

Executive Summary – Enforcement Matter – Case No. 45587

City of Rogers

RN102184678

Docket No. 2012-2451-MWD-E

Order Type:

1660 Agreed Order

Findings Order Justification:

N/A

Media:

MWD

Small Business:

No

Location(s) Where Violation(s) Occurred:

City of Rogers WWTP, located south of Rogers, immediately west of Farm-to-Market ("FM") Road 437 and approximately 0.75 mile south of the intersection of U.S. Highway 190 and FM Road 437, Rogers, Bell County

Type of Operation:

Wastewater treatment plant

Other Significant Matters:

Additional Pending Enforcement Actions: No

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: None

Texas Register Publication Date: April 26, 2013

Comments Received: No

Penalty Information

Total Penalty Assessed: \$13,188

Amount Deferred for Expedited Settlement: \$2,637

Amount Deferred for Financial Inability to Pay: \$0

Total Paid to General Revenue: \$0

Total Due to General Revenue: \$0

Payment Plan: N/A

SEP Conditional Offset: \$10,551

Name of SEP: Texas Association of Resource Conservation and Development Areas, Inc. - Household Hazardous Waste Clean-Up

Compliance History Classifications:

Person/CN - Satisfactory

Site/RN - Satisfactory

Major Source: No

Statutory Limit Adjustment: N/A

Applicable Penalty Policy: September 2011

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City of Rogers
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Docket No. 2012-2451-MWD-E

Investigation Information

Complaint Date(s): N/A
Complaint Information: N/A
Date(s) of Investigation: September 12, 2012
Date(s) of NOE(s): November 9, 2012

Violation Information

1. Failed to ensure at all times that the Facility and all of its systems of collection, treatment, and disposal are properly operated and maintained. Specifically, the Imhoff Tank contained excessive grease and solids [30 TEX. ADMIN. CODE § 305.125(1) and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0010804001, Operational Requirements No. 1].
2. Failed to employ at least one licensed operator who holds a category "D" license or higher [30 TEX. ADMIN. CODE §§ 30.350(d) and (j) and 305.125(1), and TPDES Permit No. WQ0010804001, Other Requirements No. 1].
3. Failed to ensure at all times that the Facility and all of its systems of collection, treatment, and disposal are properly operated and maintained. Specifically, three lift stations had visual alarms but no audio alarms [30 TEX. ADMIN. CODE § 305.125(1) and TPDES Permit No. WQ0010804001, Operational Requirements No. 1].
4. Failed to comply with permitted effluent limitations for dissolved oxygen for the monitoring periods ending May 31, 2012 through September 30, 2012 [TEX. WATER CODE § 26.121(a)(1), 30 TEX. ADMIN. CODE § 305.125(1), TPDES Permit No. WQ0010804001, Final Effluent Limitations and Monitoring Requirements No. 7].
5. Failed to timely submit discharge monitoring reports ("DMRs") by the 20th day of the following month for the monthly monitoring periods ending December 31, 2011, January 31, 2012, and July 31, 2012 [30 TEX. ADMIN. CODE §§ 305.125(17) and 319.7(d), and TPDES Permit No. WQ0010804001, Monitoring and Reporting Requirements No. 1].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

Respondent has implemented the following corrective measures:

- a. By October 12, 2012, obtained a category "D" or higher licensed wastewater treatment operator for the Facility.
- b. By December 10, 2012:

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- i. Removed excessive grease and solids from the Imhoff Tank and developed a standard operating procedure for regular maintenance of the Imhoff Tank to ensure proper operation of the treatment system; and
 - ii. Submitted DMRs for the monitoring periods ending December 31, 2011, January 31, 2012, and July 31, 2012.
- c. By January 25, 2013, submitted documentation that audio alarms were installed for the three lift stations.

Technical Requirements:

- 1. The Order will require Respondent to implement and complete a Supplemental Environmental Project ("SEP"). (See SEP Attachment A)
- 2. The Order will also require Respondent to:
 - a. Within 30 days, update the Facility's operational guidance and conduct employee training to ensure that self-reporting requirements are properly accomplished, including the timely submittal of signed and certified monthly DMRs;
 - b. Within 45 days, submit written certification of compliance with Ordering Provision a.; and
 - c. Within 180 days, submit written certification of compliance with the permitted effluent limitations of TPDES Permit No. WQ0010804001, including specific corrective actions that were implemented at the Facility to achieve compliance and copies of the most current self-reporting DMRs, demonstrating at least three consecutive months of compliance with all permitted effluent limitations.

