

Executive Summary – Enforcement Matter – Case No. 50169

City of Roscoe

RN101917581

Docket No. 2019-1683-MSW-E

Order Type:

Findings Agreed Order

Findings Order Justification:

Indifference to legal duty based on violation of a previous order.

Media:

MSW

Small Business:

No

Location(s) Where Violation(s) Occurred:

City of Roscoe WWTP, located approximately 0.7 mile east of the intersection of Farm-to-Market Road 608 and U.S. Highway 80, on the north side of the westbound service road to IH-20, Roscoe, Nolan 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: The complainant has expressed an interest in this matter but does not wish to speak at Agenda.

Texas Register Publication Date: April 15, 2022

Comments Received: No

Penalty Information

Total Penalty Assessed: \$24,900

Total Paid to General Revenue: \$0

Total Due to General Revenue: \$0

Payment Plan: N/A

Supplemental Environmental Project (“SEP”) Conditional Offset: \$24,900

Name of SEP: Roscoe MSW Disposal (Compliance)

Compliance History Classifications:

Person/CN - Satisfactory

Site/RN - Satisfactory

Major Source: No

Statutory Limit Adjustment: N/A

Applicable Penalty Policy: April 2014

Investigation Information

Complaint Date(s): June 16, 2014

Complaint Information: Alleged there was a burn event at the facility.

Date(s) of Investigation: September 25, 2019

Date(s) of NOE(s): November 14, 2019

Executive Summary – Enforcement Matter – Case No. 50169
City of Roscoe
RN101917581
Docket No. 2019-1683-MSW-E

Violation Information

1. Caused, suffered, allowed or permitted the unauthorized disposal of municipal solid waste (“MSW”) [30 TEX. ADMIN. CODE § 330.15(a) and (c) and TCEQ Agreed Order, Docket No. 2015-0335-MLM-E, Ordering Provision Nos. 2.a.i and 2.b].
2. Failed to close the wastewater treatment storage ponds in accordance with the closure plan approved by the TCEQ on September 16, 2011 [TEX. WATER CODE § 7.101 and TCEQ Agreed Order, Docket No. 2015-0335-MLM-E, Ordering Provision No. 2.c].
3. Failed to pay outstanding Public Health Service fees, including any associated late fees, for TCEQ Financial Administration Account No. 91770001 [30 TEX. ADMIN. CODE § 290.51(a)(6) and TEX. WATER CODE § 5.702].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

N/A

Technical Requirements:

1. The Order will require the Respondent to implement and complete a SEP (see SEP Attachment A).
2. The Order will also require the Respondent to:
 - a. Immediately, cease disposing of any additional MSW at the Site;
 - b. Within 30 days, remove all MSW from the Site and dispose of it at an authorized facility;
 - c. Within 60 days, close the wastewater treatment storage ponds in accordance with the closure plan approved by the TCEQ on September 16, 2011; and
 - d. Within 75 days, submit written certification to demonstrate compliance with a. through c.

Executive Summary – Enforcement Matter – Case No. 50169
City of Roscoe
RN101917581
Docket No. 2019-1683-MSW-E

Contact Information

TCEQ Attorney: N/A

TCEQ Enforcement Coordinator: Ken Moller, Enforcement Division, Enforcement Team 7, MC 219, (512) 239-6111; Michael Parrish, Enforcement Division, MC 219, (512) 239-2548

TCEQ SEP Coordinator: Betty Sanders, SEP Coordinator, Litigation Division, MC 175, (512) 239-3992

Respondent: The Honorable Frank Porter, Mayor, City of Roscoe, 115 Cypress Street, Roscoe, Texas 79545

Respondent's Attorney: N/A



Penalty Calculation Worksheet (PCW)

Policy Revision 4 (April 2014)

PCW Revision March 26, 2014

TCEQ

DATES	Assigned	18-Nov-2019	Screening	21-Nov-2019	EPA Due	
	PCW	22-Jul-2021				

RESPONDENT/FACILITY INFORMATION	
Respondent	City of Roscoe
Reg. Ent. Ref. No.	RN101917581
Facility/Site Region	3-Abilene
Major/Minor Source	Minor

