

Executive Summary – Enforcement Matter – Case No. 44255

City of Rosebud

RN101392322

Docket No. 2012-1106-PWS-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:

PWS

Small Business:

No

Location(s) Where Violation(s) Occurred:

City of Rosebud WWTP, 716 North Stallworth Street, Falls County

Type of Operation:

Public water supply

Other Significant Matters:

Additional Pending Enforcement Actions: No

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: None

Texas Register Publication Date: October 12, 2012

Comments Received: No

Penalty Information

Total Penalty Assessed: \$2,002

Amount Deferred for Expedited Settlement: \$0

Amount Deferred for Financial Inability to Pay: \$0

Total Paid to General Revenue: \$2,002

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 - N/A

Major Source: No

Statutory Limit Adjustment: N/A

Applicable Penalty Policy: September 2002 and September 2011

Executive Summary – Enforcement Matter – Case No. 44255

City of Rosebud

RN101392322

Docket No. 2012-1106-PWS-E

Investigation Information

Complaint Date(s): N/A

Complaint Information: N/A

Date(s) of Investigation: April 30, 2012

Date(s) of NOE(s): May 4, 2012

Violation Information

1. Failed to collect routine distribution water samples for coliform analysis [30 TEX. ADMIN. CODE § 290.109(c)(2)(A)(ii) and TEX. HEALTH & SAFETY CODE § 341.033(d)].
2. Failed to comply with the maximum contaminant level (“MCL”) for total coliform for the month of November 2011 and failed to timely provide the Executive Director (“ED”) a certified copy of the public notice posted for failure to comply with the MCL for total coliform within 10 days of distributing the notice [30 TEX. ADMIN. CODE §§ 290.109(f)(3) and 290.122(f), and TEX. HEALTH & SAFETY CODE § 341.031(a)].
3. Failed to collect at least five routine distribution coliform samples the month following a total coliform-positive result during the month of December 2011, and failed to timely provide the ED a copy of the public notice issued for the failure to collect the required samples [30 TEX. ADMIN. CODE §§ 290.109(c)(2)(F) and 290.122(f)].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

On May 1, 2012, Respondent notified the ED that on March 20, 2012, Respondent provided the required public notice to the customers of the Facility.

Technical Requirements:

The Order will require Respondent to:

a. Within 30 days:

- i. Update Facility protocols to ensure that all necessary public notifications are provided in a timely manner to persons served by the Facility and that the ED is timely notified of public notices; and
- ii. Begin complying with applicable coliform monitoring requirements by collecting of all routine, repeat, and increased distribution samples when required, and by providing water that meets the provisions regarding microbial contaminants. This provision will be satisfied upon six consecutive months of compliant monitoring and reporting at the Facility.

Executive Summary – Enforcement Matter – Case No. 44255

City of Rosebud

RN101392322

Docket No. 2012-1106-PWS-E

b. Within 45 days, submit written certification as described in Ordering Provision c. and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision a.i.

c. Within 195 days, submit written certification demonstrating compliance.

Litigation Information

Date Petition(s) Filed: N/A

Date Answer(s) Filed: N/A

SOAH Referral Date: N/A

Hearing Date(s): N/A

Settlement Date: N/A

Contact Information

TCEQ Attorney: N/A

TCEQ Enforcement Coordinator: James Fisher, Enforcement Division, Enforcement Team 2, MC 169, (512) 239-2537; Debra Barber, Enforcement Division, MC 219, (512) 239-0412

TCEQ SEP Coordinator: N/A

Respondent: Larry L. Waller, City Administrator, City of Rosebud, P.O. Box 657, Rosebud, Texas 76570

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 3 (September 2011)

