Adjustment Percentage (Subtotal 2)** 160%

#### >> 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**

An enhancement for 21 months of self-reported effluent violations, three NOVs with same/similar violations, and two orders with denial of liability.

**Total Adjustment Percentage (Subtotals 2, 3, & 7)** 160%

Screening Date 10-Oct-2011

Docket No. 2011-1884-MWD-E

PCW

Respondent City of Rosebud

Policy Revision 2 (September 2002)

Case ID No. 42723

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101918423

Media [Statute] Water Quality

Enf. Coordinator Harvey Wilson

Violation Number 1

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

Violation Description Failed to comply with the permitted effluent limitations, as documented during a record review on July 26, 2011. See the attached table.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

| Release   | Harm  |          |       | Percent |
|-----------|-------|----------|-------|---------|
|           | Major | Moderate | Minor |         |
| Actual    | X     |          |       | 50%     |
| Potential |       |          |       |         |

>> Programmatic Matrix

| Falsification | Major | Moderate | Minor | Percent |
|---------------|-------|----------|-------|---------|
|               |       |          |       | 0%      |

Matrix Notes

A simplified model was used to evaluate ammonia nitrogen and carbonaceous biochemical oxygen demand to determine whether the discharged amounts of pollutants exceeded levels protective of human health or the environment. Total suspended solids were also considered. As a result of these discharges human health or the environment has been exposed to pollutants which exceed levels that are protective of human health or environmental receptors.

Adjustment \$5,000

\$5,000

Violation Events

Number of Violation Events 2 61 Number of violation days

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

Violation Base Penalty \$10,000

Two monthly events are recommended for the months of April and May of 2011.

Good Faith Efforts to Comply

0.0% Reduction

\$0

|               | Reduction  |                               |
|---------------|------------|-------------------------------|
|               | 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.

Violation Subtotal \$10,000

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$3,064

Violation Final Penalty Total \$26,000

This violation Final Assessed Penalty (adjusted for limits) \$26,000

# Economic Benefit Worksheet

**Respondent** City of Rosebud  
**Case ID No.** 42723  
**Reg. Ent. Reference No.** RN101918423  
**Media** Water Quality  
**Violation No.** 1

| Percent Interest | Years of Depreciation |
|------------------|-----------------------|
| 5.0              | 15                    |

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

### Delayed Costs

|                          |          |             |             |      |       |         |         |
|--------------------------|----------|-------------|-------------|------|-------|---------|---------|
| Equipment                |          |             |             | 0.00 | \$0   | \$0     | \$0     |
| Buildings                |          |             |             | 0.00 | \$0   | \$0     | \$0     |
| Other (as needed)        |          |             |             | 0.00 | \$0   | \$0     | \$0     |
| Engineering/construction | \$25,000 | 30-Sep-2010 | 30-Jun-2012 | 1.75 | \$146 | \$2,918 | \$3,064 |
| Land                     |          |             |             | 0.00 | \$0   | n/a     | \$0     |
| Record Keeping System    |          |             |             | 0.00 | \$0   | n/a     | \$0     |
| Training/Sampling        |          |             |             | 0.00 | \$0   | n/a     | \$0     |
| Remediation/Disposal     |          |             |             | 0.00 | \$0   | n/a     | \$0     |
| Permit Costs             |          |             |             | 0.00 | \$0   | n/a     | \$0     |
| Other (as needed)        |          |             |             | 0.00 | \$0   | n/a     | \$0     |

Notes for DELAYED costs

The actual cost of repairing/replacing the rotors. Date Required was the date of the first month of noncompliance. Final Date is the estimated 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

|          |
|----------|
| \$25,000 |
|----------|

**TOTAL**

|         |
|---------|
| \$3,064 |
|---------|

Screening Date 10-Oct-2011

Docket No. 2011-1884-MWD-E

PCW

Respondent City of Rosebud

Policy Revision 2 (September 2002)

Case ID No. 42723

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101918423

Media [Statute] Water Quality

Enf. Coordinator Harvey Wilson

Violation Number 2

Rule Cite(s)

Tex. Water Code § 26.121(a)(1), 30 Tex. Admin. Code § 305.125(1), and TPDES Permit No. WQ0010731001 Effluent Limitations and Monitoring Requirements No. 1