CASE INFORMATION			
Enf./Case ID No.	50169	No. of Violations	3
Docket No.	2019-1683-MSW-E	Order Type	Findings
Media Program(s)	Municipal Solid Waste	Government/Non-Profit	Yes
Multi-Media		Enf. Coordinator	Ken Moller
		EC's Team	Enforcement Team 7
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$25,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)	Subtotal 1	\$20,750
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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	20.0% Adjustment	Subtotals 2, 3, & 7	\$4,150
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Notes	Enhancement for one prior Agreed Order containing a denial of liability.
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Culpability	No	0.0% Enhancement	Subtotal 4	\$0
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Notes	The Respondent does not meet the culpability criteria.
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Good Faith Effort to Comply Total Adjustments	Subtotal 5	\$0
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Economic Benefit	0.0% Enhancement*	Subtotal 6	\$0
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Total EB Amounts	\$7,287	*Capped at the Total EB \$ Amount
Estimated Cost of Compliance	\$30,500	

SUM OF SUBTOTALS 1-7	Final Subtotal	\$24,900
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OTHER FACTORS AS JUSTICE MAY REQUIRE	0.0%	Adjustment	\$0
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes	
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Final Penalty Amount	\$24,900
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$24,900
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DEFERRAL	0.0%	Reduction	Adjustment	\$0
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Reduces the Final Assessed Penalty by the indicated percentage.

Notes	No deferral is recommended for Findings Orders.
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PAYABLE PENALTY	\$24,900
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Screening Date 21-Nov-2019

Docket No. 2019-1683-MSW-E

PCW

Respondent City of Roscoe

Policy Revision 4 (April 2014)

Case ID No. 50169

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN101917581

Media Municipal Solid Waste

Enf. Coordinator Ken Moller

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Number	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	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 judgments 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%
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) 20%

>> 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 one prior Agreed Order containing a denial of liability.

Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7) 20%

>> Final Compliance History Adjustment

Final Adjustment Percentage *capped at 100% 20%

Screening Date 21-Nov-2019

Docket No. 2019-1683-MSW-E

PCW

Respondent City of Roscoe

Policy Revision 4 (April 2014)

Case ID No. 50169

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN101917581

Media Municipal Solid Waste

Enf. Coordinator Ken Moller

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code § 330.15(a) and (c) and TCEQ Agreed Order, Docket No. 2015-0335-MLM-E, Ordering Provision Nos. 2.a.i and 2.b

Violation Description The Respondent caused, suffered, allowed or permitted the unauthorized disposal of municipal solid waste ("MSW"). Specifically, approximately 457 cubic yards of MSW consisting of construction and demolition debris, brick, concrete, clay pipe, PVC pipe, wood, rebar, one visible manhole cover, and three manhole rings, were disposed of on the ground at the Site, including in the former wastewater treatment plant's storage ponds.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

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

>>> Programmatic Matrix

Matrix Notes	Falsification	Major	Moderate	Minor	Percent

Human health or the environment has been exposed to insignificant amounts of pollutants that do 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 16 Number of violation days 1,447

daily	
weekly	
monthly	
quarterly	x
semiannual	
annual	
single event	

Violation Base Penalty \$20,000

Sixteen quarterly events are recommended from the December 5, 2015 effective date of TCEQ Agreed Order Docket No. 2015-0335-MLM-E to the November 21, 2019 screening date.

Good Faith Efforts to Comply

0.0%

Reduction \$0

	Before NOE/NOV	NOE/NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary		
N/A	x	

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

Violation Subtotal \$20,000

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$6,092

Violation Final Penalty Total \$24,000

This violation Final Assessed Penalty (adjusted for limits) \$24,000

Economic Benefit Worksheet

Respondent City of Roscoe
Case ID No. 50169
Reg. Ent. Reference No. RN101917581
Media Municipal Solid Waste
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Costs Saved	EB Amount
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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	\$25,500	5-Dec-2015	13-Sep-2020	4.78	\$6,092	n/a	\$6,092
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated delayed cost to remove all MSW from the Site and dispose of it at an authorized facility (\$25,500, per Respondent's agreement with compliance contractor). The Date Required is the effective date of TCEQ Agreed Order Docket No. 2015-0335-MLM-E, and the Final Date is the estimated date of compliance.