Litigation Information

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

Contact Information

TCEQ Attorney: N/A
TCEQ Enforcement Coordinator: Remington Burklund, Enforcement Division, Enforcement Team 3, MC 169, (512) 239-2611; Debra Barber, Enforcement Division, MC 219, (512) 239-0412
TCEQ SEP Coordinator: Stuart Beckley, SEP Coordinator, Enforcement Division, MC 219, (512) 239-3565

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Respondent: The Honorable Billy Ray Crow, Mayor, City of Rogers, P.O. Box 250,
Rogers, Texas 76569

Respondent's Attorney: Sara Thornton, Lloyd Gosselink Rochelle & Townsend, P.C.,
816 Congress Avenue, Austin, Texas 78701

Attachment A
Docket Number: 2012-2451-MWD-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent:	City of Rogers
Payable Penalty Amount:	Ten Thousand Five Hundred Fifty-One Dollars (\$10,551)
SEP Amount:	Ten Thousand Five Hundred Fifty-One Dollars (\$10,551)
Type of SEP:	Contribution to a Third-Party Recipient SEP
Third-Party Recipient:	Texas Association of Resource Conservation and Development Areas, Inc. ("RC&D") - Household Hazardous Waste Clean-Up
Location of SEP:	Bell County

The Texas Commission on Environmental Quality ("TCEQ") agrees to offset a portion of the administrative penalty amount assessed in this Agreed Order for Respondent to contribute to a Supplemental Environmental Project ("SEP"). The offset is equal to the SEP amount set forth above and is conditioned upon completion of the project in accordance with the terms of this Attachment A.

1. Project Description

a. Project

Respondent shall contribute the SEP amount to the Third-Party Recipient pursuant to the agreement between the Third-Party Recipient and the TCEQ. Specifically, the contribution will be used to provide local residents with a means of properly disposing household hazardous wastes such as paint, thinners, pesticides, oil and gas, corrosive cleaners, and fertilizers in one day collection events. SEP monies will be used to pay for the associated labor, materials, and disposal costs. Citizens will not be charged disposal fees. The project is administered in accordance with TCEQ guidance on household hazardous waste and in compliance with federal, state, and local environmental laws and regulations. All dollars contributed will be used solely for the direct cost of the project and no portion will be spent on administrative costs. If RC&D is unable to spend the total SEP Offset Amount on this project, upon approval of the Executive Director, the remaining SEP Offset Amount may be applied to another approved RC&D project.

Respondent certifies that there is no prior commitment to do this project and that it is being performed solely in an effort to settle this enforcement action.

b. Environmental Benefit

This SEP will provide a discernible environmental benefit by providing a means of properly disposing household hazardous waste which might otherwise be disposed of in storm drains, the sewage system, or other means detrimental to the environment.

c. Minimum Expenditure

Respondent shall contribute at least the SEP amount to the Third-Party Recipient and comply with all other provisions of this SEP.

2. Performance Schedule

Within 30 days after the effective date of this Agreed Order, Respondent must contribute the SEP amount to the Third-Party Recipient. Respondent shall mail the contribution, with a copy of the Agreed Order, to:

Texas Association of Resource Conservation and Development Areas, Inc.
Attention: Ken Awtrey
P.O. Box 635067
Nacogdoches, Texas 75961

3. Records and Reporting

Concurrent with the payment of the SEP amount, Respondent shall provide the Enforcement Division SEP Coordinator with a copy of the check and transmittal letter indicating full payment of the SEP amount to the Third-Party Recipient. Respondent shall mail a copy of the check and transmittal letter to:

Enforcement Division
Attention: SEP Coordinator, MC 219
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

4. Failure to Fully Perform

If Respondent does not perform its obligations under this SEP in any way, including full payment of the SEP Amount and submittal of the required reporting described in Section 3 above, the Executive Director may require immediate payment of all or part of the SEP amount.

City of Rogers
Agreed Order - Attachment A

The check for any amount due shall be made out to "Texas Commission on Environmental Quality" and mailed to:

Litigation Division
Attention: SEP Coordinator, MC 175
Texas Commission on Environmental Quality
P.O. Box 13088
Austin, Texas 78711-3088

Respondent shall also mail a copy of the check to the Enforcement Division SEP Coordinator at the address in Section 3 above.

5. Publicity

Any public statements concerning this SEP made by or on behalf of Respondent must include a clear statement that the project was performed as part of the settlement of an enforcement action brought by the TCEQ. Such statements include advertising, public relations, and press releases.

6. Clean Texas Program

Respondent shall not include this SEP in any application made to TCEQ under the "Clean Texas" (or any successor) program(s). Similarly, Respondent may not seek recognition for this contribution in any other state or federal regulatory program.

