

City of Roscoe
RN105605927
Docket No. 2012-1473-MWD-E

Order Type:

Agreed Order

Media:

MWD

Small Business:

N/A

Location(s) Where Violation(s) Occurred:

Approximately three-fifths of a mile south of the intersection of Interstate 20 and Cemetery Road,
Roscoe, Nolan County

Type of Operation:

wastewater treatment facility

Other Significant Matters:

Additional Pending Enforcement Actions:	None
Past-Due Penalties:	None
Past-Due Fees:	None
Other:	None
Interested Third-Parties:	None

Texas Register Publication Date: January 3, 2014

Comments Received: None

Penalty Information

Total Penalty Assessed: \$13,000

Total Paid to General Revenue: \$6,502

Total Due to General Revenue: \$6,498

Payment Plan: 6 payments of \$1,083 each

Compliance History Classifications:

Person/CN – Average
Site/RN – Average

Major Source: No

Statutory Limit Adjustment: None

Applicable Penalty Policy: September 2011

City of Roscoe

RN105605927

Docket No. 2012-1473-MWD-E

Investigation Information

Complaint Date(s): April 4, 2012
Complaint Information: Alleged a strong, bad odor from the treatment plant and fear of a mosquito nuisance, concerned about the integrity of the embankment and liner and that well water may become contaminated.

Date(s) of Investigation: April 26, 2012

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

Date(s) of NOE(s): June 18, 2012

Violation Information

1. Failed to employ or contract with a Category D or higher licensed wastewater treatment operator [30 TEX. ADMIN. CODE §§ 30.350(d) and 305.125(1); and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0010263002, Special Provision No. 2].
2. Failed to properly protect the embankments of the treated effluent storage lagoon from erosion [30 TEX. ADMIN. CODE § 217.203(e)(4) and TPDES Permit No. WQ0010263002, Operational Requirement No. 1 and Special Provision No. 11].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:
None

Technical Requirements:

1. Within 30 days, employ or contract with an individual that holds a Category D or higher wastewater treatment operator's license to operate the Facility.
2. Within 45 days, submit written certification for Technical Requirement No. 1.
3. Within 90 days, repair the erosion on the Facility's treated effluent storage lagoon and ensure that the embankments are properly protected from erosion.
4. Within 105 days, submit written certification for Technical Requirement No. 3.

Litigation Information

Date Petition(s) Filed: August 15, 2013

Date Answer(s) Filed: N/A

Settlement Date: November 19, 2013

Contact Information

TCEQ Attorneys: David A. Terry, Litigation Division, (512) 239-3400
Lena Roberts, Litigation Division, (512) 239-3400
Blas Coy, Public Interest Counsel, (512) 239-6363

TCEQ Enforcement Coordinator: Jorge Ibarra, Enforcement Division, (817) 588-5890

TCEQ Regional Contact: Michael Taylor, Abilene Regional Office, (325) 698-9674

Respondent: The Honorable Frank Porter, Mayor, City of Roscoe, P.O. Box 340, Roscoe, Texas 79545

Respondent's Attorney: N/A



Penalty Calculation Worksheet (PCW)

Policy Revision 3 (September 2011)

PCW Revision August 3, 2011

TCEQ

DATES	Assigned	25-Jun-2012		
	PCW	8-Jul-2013	Screening	25-Jul-2012
			EPA Due	

RESPONDENT/FACILITY INFORMATION	
Respondent	City of Roscoe
Reg. Ent. Ref. No.	RN105605927
Facility/Site Region	3-Abilene
Major/Minor Source	Minor

CASE INFORMATION			
Enf./Case ID No.	44602	No. of Violations	2
Docket No.	2012-1473-MWD-E	Order Type	1660
Media Program(s)	Water Quality	Government/Non-Profit	Yes
Multi-Media		Enf. Coordinator	Stephen Thompson
		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	\$12,500
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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	4.0% Enhancement	Subtotals 2, 3, & 7
		\$500

Notes: Enhancement for two NOVs with dissimilar violations.

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	\$0
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Economic Benefit	0.0% Enhancement*	Subtotal 6	\$0
Total EB Amounts	\$430	*Capped at the Total EB \$ Amount	
Approx. Cost of Compliance	\$5,186		

SUM OF SUBTOTALS 1-7	Final Subtotal	\$13,000
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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 \$13,000

STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$13,000
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DEFERRAL	0.0%	Reduction	Adjustment	\$0
Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)				

Notes:

Deferral not offered for non-expedited settlement.