PCW Revision August 3, 2011

| | | | | | |
|-----------------------------|-----------------|-------------|------------------|-------------|----------------------------|
| TCEQ DATES | Assigned | 21-May-2012 | | | |
| | PCW | 13-Jun-2012 | Screening | 30-May-2012 | EPA Due 30-Jun-2011 |

| | | | | | |
|--|-----------------|---------------------------|-------|--|--|
| RESPONDENT/FACILITY INFORMATION | | | | | |
| Respondent | City of Rosebud | | | | |
| Reg. Ent. Ref. No. | RN101392322 | | | | |
| Facility/Site Region | 9-Waco | Major/Minor Source | Minor | | |

| | | | | | |
|--|---------------------|------------------------------|--------------------|--|--|
| CASE INFORMATION | | | | | |
| Enf./Case ID No. | 44255 | No. of Violations | 2 | | |
| Docket No. | 2012-1106-PWS-E | Order Type | Findings | | |
| Media Program(s) | Public Water Supply | Government/Non-Profit | Yes | | |
| Multi-Media | | Enf. Coordinator | Jim Fisher | | |
| | | EC's Team | Enforcement Team 2 | | |
| Admin. Penalty \$ Limit Minimum | \$50 | Maximum | \$1,000 | | |

Penalty Calculation Section

| | | |
|---|-------------------|-------|
| TOTAL BASE PENALTY (Sum of violation base penalties) | Subtotal 1 | \$300 |
|---|-------------------|-------|

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

| | | | |
|---------------------------|-------------------|--------------------------------|-------|
| Compliance History | 54.0% Enhancement | Subtotals 2, 3, & 7 | \$162 |
|---------------------------|-------------------|--------------------------------|-------|

Notes: Enhancement for six NOVs with same/similar violations, two NOVs with dissimilar violations, and one Agreed Order with denial of liability.

| | | | | |
|--------------------|----|------------------|-------------------|-----|
| Culpability | No | 0.0% Enhancement | Subtotal 4 | \$0 |
|--------------------|----|------------------|-------------------|-----|

Notes: The Respondent does not meet the culpability criteria.

| | | |
|--|-------------------|-----|
| Good Faith Effort to Comply Total Adjustments | Subtotal 5 | \$0 |
|--|-------------------|-----|

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

Total EB Amounts \$181
Approx. Cost of Compliance \$245
*Capped at the Total EB \$ Amount

| | | |
|-----------------------------|-----------------------|-------|
| SUM OF SUBTOTALS 1-7 | Final Subtotal | \$462 |
|-----------------------------|-----------------------|-------|

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

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

| | |
|-----------------------------|-------|
| Final Penalty Amount | \$462 |
|-----------------------------|-------|

| | | |
|-----------------------------------|-------------------------------|-------|
| STATUTORY LIMIT ADJUSTMENT | Final Assessed Penalty | \$462 |
|-----------------------------------|-------------------------------|-------|

| | | | |
|-----------------|----------------|-------------------|-----|
| 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:

No deferral is recommended for Findings Orders.

| | |
|------------------------|-------|
| PAYABLE PENALTY | \$462 |
|------------------------|-------|

Screening Date 30-May-2012

Docket No. 2012-1106-PWS-E

PCW

Respondent City of Rosebud

Policy Revision 3 (September 2011)

Case ID No. 44255

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN101392322

Media [Statute] Public Water Supply

Enf. Coordinator Jim Fisher

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>) | 6 | 30% |
| | Other written NOVs | 2 | 4% |
| Orders | Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>) | 1 | 20% |
| | Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission | 0 | 0% |
| Judgments and Consent Decrees | Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (<i>number of judgements or consent decrees meeting criteria</i>) | 0 | 0% |
| | Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government | 0 | 0% |
| Convictions | Any criminal convictions of this state or the federal government (<i>number of counts</i>) | 0 | 0% |
| Emissions | Chronic excessive emissions events (<i>number of events</i>) | 0 | 0% |
| Audits | Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which notices were submitted</i>) | 0 | 0% |
| | Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which violations were disclosed</i>) | 0 | 0% |
| <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) 54%

>> Repeat Violator (Subtotal 3)

N/A

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 six NOVs with same/similar violations, two NOVs with dissimilar violations, and one Agreed Order with denial of liability.

Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7) 54%

>> Final Compliance History Adjustment

Final Adjustment Percentage *capped at 100% 54%

Screening Date 30-May-2012

Docket No. 2012-1106-PWS-E

PCW

Respondent City of Rosebud

Policy Revision 3 (September 2011)

Case ID No. 44255

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN101392322

Media [Statute] Public Water Supply

Enf. Coordinator Jim Fisher

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code §§ 290.109(f)(3) and 290.122(f), and Tex. Health & Safety Code § 341.031(a)

Violation Description

Failed to comply with the Maximum Contaminant Level ("MCL") for total coliform for the month of November 2011 and failed to timely provide the Executive Director a certified copy of the public notice posted for failure to comply with the MCL for total coliform within 10 days of distributing the notice.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

OR

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

Percent 15.0%

>> Programmatic Matrix

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

Percent 0.0%

Matrix Notes

As a result of the exceedance, customers have been exposed to significant amounts of contaminants which do not exceed levels protective of human health.