7. Other SEPs by TCEQ or Other Agencies

The SEP identified in this Agreed Order has not been, and shall not be, included as an SEP for Respondent under any other Agreed Order negotiated with the TCEQ or any other agency of the state or federal government.



Penalty Calculation Worksheet (PCW)

DATES	Assigned	19-Nov-2012	Screening	26-Nov-2012	EPA Due	
	PCW	4-Mar-2013				

RESPONDENT/FACILITY INFORMATION	
Respondent	City of Rogers
Reg. Ent. Ref. No.	RN102184678
Facility/Site Region	9-Waco
Major/Minor Source	Minor

CASE INFORMATION			
Enf./Case ID No.	45587	No. of Violations	5
Docket No.	2012-2451-MWD-E	Order Type	1660
Media Program(s)	Water Quality	Government/Non-Profit	Yes
Multi-Media		Enf. Coordinator	Remington Burklund
		EC's Team	Enforcement Team 3
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$25,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)	Subtotal 1	\$9,500
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ADJUSTMENTS (+/-) TO SUBTOTAL 1		
Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.		
Compliance History	50.0% Enhancement	Subtotals 2, 3, & 7
		\$4,750

Notes: Enhancement for six months of self-reported effluent violations and one agreed order that contains a denial of liability.

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

Good Faith Effort to Comply Total Adjustments	Subtotal 5	\$1,062
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Economic Benefit	0.0% Enhancement*	Subtotal 6	\$0
Total EB Amounts	\$860	*Capped at the Total EB \$ Amount	
Approx. Cost of Compliance	\$15,961		

SUM OF SUBTOTALS 1-7	Final Subtotal	\$13,188
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OTHER FACTORS AS JUSTICE MAY REQUIRE	0.0%	Adjustment	\$0
Reduces or enhances the Final Subtotal by the indicated percentage.			

Notes:

Final Penalty Amount	\$13,188
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$13,188
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DEFERRAL	20.0% Reduction	Adjustment	-\$2,637
Reduces the Final Assessed Penalty by the indicted percentage. (Enter number only; e.g. 20 for 20% reduction.)			

Notes:

Deferral offered for expedited settlement.

PAYABLE PENALTY	\$10,551
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Screening Date 26-Nov-2012

Docket No. 2012-2451-MWD-E

PCW

Respondent City of Rogers

Policy Revision 3 (September 2011)

Case ID No. 45587

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN102184678

Media [Statute] Water Quality

Enf. Coordinator Remington Burkland

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	0	0%
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) 50%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Satisfactory Performer

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance History Notes

Enhancement for six months of self-reported effluent violations and one agreed order that contains a denial of liability.

Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7) 50%

>> Final Compliance History Adjustment

Final Adjustment Percentage *capped at 100% 50%

Screening Date 26-Nov-2012

Docket No. 2012-2451-MWD-E

PCW

Respondent City of Rogers

Policy Revision 3 (September 2011)

Case ID No. 45587

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN102184678

Media [Statute] Water Quality

Enf. Coordinator Remington Burklund

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code § 305.125(1) and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0010804001, Operational Requirements No. 1

Violation Description Failed to ensure at all times that the Facility and all of its systems of collection, treatment, and disposal are properly operated and maintained, as documented during the investigation conducted on September 12, 2012. Specifically, the Imhoff Tank contained excessive grease and solids.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
Actual					5.0%
Potential		x			

>> Programmatic Matrix

OR	Falsification	Harm			Percent
		Major	Moderate	Minor	
Actual					0.0%
Potential					

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

Adjustment \$23,750

\$1,250

Violation Events

Number of Violation Events 1 Number of violation days 75

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

Violation Base Penalty \$1,250

One quarterly event is recommended from the September 12, 2012 investigation date until the November 26, 2012 screening date.

Good Faith Efforts to Comply

10.0% Reduction \$125

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

Notes The Respondent achieved compliance by December 10, 2012, after the November 9, 2012 NOE.

Violation Subtotal \$1,125

Economic Benefit (EB) for this violation

Estimated EB Amount \$71

Statutory Limit Test

Violation Final Penalty Total \$1,750

This violation Final Assessed Penalty (adjusted for limits) \$1,750

Economic Benefit Worksheet

Respondent City of Rogers
Case ID No. 45587
Reg. Ent. Reference No. RN102184678
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)	\$4,000	12-Sep-2012	10-Dec-2012	0.24	\$3	\$65	\$68
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling	\$250	12-Sep-2012	10-Dec-2012	0.24	\$3	n/a	\$3
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost remove excess grease and solids from the collection system Imhoff tank and update the Facility's operational guidance and conduct employee training to ensure that the Imhoff tank is properly maintained. The date required is the investigation date and the 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