PAYABLE PENALTY	\$13,000
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Screening Date 25-Jul-2012

Docket No. 2012-1473-MWD-E

PCW

Respondent City of Roscoe

Policy Revision 3 (September 2011)

Case ID No. 44602

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN105605927

Media [Statute] Water Quality

Enf. Coordinator Stephen Thompson

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action (<i>number of NOVs meeting criteria</i>)	0	0%
	Other written NOVs	2	4%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (<i>number of judgements or consent decrees meeting criteria</i>)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (<i>number of counts</i>)	0	0%
Emissions	Chronic excessive emissions events (<i>number of events</i>)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which notices were submitted</i>)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which violations were disclosed</i>)	0	0%
<i>Please Enter Yes or No</i>			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2)

>> Repeat Violator (Subtotal 3)

Adjustment Percentage (Subtotal 3)

>> Compliance History Person Classification (Subtotal 7)

Adjustment Percentage (Subtotal 7)

>> Compliance History Summary

Compliance History Notes

Enhancement for two NOVs with dissimilar violations.

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

>> Final Compliance History Adjustment

Final Adjustment Percentage *capped at 100%

Screening Date 25-Jul-2012 **Docket No.** 2012-1473-MWD-E **PCW**
Respondent City of Roscoe *Policy Revision 3 (September 2011)*
Case ID No. 44602 *PCW Revision August 3, 2011*
Reg. Ent. Reference No. RN105605927
Media [Statute] Water Quality
Enf. Coordinator Stephen Thompson

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code §§ 30.350(d) and 305.125(1) and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0010263002, Special Provision No. 2

Violation Description Failed to employ or contract with a Category D or higher licensed wastewater treatment operator. Specifically, at the time of the investigation on April 26, 2012, it was documented that an unlicensed individual was performing process control duties at the Facility.

Base Penalty \$25,000

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

OR	Release	Harm			Percent
		Major	Moderate	Minor	
		Actual			
Potential	x				

>> **Programmatic Matrix**

Matrix Notes	Falsification	Major	Moderate	Minor	Percent

Operating the Facility without an operator may not allow for the proper maintenance and operation of the Facility's equipment. As a result, human health and the environment will or could be exposed to pollutants which would exceed protective levels.

Adjustment \$21,250

\$3,750

Violation Events

Number of Violation Events 3 90 Number of violation days

<i>mark only one with an x</i>	daily	
	weekly	
	monthly	x
	quarterly	
	semiannual	
	annual	
	single event	

Violation Base Penalty \$11,250

Three monthly events are recommended, calculated from the date of the investigation, April 26, 2012, to the date of screening, July 25, 2012.

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 \$11,250

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$197

Violation Final Penalty Total \$11,700

This violation Final Assessed Penalty (adjusted for limits) \$11,700

Economic Benefit Worksheet

Respondent City of Roscoe
Case ID No. 44602
Reg. Ent. Reference No. RN105605927
Media Water Quality
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				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	26-Apr-2012	25-Jul-2012	1.16	\$11	\$186	\$197

Notes for AVOIDED costs

Costs avoided by failing to have the Facility's operator properly licensed. Date required is the investigation date. Final date is the screening date.

Approx. Cost of Compliance \$186

TOTAL \$197

Screening Date 25-Jul-2012
Respondent City of Roscoe
Case ID No. 44602

Docket No. 2012-1473-MWD-E

PCW

Policy Revision 3 (September 2011)

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN105605927
Media [Statute] Water Quality
Enf. Coordinator Stephen Thompson

Violation Number 2

Rule Cite(s) 30 Tex. Admin. Code § 217.203(e)(4) and TPDES Permit No. WQ0010263002, Operational Requirement No. 1 and Special Provision No. 11

Violation Description
 Failed to properly protect the embankments of the treated effluent storage lagoon from erosion. Specifically, at the time of the investigation, it was documented that the embankment of the treated effluent storage lagoon had suffered soil collapses near the waterline as a result of the erosion control mesh not extending far enough down the embankment.

Base Penalty \$25,000

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

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

>> **Programmatic Matrix**

	Falsification	Major	Moderate	Minor	Percent
					0.0%

Matrix Notes

Failure to properly maintain the embankments of the treated effluent storage lagoon could result in the release of 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 90 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, calculated from the date of the investigation, April 26, 2012, to the date of screening, July 25, 2012.

Good Faith Efforts to Comply

0.0% Reduction

\$0

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

Notes

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

Violation Subtotal \$1,250

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$233

Violation Final Penalty Total \$1,300

This violation Final Assessed Penalty (adjusted for limits) \$1,300

Economic Benefit Worksheet

Respondent City of Roscoe
Case ID No. 44602
Reg. Ent. Reference No. RN105605927
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
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)	\$5,000	26-Apr-2012	1-Apr-2013	0.93	\$233	n/a	\$233

Notes for DELAYED costs

Estimated cost to repair the erosion and properly maintain the treated effluent storage lagoon, calculated from the date of the investigation 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]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$5,000