Adjustment \$850

\$150

Violation Events

Number of Violation Events 1

30 Number of violation days

mark only one with an x

| | |
|--------------|---|
| daily | |
| weekly | |
| monthly | x |
| quarterly | |
| semiannual | |
| annual | |
| single event | |

Violation Base Penalty \$150

One monthly event is recommended for the month of the exceedance.

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 \$150

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$102

Violation Final Penalty Total \$231

This violation Final Assessed Penalty (adjusted for limits) \$231

Economic Benefit Worksheet

Respondent City of Rosebud
Case ID No. 44255
Reg. Ent. Reference No. RN101392322
Media Public Water Supply
Violation No. 1

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

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

Delayed Costs

| | | | | | | | |
|--------------------------|------|-------------|-------------|------|-----|-----|-----|
| Equipment | | | | 0.00 | \$0 | \$0 | \$0 |
| Buildings | | | | 0.00 | \$0 | \$0 | \$0 |
| Other (as needed) | | | | 0.00 | \$0 | \$0 | \$0 |
| Engineering/construction | | | | 0.00 | \$0 | \$0 | \$0 |
| Land | | | | 0.00 | \$0 | n/a | \$0 |
| Record Keeping System | | | | 0.00 | \$0 | n/a | \$0 |
| Training/Sampling | | | | 0.00 | \$0 | n/a | \$0 |
| Remediation/Disposal | | | | 0.00 | \$0 | n/a | \$0 |
| Permit Costs | | | | 0.00 | \$0 | n/a | \$0 |
| Other (as needed) | \$45 | 30-Apr-2012 | 28-Feb-2013 | 0.83 | \$2 | n/a | \$2 |

Notes for DELAYED costs

The delayed cost includes the estimated amount to update the Facility's operations protocol to ensure that the Executive Director is notified within 10 days of a public notice distribution, calculated from the date of the record review to 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] | \$100 | 1-Nov-2011 | 30-Nov-2011 | 0.00 | \$0 | \$100 | \$100 |
| Other (as needed) | | | | 0.00 | \$0 | \$0 | \$0 |

Notes for AVOIDED costs

The one-time avoided cost includes the estimated amount to provide additional oversight necessary to prevent or avoid the exceedance, calculated for the month the exceedance occurred.

Approx. Cost of Compliance

\$145

TOTAL

\$102

Screening Date 30-May-2012
Respondent City of Rosebud
Case ID No. 44255

Docket No. 2012-1106-PWS-E

PCW

Policy Revision 3 (September 2011)
PCW Revision August 3, 2011

Reg. Ent. Reference No. RN101392322
Media [Statute] Public Water Supply
Enf. Coordinator Jim Fisher

Violation Number 2

Rule Cite(s)

30 Tex. Admin. Code §§ 290.109(c)(2)(F) and 290.122(f)

Violation Description

Failed to collect at least five routine distribution coliform samples the month following a total coliform-positive result during the month of December 2011, and failed to timely provide the Executive Director a copy of the public notice issued for the failure to collect the required samples. Specifically, the Respondent collected only two of the five samples required and did not provide the Executive Director a copy of the posted public notice within 10 days of its distribution.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

OR

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

Percent 15.0%

>> Programmatic Matrix

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

Percent 0.0%

Matrix Notes

Failure to perform increased coliform monitoring could result in customers served by the Facility being exposed to undetected contaminants exceeding levels protective of human health.

Adjustment \$850

\$150

Violation Events

Number of Violation Events 1

31 Number of violation days

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

Violation Base Penalty \$150

One monthly event is recommended for the month the required samples were not collected.