\$4,250

TOTAL

\$71

Screening Date 26-Nov-2012

Docket No. 2012-2451-MWD-E

PCW

Respondent City of Rogers

Policy Revision 3 (September 2011)

Case ID No. 45587

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN102184678

Media [Statute] Water Quality

Enf. Coordinator Remington Burklund

Violation Number 2

Rule Cite(s) 30 Tex. Admin. Code §§ 30.350(d) and (j) and 305.125(1), and TPDES Permit No. WQ0010804001, Other Requirements No. 1

Violation Description Failed to employ at least one licensed operator who holds a category "D" license or higher, as documented during the investigation conducted on September 12, 2012.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual				15.0%
	Potential	x			

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
				0.0%

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

Adjustment \$21,250

\$3,750

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 \$3,750

One monthly event is recommended from the September 12, 2012 investigation date until the October 12, 2012 compliance date.

Good Faith Efforts to Comply

25.0% Reduction \$937

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

Notes The Respondent achieved compliance by October 12, 2012, prior to the November 9, 2012 NOE.

Violation Subtotal \$2,813

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$195

Violation Final Penalty Total \$4,688

This violation Final Assessed Penalty (adjusted for limits) \$4,688

Economic Benefit Worksheet

Respondent City of Rogers
Case ID No. 45587
Reg. Ent. Reference No. RN102184678
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
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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]				0.00	\$0	\$0	\$0
Other (as needed)	\$186	12-Sep-2012	12-Oct-2012	1.00	\$9	\$186	\$195

Notes for AVOIDED costs

Estimated avoided cost to employ at least one licensed operator who holds a category "D" license or higher. The date required is the investigation date and the final date is the date of compliance.

Approx. Cost of Compliance

\$186

TOTAL

\$195

Screening Date 26-Nov-2012
Respondent City of Rogers
Case ID No. 45587
Reg. Ent. Reference No. RN102184678
Media [Statute] Water Quality
Enf. Coordinator Remington Burklund
Violation Number 3

Docket No. 2012-2451-MWD-E

PCW

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

Rule Cite(s) 30 Tex. Admin. Code § 305.125(1) and TPDES Permit No. WQ0010804001, Operational Requirements No. 1

Violation Description Failed to ensure at all times that the Facility and all of its systems of collection, treatment, and disposal are properly operated and maintained, as documented during the investigation conducted on September 12, 2012. Specifically, three lift stations had visual alarms but no audio alarms.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

Release	Harm			Percent
	Major	Moderate	Minor	
Actual				5.0%
Potential		x		

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
				0.0%

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

Adjustment \$23,750

\$1,250

Violation Events

Number of Violation Events Number of violation days

mark only one with an x

daily	
weekly	
monthly	
quarterly	x
semiannual	
annual	
single event	

Violation Base Penalty \$1,250

One quarterly event is recommended from the September 12, 2012 investigation date until the November 26, 2012 screening date.

Good Faith Efforts to Comply

0.0% 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 for this violation.

Violation Subtotal \$1,250

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$31

Violation Final Penalty Total \$1,875

This violation Final Assessed Penalty (adjusted for limits) \$1,875

Economic Benefit Worksheet

Respondent City of Rogers
Case ID No. 45587
Reg. Ent. Reference No. RN102184678
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
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No commas or \$

Delayed Costs

Equipment	\$1,200	12-Sep-2012	25-Jan-2013	0.37	\$1	\$30	\$31
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

Estimated cost to install audio alarms on all collection system lift stations. The date required is the investigation date and the 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

\$1,200

TOTAL

\$31

Screening Date 26-Nov-2012

Docket No. 2012-2451-MWD-E

PCW

Respondent City of Rogers

Policy Revision 3 (September 2011)

Case ID No. 45587

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN102184678

Media [Statute] Water Quality

Enf. Coordinator Remington Burklund

Violation Number 4

Rule Cite(s) Tex. Water Code § 26.121(a)(1), 30 Tex. Admin. Code § 305.125(1), TPDES Permit No. WQ0010804001, Final Effluent Limitations and Monitoring Requirements No. 7

Violation Description Failed to comply with permitted effluent limitations for the monitoring periods ending May 31, 2012 through September 30, 2012, as documented in investigation conducted on September 12, 2012, and as shown in the attached violation table.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm			Percent
	Major	Moderate	Minor	
Actual			X	5.0%
Potential				

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
				0.0%

Matrix Notes

Dissolved oxygen was evaluated to determine whether the discharged amounts of pollutants exceeded levels protective of human health and the environment. As a result of these discharges, human health or the environment has been exposed to insignificant amounts of contaminants which do not exceed levels protective of human health or the environment.