Violation Description

Failed to comply with the permitted effluent limitations, as documented during a record review on July 26, 2011. See the attached table.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

| Release   | Harm  |          |       |
|-----------|-------|----------|-------|
|           | Major | Moderate | Minor |
| Actual    |       |          | X     |
| Potential |       |          |       |

Percent 10%

>> Programmatic Matrix

| Falsification | Major | Moderate | Minor |
|---------------|-------|----------|-------|
|               |       |          |       |

Percent 0%

Matrix Notes

A simplified model was used to evaluate ammonia nitrogen and carbonaceous biochemical oxygen demand to determine whether the discharged amounts of pollutants exceeded levels protective of human health or the environment. Total suspended solids 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 3

181 Number of violation days

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

Violation Base Penalty \$3,000

Three quarterly events are recommended.

Good Faith Efforts to Comply

0.0% Reduction

\$0

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

Notes The Respondent does not meet good faith criteria.

Violation Subtotal \$3,000

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$0

Violation Final Penalty Total \$7,800

This violation Final Assessed Penalty (adjusted for limits) \$7,800

# Economic Benefit Worksheet

**Respondent** City of Rosebud  
**Case ID No.** 42723  
**Reg. Ent. Reference No.** RN101918423  
**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)        |  |  |  | 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 \$0

**TOTAL** \$0

Screening Date 10-Oct-2011

Docket No. 2011-1884-MWD-E

PCW

Respondent City of Rosebud

Policy Revision 2 (September 2002)

Case ID No. 42723

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101918423

Media [Statute] Water Quality

Enf. Coordinator Harvey Wilson

Violation Number 3

Rule Cite(s) 30 Tex. Admin. Code § 305.125(1) and TPDES Permit No. WQ0010731001 Monitoring and Reporting requirements No. 3(b)

Violation Description Failed to maintain records of monitoring activities and make them available for review upon request. Specifically, the Respondent failed to have the 2010 annual sludge report and the May 2010 discharge monitoring report available for review.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

| OR | Release   | Harm  |          |       | Percent |
|----|-----------|-------|----------|-------|---------|
|    |           | Major | Moderate | Minor |         |
|    | Actual    |       |          |       | 0%      |
|    | Potential |       |          |       |         |

>> Programmatic Matrix

| Matrix Notes | Falsification | Harm  |          |       | Percent |
|--------------|---------------|-------|----------|-------|---------|
|              |               | Major | Moderate | Minor |         |
|              |               |       |          | X     | 1%      |

Less than 30% of the rule requirements were not met.

Adjustment \$9,900

\$100

Violation Events

Number of Violation Events 1 Number of violation days 76

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

Violation Base Penalty \$100

One single event is recommended.

Good Faith Efforts to Comply

10.0% Reduction \$10

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

Notes The records were submitted on September 22, 2011.

Violation Subtotal \$90

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$5

Violation Final Penalty Total \$250

This violation Final Assessed Penalty (adjusted for limits) \$250

# Economic Benefit Worksheet

**Respondent** City of Rosebud  
**Case ID No.** 42723  
**Reg. Ent. Reference No.** RN101918423  
**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 |
|--------------------------------|-----------|---------------|------------|-----|----------------|---------------|-----------|
| <small>No commas or \$</small> |           |               |            |     |                |               |           |

### 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 | 28-Oct-2010 | 22-Sep-2011 | 0.90 | \$5 | n/a | \$5 |
| Training/Sampling        |       |             |             | 0.00 | \$0 | n/a | \$0 |
| Remediation/Disposal     |       |             |             | 0.00 | \$0 | n/a | \$0 |
| Permit Costs             |       |             |             | 0.00 | \$0 | n/a | \$0 |
| Other (as needed)        |       |             |             | 0.00 | \$0 | n/a | \$0 |

Notes for DELAYED costs

The estimated cost of maintaining monitoring reports and making them available for review upon request. Date Required is the date the violation was initially documented. 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