Avoided Costs

ANNUALIZE 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				0.00	\$0	\$0	\$0
ONE-TIME avoided costs				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$25,500

TOTAL

\$6,092

Screening Date 21-Nov-2019

Docket No. 2019-1683-MSW-E

PCW

Respondent City of Roscoe

Policy Revision 4 (April 2014)

Case ID No. 50169

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN101917581

Media Municipal Solid Waste

Enf. Coordinator Ken Moller

Violation Number 2

Rule Cite(s) 30 Tex. Admin. Code § 290.51(a)(6) and Tex. Water Code § 5.702

Violation Description Failed to pay outstanding Public Health Service fees, including any associated late fees, for TCEQ Financial Administration Account No. 91770001.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

Table with columns: Release (Actual, Potential), Harm (Major, Moderate, Minor), Percent (0.0%).

>> Programmatic Matrix

Table with columns: Falsification, Major, Moderate, Minor, Percent (0.0%). Includes Matrix Notes field.

Adjustment \$25,000

\$0

Violation Events

Number of Violation Events [] Number of violation days []

- daily []
weekly []
monthly []
quarterly []
semiannual []
annual []
single event []

Violation Base Penalty \$0

No additional administrative penalty was calculated for this violation as all penalties and fees will be determined by the Financial Administration Division at the next billing cycle.

Good Faith Efforts to Comply

0.0%

Reduction \$0

Table with columns: Before NOE/NOV, NOE/NOV to EDPRP/Settlement Offer. Rows: Extraordinary, Ordinary, N/A.

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

Violation Subtotal \$0

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$0

Violation Final Penalty Total \$0

This violation Final Assessed Penalty (adjusted for limits) \$0

Economic Benefit Worksheet

Respondent City of Roscoe
Case ID No. 50169
Reg. Ent. Reference No. RN101917581
Media Municipal Solid Waste
Violation No. 2

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Costs Saved	EB Amount
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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 N/A							

Avoided Costs

ANNUALIZE 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				0.00	\$0	\$0	\$0
ONE-TIME avoided costs				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Notes for AVOIDED costs N/A							

Approx. Cost of Compliance \$0

TOTAL \$0

Screening Date 21-Nov-2019
Respondent City of Roscoe
Case ID No. 50169
Reg. Ent. Reference No. RN101917581
Media Municipal Solid Waste
Enf. Coordinator Ken Moller

Docket No. 2019-1683-MSW-E

PCW

Policy Revision 4 (April 2014)
PCW Revision March 26, 2014

Violation Number

Rule Cite(s) Tex. Water Code § 7.101 and TCEQ Agreed Order, Docket No. 2015-0335-MLM-E, Ordering Provision No. 2.c

Violation Description Failed to close the wastewater treatment storage ponds in accordance with the closure plan approved by the TCEQ on September 16, 2011.

Base Penalty

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text" value="3.0%"/>
	Potential	<input type="text"/>	<input type="text"/>	<input type="text" value="x"/>	

>> Programmatic Matrix

	Falsification	Major	Moderate	Minor	Percent
	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text" value="0.0%"/>

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

Adjustment

Violation Events

Number of Violation Events Number of violation days

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

Violation Base Penalty

One single event is recommended.

Good Faith Efforts to Comply

Reduction

Before NOE/NOV NOE/NOV to EDPRP/Settlement Offer

Extraordinary	<input type="text"/>
Ordinary	<input type="text"/>
N/A	<input type="text" value="x"/>

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

Violation Subtotal

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount

Violation Final Penalty Total

This violation Final Assessed Penalty (adjusted for limits)

Economic Benefit Worksheet

Respondent City of Roscoe
Case ID No. 50169
Reg. Ent. Reference No. RN101917581
Media Municipal Solid Waste
Violation No. 3

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Costs Saved	EB Amount
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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	5-Dec-2015	13-Sep-2020	4.78	\$1,195	n/a	\$1,195

Notes for DELAYED costs

Estimated delayed cost to close the wastewater treatment storage ponds in accordance with the closure plan approved by the TCEQ (\$5,000). The Date Required is the effective date of TCEQ Agreed Order Docket No. 2015-0335-MLM-E, and the Final Date is the estimated date of compliance.