Adjustment \$23,750

\$1,250

Violation Events

Number of Violation Events 2 210 Number of violation days

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

Violation Base Penalty \$2,500

Two quarterly events are recommended.

Good Faith Efforts to Comply

0.0% Reduction

\$0

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

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

Violation Subtotal \$2,500

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$541

Violation Final Penalty Total \$3,750

This violation Final Assessed Penalty (adjusted for limits) \$3,750

Economic Benefit Worksheet

Respondent City of Rogers
Case ID No. 45587
Reg. Ent. Reference No. RN102184678
Media Water Quality
Violation No. 4

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)	\$10,000	31-May-2012	30-Jun-2013	1.08	\$541	n/a	\$541

Notes for DELAYED costs

Estimated cost to determine the cause of non-compliance and to make any necessary adjustments/repairs to the Facility to return to compliance with permitted effluent limitations. Date Required is the initial date of non-compliance. Final Date is the expected date of compliance.

Avoided Costs

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

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

Notes for AVOIDED costs

Approx. Cost of Compliance \$10,000

TOTAL \$541

Screening Date 26-Nov-2012

Docket No. 2012-2451-MWD-E

PCW

Respondent City of Rogers

Policy Revision 3 (September 2011)

Case ID No. 45587

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN102184678

Media [Statute] Water Quality

Enf. Coordinator Remington Burkland

Violation Number 5

Rule Cite(s) 30 Tex. Admin. Code §§ 305.125(17) and 319.7(d), and TPDES Permit No. WQ0010804001, Monitoring and Reporting Requirements No. 1

Violation Description Failed to timely submit discharge monitoring reports ("DMRs") by the 20th day of the following month for the monthly monitoring periods ending December 31, 2011, January 31, 2012, and July 31, 2012, as documented during the investigation conducted on September 12, 2012.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

Release	Harm			Percent
	Major	Moderate	Minor	
Actual				0.0%
Potential				

>> Programmatic Matrix

Matrix Notes	Falsification			Percent
	Major	Moderate	Minor	
			x	1.0%
Less than 30% of the rule requirement was not met.				

Adjustment \$24,750

\$250

Violation Events

Number of Violation Events 3 342 Number of violation days

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

Violation Base Penalty \$750

Three single events are recommended.

Good Faith Efforts to Comply

0.0% Reduction \$0

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

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

Violation Subtotal \$750

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$21

Violation Final Penalty Total \$1,125

This violation Final Assessed Penalty (adjusted for limits) \$1,125

Economic Benefit Worksheet

Respondent City of Rogers
Case ID No. 45587
Reg. Ent. Reference No. RN102184678
Media Water Quality
Violation No. 5

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling	\$250	20-Jan-2012	30-Jun-2013	1.44	\$18	n/a	\$18
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$75	20-Jan-2012	10-Dec-2012	0.89	\$3	n/a	\$3

Notes for DELAYED costs

Estimated cost to prepare and submit DMRs (\$25 per report) and update the Facility's operational guidance and conduct employee training to ensure that all reporting requirements are properly accomplished. Dates Required are the date the first DMR was due. The Final Dates are the date the DMRs were submitted and the expected date that training will be completed.

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 \$325

TOTAL \$21

City of Rogers
Docket No. 2012-2451-MWD-E
TPDES Permit No. WQ0010804001

Effluent Parameter Violation Table

	Dissolved Oxygen
	Daily Minimum Concentration
Month/Year	Limit = 4.0 mg/L
May 2012	1.6
June 2012	2.9
July 2012	2
August 2012	3.2
September 2012	3
September 12, 2012*	3.16

* = grab sample

mg/L = milligrams per liter

The TCEQ is committed to accessibility.

To request a more accessible version of this report, please contact the TCEQ Help Desk at (512) 239-4357.



TCEQ Compliance History Report

Customer, Respondent, or Owner/Operator: CN600340731, City of Rogers

Classification: SATISFACTORY

Rating: 3.19

Regulated Entity: RN102184678, CITY OF ROGERS

Classification: SATISFACTORY

Rating: 3.83

Complexity Points: 5

Repeat Violator: NO

CH Group: 08 - Sewage Treatment Facilities

Location: South of the City of Rogers, immediately west of Farm-to-Market Road 437 and approximately 0.75 mile south of the intersection of U.S. Highway 190 and Farm-to-Market Road 437, in Bell County, Texas.