\$100

**TOTAL**

\$5

City of Rosebud  
 RN101918423; Docket No. 2011-1884-MWD-E  
 TPDES Permit No. WQ0010731001  
 Effluent Violation Table

| Date  | NH <sub>3</sub> -N<br>Daily<br>Average<br>Loading<br>6 lbs/d | NH <sub>3</sub> -N<br>Daily<br>Average<br>Conc.<br>3 mg/L | NH <sub>3</sub> -N<br>Single Grab<br>Conc.<br>15 mg/L | TSS<br>Daily Average<br>Loading<br>31 lbs/d | TSS<br>Daily Average<br>Conc.<br>15 mg/L | TSS<br>Single Grab<br>Conc.<br>60 mg/L | CBOD<br>Daily Average<br>Conc.<br>10 mg/L |
|---|--|---|---|---|--|--|---|
| September<br>2010   | 7.0  | C   | C   | C   | C  | C                                      | C   |
| October<br>2010   | 10.1   | 3.87  | 15.4  | C   | C  | C                                      | C   |
| November<br>2010  | C  | 3.08  | C   | C   | C  | C                                      | C   |
| December<br>2010  | 7.3  | 7.18  | 22.8  | 44.8  | 44.0                                     | 72                                     | C   |
| February<br>2011  | 7.8  | C   | 19.6  | C   | C  | C                                      | C   |
| March<br>2011   | 13.1   | C   | 24.3  | C   | C  | 73                                     | C   |
| April<br>2011   | 28.8   | 27.6  | 35.5  | 48  | 46                                       | 67                                     | 18.2                                      |
| May<br>2011   | 21.75  | 24.6  | 30.0  | C   | C  | C                                      | C   |
| lbs/d = pounds per day      Conc. = concentration      mg/L = milligrams per liter      C = compliant<br>TSS = total suspended solids      CBOD = carbonaceous biochemical oxygen demand      NH <sub>3</sub> -N = ammonia nitrogen |  |   |   |   |  |  |   |



# Compliance History

|   |   |                 |                            |                   |
|---|---|-----------------|----------------------------|-------------------|
| Customer/Respondent/Owner-Operator:   | CN600241574   | City of Rosebud | Classification:<br>AVERAGE | Rating: 2.96      |
| Regulated Entity:   | RN101918423   | CITY OF ROSEBUD | Classification:<br>AVERAGE | Site Rating: 2.81 |
| ID Number(s):   | WASTEWATER  | PERMIT          |                            | WQ0010731001      |
|   | WASTEWATER  | EPA ID          |                            | TX0023981         |
|   | WASTEWATER LICENSING  | LICENSE         |                            | WQ0010731001      |
| Location:   | 0.9 miles west of the intersection of U.S. Highway 77 and FM Road 1963, approximately 1,000 feet south of FM Road 53 in Falls County, Texas |                 |                            |                   |
| TCEQ Region:  | REGION 09 - WACO  |                 |                            |                   |
| Date Compliance History Prepared:   | September 28, 2011  |                 |                            |                   |
| Agency Decision Requiring Compliance History:   | Enforcement   |                 |                            |                   |
| Compliance Period:  | September 28, 2006 to September 28, 2011  |                 |                            |                   |
| TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History |   |                 |                            |                   |
| Name:   | Staff Name  | Phone:          | 239 - 0321                 |                   |

## 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.

Effective Date: 04/20/2009 ADMINORDER 2007-1390-MWD-E  
 Classification: Moderate  
 Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)(1)  
 30 TAC Chapter 305, SubChapter F 305.125(1)

Rqmt Prov: Effluent Limits PERMIT  
 Description: Failure to comply with permit effluent limits as documented by a TCEQ record review of self-reported data.

Effective Date: 02/20/2011 ADMINORDER 2010-1285-MWD-E  
 Classification: Moderate  
 Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)(1)  
 30 TAC Chapter 305, SubChapter F 305.125(1)

Rqmt Prov: Eff. Limit. and Mon. Reqs. Nos. 1 and 2 PERMIT  
 Description: Failure to comply with permitted effluent limits, as documented during a record review conducted on July 9, 2010.

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

N/A

- C. Chronic excessive emissions events.