Avoided Costs

ANNUALIZE 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				0.00	\$0	\$0	\$0
ONE-TIME avoided costs				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

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Approx. Cost of Compliance

\$5,000

TOTAL

\$1,195

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

Compliance History Report for CN600738843, RN101917581, Rating Year 2019 which includes Compliance History (CH) components from September 1, 2014, through August 31, 2019.

Customer, Respondent, or Owner/Operator: CN600738843, City of Roscoe **Classification:** SATISFACTORY **Rating:** 24.51

Regulated Entity: RN101917581, City of Roscoe **Classification:** SATISFACTORY **Rating:** 22.50

Complexity Points: 4 **Repeat Violator:** NO

CH Group: 08 - Sewage Treatment Facilities

Location: Approximately 0.7 miles east of the intersection of Farm-to-Market Road 608 & US Highway 80, on the north side of the westbound service road to Interstate Highway 20, in Roscoe, Nolan County, Texas 79545

TCEQ Region: REGION 03 - ABILENE

ID Number(s):

Compliance History Period: September 01, 2014 to August 31, 2019 **Rating Year:** 2019 **Rating Date:** 09/01/2019

Date Compliance History Report Prepared: November 21, 2019

Agency Decision Requiring Compliance History: Enforcement

Component Period Selected: November 21, 2014 to November 21, 2019

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

Name: Ken Moller

Phone: (512) 239-6111

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

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

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

1 Effective Date: 12/05/2015 ADMINORDER 2015-0335-MLM-E (1660 Order-Agreed Order With Denial)

Classification: Moderate

Citation: 30 TAC Chapter 111, SubChapter B 111.201
5C THSC Chapter 382 382.085(b)

Description: Caused, suffered, allowed, or permitted outdoor burning within the State of Texas. Specifically, approximately 30,030 cubic yards of MSW was burned at the Facility.

Classification: Moderate

Citation: 30 TAC Chapter 330, SubChapter A 330.15(a)
30 TAC Chapter 330, SubChapter A 330.15(c)
TWC Chapter 26 26.121

Description: Caused, suffered, allowed or permitted the unauthorized disposal of MSW. Specifically, approximately 18,028 cubic yards of MSW including construction and demolition debris; furniture; scrap metal; commercial, agricultural, and passenger vehicle tires; household waste; as well as other solid waste material were disposed of at the Facility. In addition, the Respondent caused, suffered, allowed or permitted the unauthorized disposal of solids/dried sludge in the former wastewater treatment plan

B. Criminal convictions:

N/A

C. Chronic excessive emissions events:

N/A

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

N/A

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.

N/A

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

Component Appendices

Appendix A

All NOVs Issued During Component Period 11/21/2014 and 11/21/2019

N/A

For Informational Purposes Only

Appendix B

All Investigations Conducted During Component Period November 21, 2014 and November 21, 2019

(1217422)

Item 1

February 05, 2015**

For Informational Purposes Only

(1598428)

Item 2

November 14, 2019

For Informational Purposes Only

* No violations documented during this investigation

**Investigation applicable for the Compliance History Rating period between 09/01/2014 and 08/31/2019.

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
CITY OF ROSCOE
RN101917581**

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§
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§

**BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY**

AGREED ORDER DOCKET NO. 2019-1683-MSW-E

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 Roscoe (the "Respondent") under the authority of TEX. HEALTH & SAFETY CODE ch. 361 and TEX. WATER CODE chs. 5 and 7. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent presented this Order to the Commission.