TCEQ Region: REGION 09 - WACO

ID Number(s):

WASTEWATER PERMIT WQ0010804001
SLUDGE REGISTRATION 22654

WASTEWATER EPA ID TX0027103
WATER QUALITY NON PERMITTED ID NUMBER
090100504

WASTEWATER LICENSING LICENSE WQ0010804001

Compliance History Period: September 01, 2007 to August 31, 2012 **Rating Year:** 2012 **Rating Date:** 09/01/2012

Date Compliance History Report Prepared: November 21, 2012

Agency Decision Requiring Compliance History: Enforcement

Component Period Selected: November 21, 2007 to November 21, 2012

TCEQ Staff Member to Contact for Additional Information Regarding This Compliance History.

Name: Remington Burklund

Phone: (512) 239-2611

Site and Owner/Operator History:

- 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 for #2, who is the current owner/operator? N/A
- 4) If YES for #2, 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

Components (Multimedia) for the Site Are Listed in Sections A - J

A. Final Orders, court judgments, and consent decrees:

- 1 Effective Date: 01/28/2008 ADMINORDER 2007-0833-MWD-E (1660 Order-Agreed Order With Denial)
 Classification: Moderate
 Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
 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.
 Classification: Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(17)
 Rqmt Prov:Self-reporting Requirements PERMIT
 Description: Failure to submit monitoring results at the intervals specified in the permit as documented by a TCEQ record review.

B. Criminal convictions:

N/A

C. Chronic excessive emissions events:

N/A

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

Item 1	December 06, 2007	(620936)
Item 2	February 28, 2008	(673107)
Item 3	May 28, 2008	(670947)
Item 4	June 30, 2008	(712103)
Item 5	September 24, 2008	(712106)
Item 6	October 30, 2008	(728478)
Item 7	December 01, 2008	(751568)
Item 8	January 02, 2009	(751569)
Item 9	July 02, 2009	(926032)
Item 10	August 03, 2009	(926033)
Item 11	September 06, 2009	(926034)
Item 12	September 25, 2009	(926035)
Item 13	October 26, 2009	(926036)
Item 14	December 01, 2009	(807688)
Item 15	January 04, 2010	(807689)
Item 16	June 28, 2010	(846611)
Item 17	September 22, 2010	(867249)
Item 18	November 17, 2010	(888376)
Item 19	December 02, 2010	(896669)
Item 20	February 01, 2011	(909457)
Item 21	August 23, 2011	(959686)
Item 22	October 04, 2011	(1031952)
Item 23	November 02, 2011	(971770)
Item 24	February 21, 2012	(998361)
Item 25	March 27, 2012	(1003885)
Item 26	May 09, 2012	(1010449)
Item 27	June 14, 2012	(1016836)

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

A notice of violation represents a written allegation of a violation of a specific regulatory requirement from the commission to a regulated entity. A notice of violation is not a final enforcement action, nor proof that a violation has actually occurred.

1	Date: 11/30/2011 (990988)	CN600340731	
	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		
2	Date: 05/31/2012 (1024573)	CN600340731	
	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		
3	Date: 06/30/2012	CN600340731	
	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		
4	Date: 07/31/2012	CN600340731	
	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		
5	Date: 08/31/2012	CN600340731	
	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		

6

Date: 09/30/2012

CN600340731

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 ROGERS
RN102184678**

**§
§
§
§
§**

**BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY**

**AGREED ORDER
DOCKET NO. 2012-2451-MWD-E**

I. JURISDICTION AND STIPULATIONS

On _____, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding the City of Rogers ("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, represented by Sara Thornton of the law firm of Lloyd Gosselink Rochelle & Townsend, P.C., together stipulate that:

1. The Respondent owns and operates a wastewater treatment plant located south of Rogers, immediately west of Farm-to-Market Road 437 and approximately 0.75 mile south of the intersection of United States Highway 190 and Farm-to-Market Road 437 in Bell County, Texas (the "Facility").
2. The Respondent has discharged municipal waste into or adjacent to any water in the state under TEX. WATER CODE ch. 26.
3. The Executive Director and the Respondent agree that the Commission has jurisdiction to enter this Agreed Order, and that the Respondent is subject to the Commission's jurisdiction.
4. The Respondent received notice of the violations alleged in Section II ("Allegations") on or about November 14, 2012.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by the Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.