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 \$150

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$79

Violation Final Penalty Total \$231

This violation Final Assessed Penalty (adjusted for limits) \$231

Economic Benefit Worksheet

Respondent City of Rosebud
Case ID No. 44255
Reg. Ent. Reference No. RN101392322
Media Public Water Supply
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 |
|------------------|-----------|---------------|------------|-----|----------------|---------------|-----------|
|------------------|-----------|---------------|------------|-----|----------------|---------------|-----------|

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) | \$5 | 30-Mar-2012 | 1-May-2012 | 0.09 | \$0 | n/a | \$0 |

Notes for DELAYED costs

The delayed cost includes the estimated amount to provide the Executive Director a certified copy of the public notice posted for failure to collect increased samples within 10 days of its distribution. Date Required is the due date and the Final Date is the date the Executive Director was notified. The other delayed cost to update the Facility's operations protocol to ensure that the Executive Director is notified within 10 days of a public notice distribution is captured in 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] | \$75 | 1-Dec-2011 | 31-Dec-2011 | 1.00 | \$4 | \$75 | \$79 |
| Other (as needed) | | | | 0.00 | \$0 | \$0 | \$0 |

Notes for AVOIDED costs

The avoided cost includes the estimated amount to collect increased distribution samples the month following a coliform-positive result (\$25 per sample x 3 samples), calculated for the month sampling was not conducted.

Approx. Cost of Compliance

\$80

TOTAL

\$79



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

TCEQ

| | | | | | | |
|--------------|-----------------|-------------|------------------|-------------|----------------|-------------|
| DATES | Assigned | 21-May-2012 | Screening | 30-May-2012 | EPA Due | 30-Jun-2011 |
| | PCW | 13-Jun-2012 | | | | |

| | |
|--|-----------------|
| RESPONDENT/FACILITY INFORMATION | |
| Respondent | City of Rosebud |
| Reg. Ent. Ref. No. | RN101392322 |
| Facility/Site Region | 9-Waco |
| Major/Minor Source | Minor |

| | | | |
|--|---------------------|------------------------------|--------------------|
| CASE INFORMATION | | | |
| Enf./Case ID No. | 44255 | No. of Violations | 1 |
| Docket No. | 2012-1106-PWS-E | Order Type | Findings |
| Media Program(s) | Public Water Supply | Government/Non-Profit | Yes |
| Multi-Media | | Enf. Coordinator | Jim Fisher |
| | | EC's Team | Enforcement Team 2 |
| Admin. Penalty \$ Limit Minimum | \$50 | Maximum | \$1,000 |

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 | \$215 |
| Approx. Cost of Compliance | \$200 |

*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 30-May-2012

Docket No. 2012-1106-PWS-E

PCW

Respondent City of Rosebud

Policy Revision 2 (September 2002)

Case ID No. 44255

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101392322

Media [Statute] Public Water Supply

Enf. Coordinator Jim Fisher

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>) | 6 | 30% |
| | Other written NOVs | 2 | 4% |
| Orders | Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>) | 1 | 20% |
| | Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission | 0 | 0% |
| Judgments and Consent Decrees | Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (<i>number of judgements or consent decrees meeting criteria</i>) | 0 | 0% |
| | Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government | 0 | 0% |
| Convictions | Any criminal convictions of this state or the federal government (<i>number of counts</i>) | 0 | 0% |
| Emissions | Chronic excessive emissions events (<i>number of events</i>) | 0 | 0% |
| Audits | Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which notices were submitted</i>) | 0 | 0% |
| | Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which violations were disclosed</i>) | 0 | 0% |

Please Enter Yes or No

| | | | |
|-------|---|----|----|
| Other | Environmental management systems in place for one year or more | No | 0% |
| | Voluntary on-site compliance assessments conducted by the executive director under a special assistance program | No | 0% |
| | Participation in a voluntary pollution reduction program | No | 0% |
| | Early compliance with, or offer of a product that meets future state or federal government environmental requirements | No | 0% |

Adjustment Percentage (Subtotal 2) 54%

>> Repeat Violator (Subtotal 3)

N/A

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 six NOVs with same/similar violations, two NOVs with dissimilar violations, and one Agreed Order with denial of liability.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 54%

Screening Date 30-May-2012

Docket No. 2012-1106-PWS-E

PCW

Respondent City of Rosebud

Policy Revision 2 (September 2002)

Case ID No. 44255

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101392322

Media [Statute] Public Water Supply

Enf. Coordinator Jim Fisher

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code § 290.109(c)(2)(A)(ii) and Tex. Health & Safety Code § 341.033(d)

Violation Description Failed to collect routine distribution water samples for coliform analysis during the months of December 2010, and February, May, and June of 2011.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

OR

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

Percent 25%

>> Programmatic Matrix

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

Percent 0%

Matrix Notes

Failure to perform routine coliform monitoring could result in customers served by the Facility being exposed to undetected contaminants which would exceed levels protective of human health.