N/A

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

|    |            |          |
|----|------------|----------|
| 1  | 10/06/2006 | (545890) |
| 2  | 11/06/2006 | (545891) |
| 3  | 12/15/2006 | (545892) |
| 4  | 07/18/2007 | (564211) |
| 5  | 02/15/2007 | (577779) |
| 6  | 07/05/2007 | (577780) |
| 7  | 04/12/2007 | (577781) |
| 8  | 05/07/2007 | (577782) |
| 9  | 06/14/2007 | (577783) |
| 10 | 07/09/2007 | (577784) |
| 11 | 01/08/2007 | (577785) |
| 12 | 08/06/2007 | (602283) |
| 13 | 09/11/2007 | (602284) |
| 14 | 10/15/2007 | (602285) |
| 15 | 12/12/2007 | (620463) |
| 16 | 01/15/2008 | (620464) |
| 17 | 02/11/2008 | (672745) |
| 18 | 03/17/2008 | (672746) |
| 19 | 03/31/2009 | (727003) |
| 20 | 01/26/2009 | (728119) |
| 21 | 01/26/2009 | (728120) |
| 22 | 01/26/2009 | (728121) |
| 23 | 01/26/2009 | (728122) |
| 24 | 01/26/2009 | (728123) |
| 25 | 01/26/2009 | (728124) |
| 26 | 02/18/2009 | (751064) |
| 27 | 02/18/2009 | (751065) |
| 28 | 02/18/2009 | (751066) |
| 29 | 02/18/2009 | (751067) |
| 30 | 07/21/2009 | (760008) |
| 31 | 09/11/2009 | (766018) |
| 32 | 05/19/2009 | (768948) |
| 33 | 06/13/2009 | (768949) |
| 34 | 02/26/2010 | (806658) |
| 35 | 07/31/2009 | (806659) |
| 36 | 08/31/2009 | (806660) |
| 37 | 09/29/2009 | (806661) |
| 38 | 10/22/2009 | (806662) |
| 39 | 12/07/2009 | (806663) |
| 40 | 05/14/2010 | (806664) |
| 41 | 01/08/2010 | (806665) |
| 42 | 06/24/2010 | (824915) |
| 43 | 07/30/2010 | (830480) |
| 44 | 05/13/2010 | (831582) |
| 45 | 05/14/2010 | (831583) |
| 46 | 06/24/2010 | (831584) |

|    |            |          |
|----|------------|----------|
| 47 | 07/11/2010 | (846488) |
| 48 | 07/12/2010 | (861053) |
| 49 | 11/22/2010 | (878142) |
| 50 | 02/28/2011 | (893883) |
| 51 | 02/25/2011 | (899641) |
| 52 | 05/20/2011 | (913671) |
| 53 | 05/19/2011 | (925522) |
| 54 | 05/19/2011 | (925523) |
| 55 | 05/19/2011 | (925524) |
| 56 | 05/19/2011 | (925525) |
| 57 | 05/23/2011 | (925526) |
| 58 | 05/23/2011 | (938268) |
| 59 | 05/23/2011 | (938269) |
| 60 | 05/23/2011 | (938270) |
| 61 | 05/23/2011 | (938271) |
| 62 | 05/23/2011 | (938272) |
| 63 | 08/19/2011 | (943670) |
| 64 | 06/17/2011 | (945644) |
| 65 | 08/03/2011 | (952883) |