6. An administrative penalty in the amount of Thirteen Thousand One Hundred Eighty-Eight Dollars (\$13,188) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). Two Thousand Six Hundred Thirty-Seven Dollars (\$2,637) 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. Ten Thousand Five Hundred Fifty-One Dollars (\$10,551) shall be conditionally offset by Respondent's completion of a Supplemental Environmental Project ("SEP").
7. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.
8. The Executive Director and the Respondent agree on a settlement of the matters alleged in this enforcement action, subject to final approval in accordance with 30 TEX. ADMIN. CODE § 70.10(a).
9. The Executive Director recognizes that the Respondent has implemented the following corrective measures at the Facility:
 - a. By October 12, 2012, obtained a category "D" or higher licensed wastewater treatment operator for the Facility.
 - b. By December 10, 2012:
 - i. Removed excessive grease and solids from the Imhoff Tank and developed a standard operating procedure for regular maintenance of the Imhoff Tank to ensure proper operation of the treatment system; and
 - ii. Submitted discharge monitoring reports ("DMRs") for the monitoring periods ending December 31, 2011, January 31, 2012, and July 31, 2012.
 - c. By January 25, 2013, submitted documentation that audio alarms were installed for the three lift stations.
10. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
11. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
12. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

II. ALLEGATIONS

As owner and operator of the Facility, the Respondent is alleged to have:

1. Failed to ensure at all times that the Facility and all of its systems of collection, treatment, and disposal are properly operated and maintained, in violation of 30 TEX. ADMIN. CODE § 305.125(1) and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0010804001, Operational Requirements No. 1, as documented during an investigation conducted on September 12, 2012. Specifically, the Imhoff Tank contained excessive grease and solids.
2. Failed to employ at least one licensed operator who holds a category "D" license or higher, in violation of 30 TEX. ADMIN. CODE §§ 30.350(d) and (j) and 305.125(1), and TPDES Permit No. WQ0010804001, Other Requirements No. 1, as documented during an investigation conducted on September 12, 2012.
3. Failed to ensure at all times that the Facility and all of its systems of collection, treatment, and disposal are properly operated and maintained, in violation of 30 TEX. ADMIN. CODE § 305.125(1) and TPDES Permit No. WQ0010804001, Operational Requirements No. 1, as documented during an investigation conducted on September 12, 2012. Specifically, three lift stations had visual alarms but no audio alarms.
4. Failed to comply with permitted effluent limitations for the monitoring periods ending May 31, 2012 through September 30, 2012, in violation of TEX. WATER CODE § 26.121(a)(1), 30 TEX. ADMIN. CODE § 305.125(1), TPDES Permit No. WQ0010804001, Final Effluent Limitations and Monitoring Requirements No. 7, as documented during an investigation conducted on September 12, 2012, and as shown in the violation table below:

Effluent Parameter Violation Table	
	Dissolved Oxygen
	Daily Minimum Concentration
Month/Year	Limit = 4.0 mg/L
May 2012	1.6
June 2012	2.9
July 2012	2
August 2012	3.2
September 2012	3
September 12, 2012*	3.16

* = grab sample

mg/L = milligrams per liter

5. Failed to timely submit DMRs by the 20th day of the following month for the monthly monitoring periods ending December 31, 2011, January 31, 2012, and July 31, 2012, in violation of 30 TEX. ADMIN. CODE §§ 305.125(17) and 319.7(d), and TPDES Permit No. WQ0010804001, Monitoring and Reporting Requirements No. 1, as documented during an investigation conducted on September 12, 2012.

III. DENIALS

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

IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that the Respondent pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and the Respondent's compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective action or penalties for violations which are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: City of Rogers, Docket No. 2012-2451-MWD-E" to:

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

2. The Respondent shall implement and complete a SEP in accordance with TEX. WATER CODE § 7.067. As set forth in Section I, Paragraph 6 above, Ten Thousand Five Hundred Fifty-One Dollars (\$10,551) of the assessed administrative penalty shall be offset with the condition that Respondent implement the SEP defined in Attachment A, incorporated herein by reference. Respondent's obligation to pay the conditionally offset portion of the administrative penalty assessed shall be discharged upon final completion of all provisions of the SEP agreement.
3. It is further ordered that the Respondent shall undertake the following technical requirements:
 - a. Within 30 days after the effective date of this Agreed Order, update the Facility's operational guidance and conduct employee training to ensure that self-reporting requirements are properly accomplished, including the timely submittal of signed and certified monthly DMRs, in accordance with TPDES Permit No. WQ0010804001, Monitoring and Reporting Requirements No. 1; and
 - b. Within 45 days after the effective date of this Agreed Order, submit written certification of compliance with Ordering Provision No. 3.a, in accordance with Ordering Provision No. 3.d below; and

- c. Within 180 days after the effective date of this Agreed Order, submit written certification of compliance with the permitted effluent limitations of TPDES Permit No. WQ0010804001, including specific corrective actions that were implemented at the Facility to achieve compliance and copies of the most current self-reporting DMRs, demonstrating at least three consecutive months of compliance with all permitted effluent limitations. The certification shall include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance, in accordance with Ordering Provision No. 3.d below; and
- d. The certifications required by Ordering Provision Nos. 3.b and 3.c 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:

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

4. 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.
5. 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.