TOTAL

\$233

Compliance History Report

Customer/Respondent/Owner-Operator: CN600738843 City of Roscoe Classification: AVERAGE Rating: 19.67
Regulated Entity: RN105605927 0.240 MGD WASTEWATER TREATMENT PLANT Classification: AVERAGE Site Rating: 4.25
ID Number(s): WASTEWATER PERMIT WQ0010263002
Location: APPROX 3/5 MI S OF INTX OF I-20 & CEMETARY RD, ROSCOE, NOLAN COUNTY, TX
TCEQ Region: REGION 03 - ABILENE
Date Compliance History Prepared: July 25, 2012
Agency Decision Requiring Compliance History: Enforcement
Compliance Period: July 25, 2007 to July 25, 2012
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History
Name: Stephen Thompson Phone: (512) 239-2558

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: 9/1/2011 Repeat Violator: NO

Components (Multimedia) for the Site:

- A. Final Enforcement Orders, court judgments, and consent decrees of the State of Texas and the federal government.
N/A
- B. Any criminal convictions of the state of Texas and the federal government.
N/A
- C. Chronic excessive emissions events.
N/A
- D. The approval dates of investigations. (CCEDS Inv. Track. No.)
- | | | |
|---|------------|----------|
| 1 | 05/07/2010 | (801131) |
| 2 | 06/17/2010 | (827004) |
| 3 | 05/26/2011 | (921957) |
- E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)
- | | | | |
|--------------|---|-----------------|--------------------------|
| Date: | 05/07/2010 | (801131) | |
| Self Report? | NO | | Classification: Major |
| Citation: | 30 TAC Chapter 281, SubChapter A 281.25(a)(4) | | |
| Description: | Failure to obtain authorization to discharge storm water associated with construction activities to water in the State through the Construction General Permit (CGP) issued under the Texas Pollutant Discharge Elimination System (TPDES) or an individual permit. | | |
| Date: | 05/26/2011 | (921957) | CN600738843 |
| Self Report? | NO | | Classification: Moderate |
| Citation: | 30 TAC Chapter 319, SubChapter A 319.9(d)
Monitoring Requirements PERMIT | | |
| Description: | Failure to calibrate the pH meter. | | |
| Self Report? | NO | | Classification: Moderate |
| Citation: | 30 TAC Chapter 319, SubChapter A 319.5
Effluent Limitations PERMIT | | |
| Description: | Failure to sample the effluent for BOD at the frequency required by the permit. | | |
| Self Report? | NO | | Classification: Moderate |
| Citation: | 30 TAC Chapter 305, SubChapter F 305.125(1)
Special Provisions PERMIT | | |
| Description: | Failure to post adequate "Do Not Drink The Water" signage. | | |
| Self Report? | NO | | Classification: Moderate |
| Citation: | 30 TAC Chapter 217, SubChapter C 217.63(a)
Operational Requirements PERMIT | | |
| Description: | Failure to provide an electrical quick-connect at the North lift station. | | |
- 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

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TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
CITY OF ROSCOE;
RN105605927**

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§
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§
§

**BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY**

AGREED ORDER

DOCKET NO. 2012-1473-MWD-E

I. JURISDICTION AND STIPULATIONS

On _____, the Texas Commission on Environmental Quality ("Commission" or "TCEQ") considered this agreement of the parties (the "Agreed Order"), resolving an enforcement action regarding City of Roscoe ("Respondent") under the authority of TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, represented by the Litigation Division, and Respondent together stipulate that:

1. Respondent owns and operates a wastewater treatment facility located approximately three-fifths of a mile south of the intersection of Interstate 20 and Cemetery Road in Roscoe, Nolan County, Texas (the "Facility"). The Facility adjoins, is contiguous with, surrounds, or is near or adjacent to state water as defined in TEX. WATER CODE § 26.001(5).
2. This Agreed Order is entered into pursuant to TEX. WATER CODE §§ 7.051 and 7.070. The Commission has jurisdiction of this matter pursuant to TEX. WATER CODE § 5.013 because it alleges violations of TEX. WATER CODE ch. 26. and TCEQ rules.
3. The Executive Director and Respondent agree that the Commission has jurisdiction to enter this Agreed Order, and that Respondent is subject to the Commission's jurisdiction.
4. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
5. An administrative penalty in the amount of thirteen thousand dollars (\$13,000.00) is assessed by the Commission in settlement of the violations alleged in Section II. Respondent paid six thousand five hundred two dollars (\$6,502.00) of the administrative penalty. The remaining amount of six thousand four hundred ninety-eight dollars (\$6,498.00) of the administrative penalty shall be payable in six (6) monthly payments of one thousand eighty-three dollars (\$1,083.00) each. The first monthly payment shall be paid within 30 days after the effective date of this Agreed Order. The subsequent payments shall be paid not later than 30 days following the due date of the previous payment. If Respondent fails to timely and satisfactorily comply with the payment requirements of this Agreed Order, including the payment schedule, the Executive Director may, at his option, accelerate the maturity of the remaining installments, in which event the unpaid balance shall become immediately due and payable without demand or notice. In addition, Respondent's failure to meet the payment schedule of this Agreed Order constitutes the failure by Respondent to timely and satisfactorily comply with all of the terms of this Agreed Order.