The Respondent understands that it has certain procedural rights at certain points in the enforcement process, including 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 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 agreement of the parties. The provisions of this Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Order unenforceable, the remaining provisions shall be valid and enforceable. The duties and responsibilities imposed by this 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 former wastewater treatment plant located approximately 0.7 miles east of the intersection of Farm-to-Market Road 608 and US Highway 80, on the north side of the westbound service road to Interstate Highway 20 in Roscoe, Nolan County, Texas (the "Site"). The Site involves or involved the management of municipal solid waste ("MSW") as defined in TEX. HEALTH & SAFETY CODE ch. 361.
2. During an investigation conducted on September 25, 2019, an investigator documented that:
 - a. Approximately 457 cubic yards of MSW consisting of construction and demolition debris, brick, concrete, clay pipe, PVC pipe, wood, rebar, one visible manhole cover, and three manhole rings, were disposed of on the ground at the Site, including in the former wastewater treatment plant's storage ponds.

- b. The wastewater treatment storage ponds were not closed in accordance with the closure plan approved by the TCEQ on September 16, 2011.
3. During a record review conducted on November 25, 2019, an enforcement coordinator documented that, the Respondent did not pay outstanding Public Health Service fees, including any associated late fees, for TCEQ Financial Administration Account No. 91770001.

II. CONCLUSIONS OF LAW

1. As evidenced by Finding of Fact No. 1, the Respondent is subject to the jurisdiction of the TCEQ pursuant to TEX. HEALTH & SAFETY CODE ch. 361 and TEX. WATER CODE ch. 5, and the rules of the TCEQ.
2. As evidenced by Finding of Fact No. 2.a, the Respondent caused, suffered, allowed or permitted the unauthorized disposal of MSW, in violation of 30 TEX. ADMIN. CODE § 330.15(a) and (c) and TCEQ Agreed Order, Docket No. 2015-0335-MLM-E, Ordering Provision Nos. 2.a.i and 2.b.
3. As evidenced by Finding of Fact No. 2.b, the Respondent failed to close the wastewater treatment storage ponds in accordance with the closure plan approved by the TCEQ on September 16, 2011, in violation of TEX. WATER CODE § 7.101 and TCEQ Agreed Order, Docket No. 2015-0335-MLM-E, Ordering Provision No. 2.c.
4. As evidenced by Finding of Fact No. 3, the Respondent failed to pay outstanding Public Health Service fees, including any associated late fees, for TCEQ Financial Administration Account No. 91770001, in violation of 30 TEX. ADMIN. CODE § 290.51(a)(6) and TEX. WATER CODE § 5.702.
5. Pursuant to TEX. WATER CODE § 7.051, the TCEQ has the authority to assess an administrative penalty against the Respondent for violations of state statutes within the TCEQ'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 \$24,900 is justified by the facts recited in this Order, and considered in light of the factors set forth in TEX. WATER CODE § 7.053. Pursuant to TEX. WATER CODE § 7.067, \$24,900 of the penalty shall be conditionally offset by the Respondent's timely and satisfactory completion of a Supplemental Environmental Project ("SEP") as defined in the attached SEP Agreement ("Attachment A" - incorporated herein by reference). The Respondent's obligation to pay the conditionally offset portion of the penalty shall be discharged upon full compliance with all the terms and conditions of this Order, which includes the timely and satisfactory completion of all provisions of the SEP Agreement, as determined by the Executive Director.

III. ORDERING PROVISIONS

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

1. The Respondent is assessed a penalty as set forth in Conclusion of Law No. 6 for violations of state statutes and rules of the TCEQ. The payment of this penalty and the Respondent's compliance with all the requirements set forth in this Order resolve only the matters set forth by this Order in this action. The Commission shall not be constrained in any manner from requiring corrective actions or penalties for violations that are not raised here. Penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: City of Roscoe, Docket No. 2019-1683-MSW-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 an SEP as set forth in Section II, Conclusion of Law No. 6. The amount of \$24,900 of the assessed penalty is conditionally offset based on the Respondent's implementation and completion of the SEP pursuant to the terms of the SEP Agreement, as defined in Attachment A. Penalty payments for any portion of the SEP deemed by the Executive Director as not complete shall be paid within 30 days after the date the Executive Director demands payment.
3. The Respondent shall undertake the following technical requirements:
 - a. Immediately upon the effective date of this Order, cease disposing of any additional MSW at the Site;
 - b. Within 30 days after the effective date of this Order, remove all MSW from the Site and dispose of it at an authorized facility;
 - c. Within 60 days after the effective date of this Order, close the wastewater treatment storage ponds in accordance with the closure plan approved by the TCEQ on September 16, 2011; and
 - d. Within 75 days after the effective date of this Order, submit written certification, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision Nos. 3.a through 3.c. The certification shall be signed by the Respondent 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 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:

Waste Section Manager
Abilene Regional Office
Texas Commission on Environmental Quality
1977 Industrial Boulevard
Abilene, Texas 79602-7833

4. All relief not expressly granted in this Order is denied.
5. The duties and provisions imposed by this Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of this Order to personnel who maintain day-to-day control over the Site operations referenced in this Order.
6. If the Respondent fails to comply with any of the Ordering Provisions in this Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, the Respondent's failure to comply is not a violation of this 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.
7. The Executive Director may grant an extension of any deadline in this Order or in any plan, report, or other document submitted pursuant to this Order, upon a written and substantiated showing of good cause. All requests for extensions by 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. Extension requests shall be sent to the Order Compliance Team at the address listed above.
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 the Respondent has not complied with one or more of the terms in this Order.

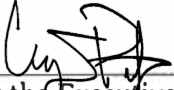
9. This Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Order, whichever is later.
10. This Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this 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.
11. This Order may be executed in separate and multiple counterparts, which together shall constitute a single instrument. Any page of this 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 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.
12. The effective date of this Order is the date it is signed by the Commission. A copy of this fully executed Order shall be provided to each of the parties.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

Date



6/8/2022

For the Executive Director

Date

I, the undersigned, have read and understand the attached Order. I am authorized to agree to the attached Order, 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.

Signature

Date

FRANK S. PORTER
Name (Printed or typed)
Authorized Representative of
City of Roscoe

Title

If mailing address has changed, please check this box and provide the new address below:

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

Attachment A

Docket Number: 2019-1683-MSW-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent:	City of Roscoe
Penalty Amount:	Twenty-Four Thousand Nine Hundred Dollars (\$24,900)
SEP Offset Amount:	Twenty-Four Thousand Nine Hundred Dollars (\$24,900)
Type of SEP:	Compliance
Project Name:	<i>Roscoe MSW Disposal</i>
Location of SEP:	Nolan County

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

Respondent is a Local Government that qualifies under Texas Water Code § 7.067 to apply the SEP Offset Amount set forth above to correct violations at its former wastewater treatment facility (the “Site”) which are described in this Agreed Order. This Agreed Order cites violations at the Respondent’s Site.

1. Project Description

A. Project

Respondent shall hire a contractor to properly dispose of unauthorized municipal solid waste left at the Site. The respondent will contract with West Texas Rock Resources, or another approved contractor, who will recycle the metal at Sweetwater Iron & Metal. The concrete, bricks, rocks, and all non-recyclables will be disposed of at either the Sweetwater landfill (MSW #2385), Abilene environmental landfill (MSW #2325), or the City of Snyder landfill (MSW #1463B). Specifically, the SEP Offset Amount shall be used for materials, supplies, and equipment for the proper disposal of MSW (the “Project”). Respondent shall solicit bids from qualified contractors to perform the Project. Any advertisement, including publication, related to the SEP must include the enforcement statement as stated in Section 6, Publicity. The SEP will be performed in accordance with all federal, state, and local environmental laws and regulations, including permits that may be required prior to commencement of the SEP.

Respondent shall use the SEP Offset Amount only for the direct cost of implementing the Project, including supplies, materials, and equipment rentals, as listed in Subsection C. Minimum Expenditure, Estimated Cost Schedule, below. No portion of the SEP Offset Amount shall be spent on administrative costs, including but not limited to operating costs, reporting expenses, handling of expenses, project coordination, liability, or equipment breakdowns.

Respondent’s signature affixed to the attached Agreed Order certifies that Respondent has no prior commitment to perform this Project and that the SEP is being performed solely as part of the terms of settlement in this enforcement action.