6. 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.
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. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to the Respondent, or three days after the date on which the Commission mails notice of the Order to the Respondent, whichever is earlier.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

Pam Dowling
For the Executive Director

5/9/12
Date

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

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

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

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

Billy R. Crow
Signature

3/11/2013
Date

Billy R. Crow
Name (Printed or typed)
Authorized Representative of
City of Rogers

Mayor
Title

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

Attachment A
Docket Number: 2012-2451-MWD-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent:	City of Rogers
Payable Penalty Amount:	Ten Thousand Five Hundred Fifty-One Dollars (\$10,551)
SEP Amount:	Ten Thousand Five Hundred Fifty-One Dollars (\$10,551)
Type of SEP:	Contribution to a Third-Party Recipient SEP
Third-Party Recipient:	Texas Association of Resource Conservation and Development Areas, Inc. (“RC&D”) - Household Hazardous Waste Clean-Up
Location of SEP:	Bell County

The Texas Commission on Environmental Quality (“TCEQ”) agrees to offset a portion of the administrative penalty amount assessed in this Agreed Order for Respondent to contribute to a Supplemental Environmental Project (“SEP”). The offset is equal to the SEP amount set forth above and is conditioned upon completion of the project in accordance with the terms of this Attachment A.

1. Project Description

a. Project

Respondent shall contribute the SEP amount to the Third-Party Recipient pursuant to the agreement between the Third-Party Recipient and the TCEQ. Specifically, the contribution will be used to provide local residents with a means of properly disposing household hazardous wastes such as paint, thinners, pesticides, oil and gas, corrosive cleaners, and fertilizers in one day collection events. SEP monies will be used to pay for the associated labor, materials, and disposal costs. Citizens will not be charged disposal fees. The project is administered in accordance with TCEQ guidance on household hazardous waste and in compliance with federal, state, and local environmental laws and regulations. All dollars contributed will be used solely for the direct cost of the project and no portion will be spent on administrative costs. If RC&D is unable to spend the total SEP Offset Amount on this project, upon approval of the Executive Director, the remaining SEP Offset Amount may be applied to another approved RC&D project.

Respondent certifies that there is no prior commitment to do this project and that it is being performed solely in an effort to settle this enforcement action.

b. Environmental Benefit

This SEP will provide a discernible environmental benefit by providing a means of properly disposing household hazardous waste which might otherwise be disposed of in storm drains, the sewage system, or other means detrimental to the environment.

c. Minimum Expenditure

Respondent shall contribute at least the SEP amount to the Third-Party Recipient and comply with all other provisions of this SEP.

2. Performance Schedule

Within 30 days after the effective date of this Agreed Order, Respondent must contribute the SEP amount to the Third-Party Recipient. Respondent shall mail the contribution, with a copy of the Agreed Order, to:

Texas Association of Resource Conservation and Development Areas, Inc.
Attention: Ken Awtrey
P.O. Box 635067
Nacogdoches, Texas 75961

3. Records and Reporting

Concurrent with the payment of the SEP amount, Respondent shall provide the Enforcement Division SEP Coordinator with a copy of the check and transmittal letter indicating full payment of the SEP amount to the Third-Party Recipient. Respondent shall mail a copy of the check and transmittal letter to:

Enforcement Division
Attention: SEP Coordinator, MC 219
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

4. Failure to Fully Perform

If Respondent does not perform its obligations under this SEP in any way, including full payment of the SEP Amount and submittal of the required reporting described in Section 3 above, the Executive Director may require immediate payment of all or part of the SEP amount.

City of Rogers
Agreed Order - Attachment A

The check for any amount due shall be made out to "Texas Commission on Environmental Quality" and mailed to:

Litigation Division
Attention: SEP Coordinator, MC 175
Texas Commission on Environmental Quality
P.O. Box 13088
Austin, Texas 78711-3088

Respondent shall also mail a copy of the check to the Enforcement Division SEP Coordinator at the address in Section 3 above.

5. Publicity

Any public statements concerning this SEP made by or on behalf of Respondent must include a clear statement that the project was performed as part of the settlement of an enforcement action brought by the TCEQ. Such statements include advertising, public relations, and press releases.

6. Clean Texas Program

Respondent shall not include this SEP in any application made to TCEQ under the "Clean Texas" (or any successor) program(s). Similarly, Respondent may not seek recognition for this contribution in any other state or federal regulatory program.

7. Other SEPs by TCEQ or Other Agencies

The SEP identified in this Agreed Order has not been, and shall not be, included as an SEP for Respondent under any other Agreed Order negotiated with the TCEQ or any other agency of the state or federal government.