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

|              |  |          |                          |
|--------------|--|----------|--------------------------|
| Date:        | 09/30/2006   | (545890) | CN600241574              |
| Self Report? | YES  |          | Classification: Moderate |
| Citation:    | 30 TAC Chapter 305, SubChapter F 305.125(1)<br>TWC Chapter 26 26.121(a)                  |          |                          |
| Description: | Failure to meet the limit for one or more permit parameter                               |          |                          |
| Date:        | 11/30/2006   | (545892) | CN600241574              |
| Self Report? | YES  |          | Classification: Moderate |
| Citation:    | 30 TAC Chapter 305, SubChapter F 305.125(1)<br>TWC Chapter 26 26.121(a)                  |          |                          |
| Description: | Failure to meet the limit for one or more permit parameter                               |          |                          |
| Date:        | 02/28/2007   | (577780) | CN600241574              |
| Self Report? | YES  |          | Classification: Moderate |
| Citation:    | 30 TAC Chapter 305, SubChapter F 305.125(1)<br>TWC Chapter 26 26.121(a)                  |          |                          |
| Description: | Failure to meet the limit for one or more permit parameter                               |          |                          |
| Date:        | 04/30/2007   | (577782) | CN600241574              |
| Self Report? | YES  |          | Classification: Moderate |
| Citation:    | 30 TAC Chapter 305, SubChapter F 305.125(1)<br>TWC Chapter 26 26.121(a)                  |          |                          |
| Description: | Failure to meet the limit for one or more permit parameter                               |          |                          |
| Date:        | 05/31/2007   | (577783) | CN600241574              |
| Self Report? | YES  |          | Classification: Moderate |
| Citation:    | 30 TAC Chapter 305, SubChapter F 305.125(1)<br>TWC Chapter 26 26.121(a)                  |          |                          |
| Description: | Failure to meet the limit for one or more permit parameter                               |          |                          |
| Date:        | 06/30/2007   | (577784) | CN600241574              |
| Self Report? | YES  |          | Classification: Moderate |
| Citation:    | 30 TAC Chapter 305, SubChapter F 305.125(1)<br>TWC Chapter 26 26.121(a)                  |          |                          |
| Description: | Failure to meet the limit for one or more permit parameter                               |          |                          |
| Date:        | 12/31/2007   | (620464) | CN600241574              |
| Self Report? | YES  |          | Classification: Moderate |
| Citation:    | 2D TWC Chapter 26, SubChapter A 26.121(a)<br>30 TAC Chapter 305, SubChapter F 305.125(1) |          |                          |

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

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

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

Description: Failure to meet the limit for one or more permit parameter  
 Date: 04/07/2009 (727003) CN600241574  
 Self Report? NO Classification: Minor  
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(5)  
 Operational Requirements; No. 1, Pg. 9 PERMIT

Description: Failure by the permittee to ensure that all systems of collection, treatment, and disposal are properly operated and maintained.  
 Self Report? NO Classification: Moderate  
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
 30 TAC Chapter 307 307.4(b)(6)  
 Effluent Limitations; No. 4, Pg. 2 PERMIT

Description: Failure to discharge effluent in compliance with permitted effluent limitations.  
 Self Report? NO Classification: Moderate  
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
 30 TAC Chapter 319, SubChapter A 319.11(a)  
 Monitoring Requirements; No. 2, Pg. 4 PERMIT

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

Description: Failure to comply with procedures specified in 30 TAC 319.11 - 319.12.  
 Self Report? NO Classification: Minor  
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
 Reporting Reqs.; No. 3(c)(ii), Pg. 5 PERMIT

Description: Failure by the permittee to maintain adequate records of monitoring activities.  
 Self Report? NO Classification: Moderate  
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
 30 TAC Chapter 319, SubChapter A 319.7(c)  
 Sludge Provisions; Sect. III(G), Pg. 22 PERMIT

Description: Failure to maintain records of monitoring information related to sewage sludge use and disposal activities for a period of at least five years.  
 Self Report? NO Classification: Moderate  
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
 30 TAC Chapter 319, SubChapter A 319.7(d)  
 Reporting Requirements; No. 1, Pg. 4 PERMIT

Description: Failure to submit monthly discharge monitoring reports (DMRs) by the 20th of the following month.  
 Self Report? NO Classification: Moderate  
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
 30 TAC Chapter 319, SubChapter A 319.7(c)  
 Reporting Requirements; No. 3(b), Pg. 5 PERMIT

Description: Failure by the permittee to maintain monitoring and reporting records for a period of three years.  
 Self Report? NO Classification: Minor  
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)

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

Permit Conditions; No. 1(a), Pg. 7 PERMIT  
 Description: Failure by the permittee to submit accurate discharge monitoring reports (DMRs).  
 Self Report? NO Classification: Moderate  
 Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)(1)  
 30 TAC Chapter 305, SubChapter F 305.125(1)

Effluent Limitations; No. 1, Pg. 2 PERMIT  
 Description: Failure to discharge effluent in compliance with permitted effluent limitations.  
 Date: 05/31/2009 (768949) CN600241574  
 Self Report? YES Classification: Moderate  
 Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)  
 30 TAC Chapter 305, SubChapter F 305.125(1)

Description: Failure to meet the limit for one or more permit parameter  
 Date: 08/31/2009 (806661) CN600241574  
 Self Report? NO Classification: Moderate  
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)