B. Environmental Benefit

This SEP will provide a discernible environmental benefit by providing for the proper disposal of debris and waste and reducing the potential dangers and health threats associated with non-regulated trash dumps which contaminate air and water and harbor disease carrying animals and insects.

C. Minimum Expenditure

Respondent shall spend at least the SEP Offset Amount to complete the project described in Section 1, above, and comply with all other provisions of this SEP. Respondent understands that it may cost more than the SEP Offset Amount to complete the Project.

Estimated Cost Schedule

Item	Total
MSW Disposal (including costs to load, transport, and dispose of materials)	\$24,900
Total	\$24,900

2. Performance Schedule

Within 30 days after the effective date of this Agreed Order, Respondent shall begin implementation of the SEP. Respondent shall have completed the SEP in its entirety within 180 days after the effective date of this Agreed Order.

3. Records and Reporting

A. Progress Report

Within 30 days after the effective date of this Agreed Order, Respondent shall submit a Notice of Commencement to the TCEQ describing actions performed to date to implement the Project. Within 90 days after the effective date of this Agreed Order, Respondent shall submit a report detailing the progress made and all actions completed on the Project during the previous 60-day period and setting forth a schedule for achieving completion of the Project within the 180-day timeframe set forth in Section 2, Performance Schedule, above. Thereafter, Respondent shall submit progress reports to the TCEQ in 90-day increments containing detailed information on all actions completed on the Project to date as set forth in the Reporting Schedule table below:

Reporting Schedule

Days from Effective Order Date	Information Required
30	Notice of Commencement describing actions taken to begin project
90	Actions completed during pervious 60-day period
180	Notice of SEP completion

B. Final Report

Within 180 days after the effective date of the Agreed Order, or within 30 days after completion of the SEP, whichever is earlier, Respondent shall submit a Final Report to the TCEQ, which shall include the following:

1. Itemized list of expenditures and total cost of the Project;
2. Copies of invoices or receipts corresponding to the itemized list in paragraph 3.B.1., above;
3. Copies of cleared checks or payment records corresponding to the itemized list in paragraph 3.B.1., above;
4. Copies of proof of advertisement of invitation for bids, if applicable;
5. A certified statement of SEP completion and document authentication;
6. Detailed map showing specific location of the project site(s);
7. Dated photographs of the purchased materials and supplies; before and after work being performed during the Project; and of the completed Project; and
8. Any additional information Respondent believes will, or that is requested by TCEQ to demonstrate compliance with this Attachment A.

C. Address

Respondent shall submit all SEP reports and any additional information as requested to the following address:

Texas Commission on Environmental Quality
Litigation Division
Attention: SEP Coordinator, MC 175
P.O. Box 13087
Austin, Texas 78711-3087

4. Additional Information and Access

Respondent shall provide additional information as requested by TCEQ staff and shall allow access to all records related to the SEP Offset Amount. Respondent shall also allow representatives of the TCEQ access to the site of any work being financed in whole or in part by the SEP Offset Amount. This provision shall survive the termination of this Agreed Order.

5. Failure to Fully Perform

If Respondent does not perform its obligations under this Attachment A, including full expenditure of the SEP Offset Amount and submittal of the required reporting described in Sections 2 through 4 above, the Executive Director ("ED") may require immediate payment of all or part of the SEP Offset Amount as set forth in the attached Agreed Order.

In the event the ED determines that Respondent failed to fully implement and complete the Project, Respondent shall remit payment for all or a portion of the SEP Offset Amount, as determined by the ED, and as set forth in the attached Agreed Order. After receiving notice of failure to complete the SEP, Respondent shall include the docket number of the attached Agreed Order and a note that the enclosed payment is for reimbursement of a SEP, shall make the check payable to "Texas Commission on Environmental Quality," and shall mail it to:

City of Roscoe
Docket No. 2019-1683-MSW-E
Attachment A

Texas Commission on Environmental Quality
Litigation Division
Attention: SEP Coordinator, MC 175
P.O. Box 13087
Austin, Texas 78711-3087

6. Publicity

Any public statements concerning this Project 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.

7. Recognition

Respondent may not seek recognition for this project in any other state or federal regulatory program.

8. Other SEPs by TCEQ or Other Agencies

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