Adjustment \$750

\$250

Violation Events

Number of Violation Events 4

120 Number of violation days

| | |
|--------------|---|
| daily | |
| weekly | |
| monthly | x |
| quarterly | |
| semiannual | |
| annual | |
| single event | |

mark only one with an x

Violation Base Penalty \$1,000

Four monthly events are recommended for the months routine samples were not collected.

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 the good faith criteria for this violation.

Violation Subtotal \$1,000

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$215

Violation Final Penalty Total \$1,540

This violation Final Assessed Penalty (adjusted for limits) \$1,540

Economic Benefit Worksheet

Respondent City of Rosebud
Case ID No. 44255
Reg. Ent. Reference No. RN101392322
Media Public Water Supply
Violation No. 1

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

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

Delayed Costs

| | | | | | | | |
|--------------------------|--|--|--|------|-----|-----|-----|
| Equipment | | | | 0.00 | \$0 | \$0 | \$0 |
| Buildings | | | | 0.00 | \$0 | \$0 | \$0 |
| Other (as needed) | | | | 0.00 | \$0 | \$0 | \$0 |
| Engineering/construction | | | | 0.00 | \$0 | \$0 | \$0 |
| Land | | | | 0.00 | \$0 | n/a | \$0 |
| Record Keeping System | | | | 0.00 | \$0 | n/a | \$0 |
| Training/Sampling | | | | 0.00 | \$0 | n/a | \$0 |
| Remediation/Disposal | | | | 0.00 | \$0 | n/a | \$0 |
| Permit Costs | | | | 0.00 | \$0 | n/a | \$0 |
| Other (as needed) | | | | 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 | | | | 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] | \$200 | 1-Dec-2010 | 30-Jun-2011 | 1.50 | \$15 | \$200 | \$215 |
| Other (as needed) | | | | 0.00 | \$0 | \$0 | \$0 |

Notes for AVOIDED costs

The avoided costs include the estimated amount (\$25 per sample x 2 samples per month) to conduct routine coliform sampling, calculated for the four months sampling was not conducted.

Approx. Cost of Compliance \$200

TOTAL \$215

Compliance History Report

Customer/Respondent/Owner-Operator: CN600241574 City of Rosebud Classification: AVERAGE Rating: 2.96
Regulated Entity: RN101392322 CITY OF ROSEBUD Classification: Site Rating:
ID Number(s): PUBLIC WATER SYSTEM/SUPPLY REGISTRATION 0730003
WATER LICENSING LICENSE 0730003
Location: 716 NORTH STALLWORTH STREET, FALLS COUNTY, TEXAS
TCEQ Region: REGION 09 - WACO
Date Compliance History Prepared: May 30, 2012
Agency Decision Requiring Compliance History: Enforcement
Compliance Period: May 21, 2007 to May 21, 2012
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History
Name: James Fisher Phone: 239 - 2537

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. If YES, when did the change(s) in owner or operator occur? N/A
6. Rating Date: N/A Repeat Violator: N/A

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: 08/27/2011 ADMINORDER 2011-0136-PWS-E

Classification: Minor

Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(1)(B)

Description: Failure to collect distribution coliform samples at locations specified in the system's monitoring plan.

Classification: Minor

Citation: 30 TAC Chapter 290, SubChapter D 290.46(j)

Description: Failed to complete a customer service inspection certificate prior to providing continuous service to new construction, or any existing service either when the water purveyor has reason to believe that cross-connections or other potential contaminant hazards exist, or after any material improvement, correction, or addition to the Facility.

Classification: Minor

Citation: 30 TAC Chapter 290, SubChapter D 290.44(h)(1)(A)

Description: Failed to install backflow prevention assemblies or an air gap at all residences or establishments where an actual or potential contamination hazard exists, as identified in 30 TEX. ADMIN. CODE § 290.47(i).

Classification: Minor

Citation: 30 TAC Chapter 290, SubChapter D 290.45(f)(4)

Description: Failure to provide a water purchase contract that authorizes a maximum daily purchase rate or a uniform purchase rate to meet a minimum production capacity of 0.6 gallons per minute per connection.