Description: Failure by the permittee to comply with the permitted effluent limitations for Ammonia Nitrogen and Total Suspended Solids.  
 Date: 01/31/2010 (806658) CN600241574  
 Self Report? YES Classification: Moderate  
 Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)  
 30 TAC Chapter 305, SubChapter F 305.125(1)

Description: Failure to meet the limit for one or more permit parameter  
 Date: 09/30/2010 (925524) CN600241574  
 Self Report? YES Classification: Moderate  
 Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)  
 30 TAC Chapter 305, SubChapter F 305.125(1)

Description: Failure to meet the limit for one or more permit parameter  
 Date: 10/31/2010 (925525) CN600241574  
 Self Report? YES Classification: Moderate  
 Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)  
 30 TAC Chapter 305, SubChapter F 305.125(1)

Description: Failure to meet the limit for one or more permit parameter  
 Date: 11/30/2010 (925526) CN600241574  
 Self Report? YES Classification: Moderate  
 Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)  
 30 TAC Chapter 305, SubChapter F 305.125(1)

Description: Failure to meet the limit for one or more permit parameter  
 Date: 12/01/2010 (878142) CN600241574  
 Self Report? NO Classification: Moderate  
 Citation: 30 TAC Chapter 317 317.7(e)

Description: Failure by the permittee to adequately secure the wastewater treatment facility.  
 Self Report? NO Classification: Minor  
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)

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

Monitoring Requirements No. 3(b) Pg. 5 PERMIT  
 Description: Failure by the permittee to maintain adequate records of monitoring activities.  
 Self Report? NO Classification: Minor

|              |   |                 |             |
|--------------|---|-----------------|-------------|
| Citation:    | 30 TAC Chapter 305, SubChapter F 305.125(1)   |                 |             |
|              | Operational Requirements, No. 1 Pg. 9 PERMIT  |                 |             |
| Description: | Failure by the permittee to properly operate and maintain all systems of collection, treatment, and disposal.                 |                 |             |
| Self Report? | NO  | Classification: | Minor       |
| Citation:    | 30 TAC Chapter 305, SubChapter F 305.125(5)   |                 |             |
|              | Operational Requirements No. 1, Pg. 9 PERMIT  |                 |             |
| Description: | The permittee failed to submit compliance documentation of corrective actions taken to remove the sludge and solids from CCC. |                 |             |
| Self Report? | NO  | Classification: | Moderate    |
| Citation:    | 2D TWC Chapter 26, SubChapter A 26.121(a)(1)  |                 |             |
|              | 30 TAC Chapter 305, SubChapter F 305.125(1)   |                 |             |
|              | Effluent Requirements No. 1, Pg. 2 PERMIT   |                 |             |
| Description: | Failure by the permittee to comply with the permitted effluent limitations for Ammonia Nitrogen and Total Suspended Solids.   |                 |             |
| Date:        | 12/31/2010  | (938272)        | CN600241574 |
| Self Report? | YES   | Classification: | Moderate    |
| Citation:    | 2D TWC Chapter 26, SubChapter A 26.121(a)   |                 |             |
|              | 30 TAC Chapter 305, SubChapter F 305.125(1)   |                 |             |
| Description: | Failure to meet the limit for one or more permit parameter  |                 |             |
| Date:        | 02/28/2011  | (938269)        | CN600241574 |
| Self Report? | YES   | Classification: | Moderate    |
| Citation:    | 2D TWC Chapter 26, SubChapter A 26.121(a)   |                 |             |
|              | 30 TAC Chapter 305, SubChapter F 305.125(1)   |                 |             |
| Description: | Failure to meet the limit for one or more permit parameter  |                 |             |
| Date:        | 03/31/2011  | (938270)        | CN600241574 |
| Self Report? | YES   | Classification: | Moderate    |
| Citation:    | 2D TWC Chapter 26, SubChapter A 26.121(a)   |                 |             |
|              | 30 TAC Chapter 305, SubChapter F 305.125(1)   |                 |             |
| Description: | Failure to meet the limit for one or more permit parameter  |                 |             |
| Date:        | 04/30/2011  | (938271)        | CN600241574 |
| Self Report? | YES   | Classification: | Moderate    |
| Citation:    | 2D TWC Chapter 26, SubChapter A 26.121(a)   |                 |             |
|              | 30 TAC Chapter 305, SubChapter F 305.125(1)   |                 |             |
| Description: | Failure to meet the limit for one or more permit parameter  |                 |             |
| Date:        | 05/31/2011  | (945644)        | CN600241574 |
| Self Report? | YES   | Classification: | Moderate    |
| Citation:    | 2D TWC Chapter 26, SubChapter A 26.121(a)   |                 |             |
|              | 30 TAC Chapter 305, SubChapter F 305.125(1)   |                 |             |
| Description: | Failure to meet the limit for one or more permit parameter  |                 |             |
| Date:        | 06/30/2011  | (952883)        | CN600241574 |
| Self Report? | YES   | Classification: | Moderate    |
| Citation:    | 2D TWC Chapter 26, SubChapter A 26.121(a)   |                 |             |
|              | 30 TAC Chapter 305, SubChapter F 305.125(1)   |                 |             |
| Description: | Failure to meet the limit for one or more permit parameter  |                 |             |