6. 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.
7. The Executive Director and Respondent agree on a settlement of the matters addressed in this Agreed Order, subject to final approval in accordance with 30 TEX. ADMIN. CODE § 70.10(a).
8. 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 Respondent has not complied with one or more of the terms or conditions contained in this Agreed Order.
9. 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.
10. 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

1. During an investigation conducted on April 26, 2012, a TCEQ Abilene Regional Office investigator documented that Respondent:
 - a. Failed to employ or contract with a Category D or higher licensed wastewater treatment operator, in violation of 30 TEX. ADMIN. CODE §§ 30.350(d) and 305.125(1); and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0010263002, Special Provision No. 2. Specifically, an unlicensed individual was performing process control duties at the Facility; and
 - b. Failed to properly protect the embankments of the treated effluent storage lagoon from erosion, in violation of 30 TEX. ADMIN. CODE § 217.203(e)(4) and TPDES Permit No. WQ0010263002, Operational Requirement No. 1 and Special Provision No. 11. Specifically, the treated effluent storage lagoon had suffered soil collapses near the waterline as a result of the erosion control mesh not extending far enough down the embankment.
2. Respondent received notice of the violations on or about June 23, 2012.

III. DENIALS

Respondent generally denies each Allegation in Section II.

IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that Respondent pay an administrative penalty as set forth in Section I, Paragraph 5, above. The payment of this administrative penalty and 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 considering or requiring corrective actions or penalties for violations which are not raised here. Administrative penalty payments shall be made payable to "Texas Commission on Environmental Quality" and shall be sent with the notation "Re: City of Roscoe, Docket No. 2012-1473-MWD-E" to:

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

2. Respondent shall undertake the following technical requirements:
- a. Within 30 days after the effective date of this Agreed Order, Respondent shall employ or contract with an individual that holds a Category D or higher wastewater treatment operator's license to operate the Facility, in accordance with 30 TEX. ADMIN. CODE §§ 30.350(d) and TPDES Permit No. WQ0010263002, Special Provision No. 2.
 - b. Within 45 days after the effective date of this Agreed Order, Respondent shall submit written certification, in accordance with Paragraph No. 2.e., below, to demonstrate compliance with Ordering Provision No. 2.a.
 - c. Within 90 days after the effective date of this Agreed Order, Respondent shall repair the erosion on the Facility's treated effluent storage lagoon and ensure that the embankments are properly protected from erosion, in accordance with 30 TEX. ADMIN. CODE § 217.203(e)(4) and TPDES Permit No. WQ0010263002, Operational Provision No. 1 and Special Provision No. 11.
 - d. Within 105 days after the effective date of this Agreed Order, Respondent shall submit written certification, in accordance with Paragraph No. 2.e., below, to demonstrate compliance with Ordering Provision No. 2.c.
 - e. The certifications required by these Ordering Provisions shall be accompanied by detailed supporting documentation, including photographs, receipts, and/or other records, shall be notarized by a State of Texas Notary Public, and shall include the following certification language:

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

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

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

and:

Michael Taylor, Water Section Manager
Abilene Regional Office
Texas Commission on Environmental Quality
1977 Industrial Blvd.
Abilene TX 79602-7833

3. All relief not expressly granted in this Agreed Order is denied.
4. The duties and provisions imposed by this Agreed Order shall apply to and be binding upon Respondent. Respondent is ordered to give notice of this Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
5. If 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, Respondent's failure to comply is not a violation of this Agreed Order. Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. Respondent shall notify the Executive Director within seven days after Respondent becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
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 Respondent shall be made in writing to the Executive Director. Extensions are not effective until Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
7. This Agreed Order, issued by the Commission, shall not be admissible against 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. Pursuant to 30 TEX. ADMIN. CODE § 70.10(b) and TEX. GOV'T CODE § 2001.142, the effective date of this Agreed Order is the date of hand delivery of this Agreed Order to Respondent, or three days after the date on which the Commission mails a copy of the fully executed Agreed Order to Respondent, whichever is earlier.

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SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission



For the Executive Director

March 6, 2014
Date

I, the undersigned, have read and understand the attached Agreed Order. I represent that I am authorized to agree to the attached Agreed Order on behalf of City of Roscoe, 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 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;
- 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, I understand that any falsification of any compliance documents may result in criminal prosecution.



Signature -The Honorable Frank Porter, Mayor
City of Roscoe

11-19-2013
Date