- 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 05/02/2012 (1002389)
2 05/03/2012 (1002514)
3 05/03/2012 (1002544)
4 05/03/2012 (1002568)
5 05/03/2012 (1002580)
6 05/03/2012 (1002586)
7 05/17/2012 (1002756)
8 03/12/2009 (736156)
9 11/23/2009 (781557)
10 03/25/2010 (789470)
11 06/16/2010 (801182)
12 11/02/2010 (871548)
13 01/11/2011 (880618)

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

Date: 03/13/2009 (736156) CN600241574

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter D 290.44(h)(1)(A)
Description: Failure to provide a backflow prevention assembly where one is required to protect against a high health hazard.

Date: 11/30/2009 (781557) CN600241574

Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 290, SubChapter F 290.121(a)
Description: Failure to provide an adequate monitoring plan at the time of the investigation.

Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(1)(B)
Description: Failure to collect distribution coliform samples at locations specified in the system's monitoring plan.

Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 290, SubChapter D 290.46(f)(2)
Description: Failure to provide annual tank inspection forms during the investigation.

Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 290, SubChapter D 290.46(j)
Description: Failed to complete a customer service inspection certificate prior to providing continuous service to new construction, or any existing service either when the water purveyor has reason to believe that cross-connections or other potential contaminant hazards exist, or after any material improvement, correction, or addition to the Facility.

Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 290, SubChapter D 290.44(h)(1)(A)
Description: Failed to install backflow prevention assemblies or an air gap at all residences or establishments where an actual or potential contamination hazard exists, as identified in 30 TEX. ADMIN. CODE § 290.47(i).

Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 290, SubChapter D 290.42(l)
Description: Failure to provide a complete plant operations manual at the time of the investigation.

Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 290, SubChapter D 290.42(e)(4)(C)
Description: Failure to provide a screen on the upper level vent in the disinfection room at the main plant of the City of Rosebud public water supply.

Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 290, SubChapter D 290.42(e)(3)(G)
Description: Failure to obtain an exception to use liquid ammonia sulfate as an alternative disinfectant for a purchase-water system; and for purchasing chloraminated water from Central Texas WSC.

Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 290, SubChapter D 290.45(f)(4)
Description: Failure to provide a water purchase contract that authorizes a maximum daily purchase rate or a uniform purchase rate to meet a minimum production capacity of 0.6 gallons per minute per connection.

Date: 02/11/2011 (1002389) CN600241574

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.109(f)(5)
30 TAC Chapter 290, SubChapter F 290.109(f)(7)
Description: TCR Routine Monitoring Violation 12/2010 - Failure to collect any routine monitoring sample(s).

Date: 03/31/2011 (1002514) CN600241574

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.109(f)(5)
30 TAC Chapter 290, SubChapter F 290.109(f)(7)
Description: TCR Routine Monitoring Violation 02/2011 - Failure to collect any routine monitoring sample(s).

Date: 07/07/2011 (1002544) CN600241574

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.109(f)(5)
30 TAC Chapter 290, SubChapter F 290.109(f)(7)
Description: TCR Routine Monitoring Violation 05/2011 - Failure to collect all routine monitoring sample(s).

Date: 08/26/2011 (1002568) CN600241574

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.109(f)(5)
30 TAC Chapter 290, SubChapter F 290.109(f)(7)
Description: TCR Routine Monitoring Violation 06/2011 - Failure to collect all routine monitoring sample(s).

Date: 11/07/2011 (1002580) CN600241574

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.109(f)(3)
Description: TCR MCL Violation 11/2011 - System exceeded a maximum contaminant level.

Date: 03/15/2012 (1002586) CN600241574

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(F)
Description: TCR Increase Monitoring Violation 12/2011 - Failure to collect all of the 5 distribution samples following a coliform found month.

| | | |
|----|---|-----|
| 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 |
| K. | Sites Outside of Texas: | N/A |

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
CITY OF ROSEBUD
RN101392322

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

AGREED ORDER
DOCKET NO. 2012-1106-PWS-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. HEALTH & SAFETY CODE ch. 341. 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 public water supply at 716 North Stallworth Street in Falls County, Texas (the "Facility") that has approximately 672 service connections and serves at least 25 people per day for at least 60 days per year.