F. Environmental audits.

N/A

G. Type of environmental management systems (EMSs).

N/A

H. Voluntary on-site compliance assessment dates.

N/A

I. Participation in a voluntary pollution reduction program.

N/A

J. Early compliance.

N/A

Sites Outside of Texas

N/A

# TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN  
ENFORCEMENT ACTION  
CONCERNING  
CITY OF ROSEBUD  
RN101918423**

§  
§  
§  
§  
§

**BEFORE THE  
TEXAS COMMISSION ON  
ENVIRONMENTAL QUALITY**

## **AGREED ORDER DOCKET NO. 2011-1884-MWD-E**

At its \_\_\_\_\_ agenda, the Texas Commission on Environmental Quality (“the Commission” or “TCEQ”) considered this agreement of the parties, resolving an enforcement action regarding the City of Rosebud (“the Respondent”) under the authority of TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent presented this agreement to the Commission.

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

It is further understood and agreed that this Order represents the complete and fully-integrated settlement of the parties. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable. The duties and responsibilities imposed by this Agreed Order are binding upon the Respondent.

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

### **I. FINDINGS OF FACT**

1. The Respondent owns and operates a wastewater treatment facility located 0.9 mile west of the intersection of United States Highway 77 and Farm-to-Market Road 1963 approximately 1,000 feet south of Farm-to-Market Road 53 in Falls County, Texas (the “Facility”).

2. The Respondent has discharged municipal waste into or adjacent to any water in the state under TEX. WATER CODE ch. 26.
3. During a record review on July 26, 2011, TCEQ staff documented that Respondent exceeded the permitted effluent discharge limits as shown in the table below:

Effluent Violation Table

| Date   | NH3-N Daily Average Loading<br>6 lbs/d | NH3-N Daily Average Conc.<br>3 mg/L | NH3-N Single Grab Conc.<br>15 mg/L | TSS Daily Average Loading<br>31 lbs/d | TSS Daily Average Conc.<br>15 mg/L | TSS Single Grab Conc.<br>60 mg/L | CBOD Daily Average Conc.<br>10 mg/L |
|--|--|-------------------------------------|------------------------------------|---------------------------------------|------------------------------------|----------------------------------|-------------------------------------|
| September 2010   | 7.0                                    | C                                   | C                                  | C                                     | C                                  | C                                | C                                   |
| October 2010   | 10.1                                   | 3.87                                | 15.4                               | C                                     | C                                  | C                                | C                                   |
| November 2010  | C                                      | 3.08                                | C                                  | C                                     | C                                  | C                                | C                                   |
| December 2010  | 7.3                                    | 7.18                                | 22.8                               | 44.8                                  | 44.0                               | 72                               | C                                   |
| February 2011  | 7.8                                    | C                                   | 19.6                               | C                                     | C                                  | C                                | C                                   |
| March 2011   | 13.1                                   | C                                   | 24.3                               | C                                     | C                                  | 73                               | C                                   |
| April 2011   | 28.8                                   | 27.6                                | 35.5                               | 48                                    | 46                                 | 67                               | 18.2                                |
| May 2011   | 21.75                                  | 24.6                                | 30.0                               | C                                     | C                                  | C                                | C                                   |
| lbs/d = pounds per day      Conc. = concentration      mg/L = milligrams per liter      C = compliant<br>TSS = total suspended solids      CBOD = carbonaceous biochemical oxygen demand      NH3-N = ammonia nitrogen |  |                                     |                                    |                                       |                                    |                                  |                                     |