2. During a record review conducted on April 30, 2012, TCEQ staff documented that the Respondent did not collect routine distribution water samples for coliform analysis during the months of December 2010, and February, May, and June of 2011.
3. During a record review conducted on April 30, 2012, TCEQ staff documented that the Respondent did not comply with the Maximum Contaminant Level ("MCL") for total coliform during the month of November 2011, and failed to timely provide the Executive Director a certified copy of the public notice posted for failure to comply with the MCL for total coliform within 10 days of distributing the notice.
4. During a record review conducted on April 30, 2012, TCEQ staff documented that the Respondent collected only two of the five samples required and did not provide the Executive Director a copy of the posted public notice within 10 days of its distribution.
5. The Respondent received notice of the enforcement action on or about May 13, 2012.
6. The Executive Director recognizes that on May 1, 2012, the Respondent notified the Executive Director that on March 20, 2012, the Respondent provided the required public notice to the customers of the Facility.

II. CONCLUSIONS OF LAW

1. The Respondent is subject to the jurisdiction of the TCEQ pursuant to TEX. HEALTH & SAFETY CODE ch. 341 and the rules of the Commission.
2. As evidenced by Findings of Fact No. 2, the Respondent failed to collect routine distribution water samples for coliform analysis, in violation of 30 TEX. ADMIN. CODE § 290.109(c)(2)(A)(ii) and TEX. HEALTH & SAFETY CODE § 341.033(d).
3. As evidenced by Findings of Fact No. 3, the Respondent failed to comply with the MCL for total coliform for the month of November 2011 and failed to timely provide the Executive Director a certified copy of the public notice posted for failure to comply with the MCL for total coliform within 10 days of distributing the notice, in violation of 30 TEX. ADMIN. CODE §§ 290.109(f)(3) and 290.122(f), and TEX. HEALTH & SAFETY CODE § 341.031(a).
4. As evidenced by Findings of Fact No. 4, the Respondent failed to collect at least five routine distribution coliform samples the month following a total coliform-positive result during the month of December 2011, and failed to timely provide the Executive Director a copy of the public notice issued for the failure to collect the required samples, in violation of 30 TEX. ADMIN. CODE §§ 290.109(c)(2)(F) and 290.122(f).
5. Pursuant to TEX. HEALTH & SAFETY CODE § 341.049, 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.

6. An administrative penalty in the amount of Two Thousand Two Dollars (\$2,002) is justified by the facts recited in this Agreed Order, and considered in light of the factors set forth in TEX. HEALTH & SAFETY CODE § 341.049(b). The Respondent has paid the Two Thousand Two Dollar (\$2,002) administrative 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 Two Thousand Two Dollars (\$2,002) as set forth in Section II, Paragraph 6 above, for violations of TCEQ rules and state statutes. The payment of this administrative penalty and 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. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: City of Rosebud, Docket No. 2012-1106-PWS-E" to:

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

2. The Respondent shall undertake the following technical requirements:
 - a. Within 30 days after the effective date of this Agreed Order:
 - i. Update Facility protocols to ensure that all necessary public notifications are provided in a timely manner to persons served by the Facility and that the Executive Director is timely notified of public notices, in accordance with 30 TEX. ADMIN. CODE § 290.122; and
 - ii. Begin complying with applicable coliform monitoring requirements by collecting of all routine, repeat, and increased distribution samples when required, and by providing water that meets the provisions regarding microbial contaminants, in accordance with 30 TEX. ADMIN. CODE § 290.109. This provision will be satisfied upon six consecutive months of compliant monitoring and reporting at the Facility.

- b. Within 45 days after the effective date of this Agreed Order, submit written certification as described in Ordering Provision No. 2.c. below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision No. 2.a.i.
- c. Within 195 days after the effective date of this Agreed Order, submit written certification as described below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision No. 2.a.ii. The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

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

The certification shall be submitted to:

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

with a copy to:

Public Drinking Water Section Manager
Water Supply Division, MC 155
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

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. 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.

5. 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.
6. 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.
7. 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.
8. 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.
9. 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



For the Executive Director

12/7/12

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

August 15, 2012

Date

Larry L. Waller
Name (Printed or typed)
Authorized Representative of
City of Rosebud

City Administrator
Title

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