4. During a record review on July 26, 2011, TCEQ staff documented that records of monitoring activities were not being maintained. Specifically, the Respondent did not have the 2010 annual sludge report and the May 2010 discharge monitoring report available for review.
5. The Respondent received notice of the violations on August 24, 2011.
6. The Executive Director recognizes that the Respondent had implemented the following corrective measures at the Facility:
  - a. By August 15, 2011, began maintaining records of all monitoring activities and having them readily available for review, and repaired/replaced the rotors; and
  - b. On September 22, 2011, submitted the May 2010 discharge monitoring report and the 2010 annual sludge report.

## II. CONCLUSIONS OF LAW

1. The Respondent is subject to the jurisdiction of the TCEQ pursuant to TEX. WATER CODE chs. 7 and 26 and the rules of the Commission.
2. As evidenced by Findings of Fact No. 3, the Respondent 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. WQ0010731001 Effluent Limitations and Monitoring Requirements No. 1.
3. As evidenced by Findings of Fact No. 4, the Respondent failed to maintain records of monitoring activities and make them readily available for review upon request, in violation of 30 TEX. ADMIN. CODE § 305.125(1) and TPDES Permit No. WQ0010731001 Monitoring and Reporting Requirements No. 3(b).
4. Pursuant to TEX. WATER CODE § 7.051, the Commission has the authority to assess an administrative penalty against the Respondent for violations of the Texas Water Code and the Texas Health and Safety Code within the Commission's jurisdiction; for violations of rules adopted under such statutes; or for violations of orders or permits issued under such statutes.
5. An administrative penalty in the amount of Thirty-Four Thousand Fifty Dollars (\$34,050) is justified by the facts recited in this Agreed Order, and considered in light of the factors set forth in TEX. WATER CODE § 7.053. The Financial Assurance Section of the Commission's Financial Administration Division reviewed financial documentation submitted by the Respondent and determined that the Respondent is unable to pay any of the administrative penalty. Therefore, Thirty-Four Thousand Fifty Dollars (\$34,050) of the penalty 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.

## III. ORDERING PROVISIONS

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

1. The Respondent is assessed an administrative penalty in the amount of Thirty-Four Thousand Fifty Dollars (\$34,050) as set forth in Section II, Paragraph 5 above, for violations of TCEQ rules and state statutes. The Respondent's compliance with all the terms and conditions set forth in this Agreed Order completely resolve the violations set forth by this Agreed Order in this action. However, the Commission shall not be

constrained in any manner from requiring corrective actions or penalties for other violations that are not raised here.

2. It is further ordered that the Respondent shall, within 90 days after the effective date of this Agreed Order, submit written certification of compliance with the permitted effluent limitations of TPDES Permit No. WQ0010731001, including specific corrective actions that were implemented at the Facility to achieve compliance and copies of the most current self-reporting discharge monitoring reports, demonstrating at least three consecutive months of compliance with all permitted effluent limitations. The certification shall be notarized by a State of Texas Notary Public and include the following certification:

“I certify under penalty of law that I have personally examined and am familiar with the information submitted and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fines and imprisonment for knowing violations.”

The certification shall be submitted to:

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

with a copy to:

Water Section, Manager  
Waco Regional Office  
Texas Commission on Environmental Quality  
6801 Sanger Avenue, Suite 2500  
Waco, Texas 76710-7826

3. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
4. If the Respondent fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, the Respondent's failure to comply is not a violation of this Agreed Order. The Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The Respondent shall notify the Executive Director within seven days after the Respondent becomes

aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.

5. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by the Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
6. The Executive Director may refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings without notice to the Respondent if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
7. 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.
8. 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.
9. 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.
10. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties. By law, the effective date of this Agreed Order is the third day after the mailing date, as provided by 30 TEX. ADMIN. CODE § 70.10(b) and TEX. GOV'T CODE § 2001.142.

## SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

\_\_\_\_\_  
For the Commission

Pam Davis Jr.  
For the Executive Director

7/31/12  
Date

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

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

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

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

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

[Signature]  
Signature

5-2-2012  
Date

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

Mayor  
Title

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