

Executive Summary – Enforcement Matter – Case No. 61691
City of Roscoe
RN101430924
Docket No. 2021-1615-PWS-E

Order Type:

Findings Agreed Order

Findings Order Justification:

People or environmental receptors have been exposed to pollutants which exceed levels that are protective.

Media:

PWS

Small Business:

No

Location(s) Where Violation(s) Occurred:

City of Roscoe PWS, 115 Cypress Street, Roscoe, Nolan County

Type of Operation:

Public water supply

Other Significant Matters:

Additional Pending Enforcement Actions: No

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: None

Texas Register Publication Date: May 20, 2022

Comments Received: No

Penalty Information

Total Penalty Assessed: \$6,615

Total Paid to General Revenue: \$210

Total Due to General Revenue: \$6,405

Payment Plan: 35 payments of \$183 each

Compliance History Classifications:

Person/CN - Unsatisfactory

Site/RN - N/A

Major Source: No

Statutory Limit Adjustment: N/A

Applicable Penalty Policy: January 2021

Investigation Information

Complaint Date(s): N/A

Complaint Information: N/A

Date(s) of Investigation: November 29, 2021 through December 10, 2021

Date(s) of NOE(s): December 10, 2021

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City of Roscoe
RN101430924
Docket No. 2021-1615-PWS-E

Violation Information

1. Failed to comply with the acute maximum contaminant level (“MCL”) of 10 milligrams per liter for nitrate [30 TEX. ADMIN. CODE § 290.106(f)(2) and TEX. HEALTH & SAFETY CODE § 341.031(a)].
2. Failed to provide public notification and submit a copy of the public notification, accompanied with a signed Certificate of Delivery, to the Executive Director (“ED”) regarding the failure to conduct water quality parameter sampling at each of the Facility's entry points and the required distribution sample sites, have the samples analyzed, and report the results to the ED [30 TEX. ADMIN. CODE § 290.122(c)(2)(A) and (f)].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

N/A

Technical Requirements:

The Order will require the Respondent to:

- a. Within 30 days, provide public notification and submit a copy of the public notification, accompanied with a signed Certificate of Delivery, to the ED regarding the failure to conduct water quality parameter sampling at each of the Facility's entry points and the required distribution sample sites, have the samples analyzed, and report the results to the ED for the July 1, 2018 through December 31, 2018 and the January 1, 2019 through June 30, 2019 monitoring periods;
- b. Within 45 days, submit written certification to demonstrate compliance with a.;
- c. Within 90 days, begin complying with the acute MCL for nitrate. This provision will be satisfied upon two quarters of compliant monitoring and reporting; and
- d. Within 285 days, submit written certification to demonstrate compliance with c.

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City of Roscoe
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Contact Information

TCEQ Attorney: N/A

TCEQ Enforcement Coordinator: America Ruiz, Enforcement Division,
Enforcement Team 4, MC 219, (512) 239-2601; Michael Parrish, Enforcement Division,
MC 219, (512) 239-2548

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

Respondent's Attorney: N/A



Penalty Calculation Worksheet (PCW)

Policy Revision 5 (January 28, 2021)

PCW Revision February 11, 2021

DATES	Assigned	13-Dec-2021	Screening	14-Dec-2021	EPA Due	31-Mar-2022
	PCW	15-Dec-2021				

RESPONDENT/FACILITY INFORMATION	
Respondent	City of Roscoe
Reg. Ent. Ref. No.	RN101430924
Facility/Site Region	3-Abilene
Major/Minor Source	Minor

CASE INFORMATION			
Enf./Case ID No.	61691	No. of Violations	2
Docket No.	2021-1615-PWS-E	Order Type	Findings
Media Program(s)	Public Water Supply	Government/Non-Profit	Yes
Multi-Media		Enf. Coordinator	America Ruiz
		EC's Team	Enforcement Team 2
Admin. Penalty \$ Limit Minimum	\$50	Maximum	\$5,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)	Subtotal 1	\$3,500
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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	89.0%	Adjustment	Subtotals 2, 3, & 7	\$3,115
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Notes

Enhancement for one NOV with the same/similar violation, two NOVs with dissimilar violations, one agreed order containing a denial of liability, and two agreed orders without a denial of liability. Enhancement for Unsatisfactory Performer Classification.

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
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Total EB Amounts	\$321
Estimated Cost of Compliance	\$5,050

*Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7	Final Subtotal	\$6,615
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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

Final Penalty Amount	\$6,615
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$6,615
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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.

PAYABLE PENALTY	\$6,615
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Screening Date 14-Dec-2021

Docket No. 2021-1615-PWS-E

PCW

Respondent City of Roscoe

Policy Revision 5 (January 28, 2021)

Case ID No. 61691

PCW Revision February 11, 2021

Reg. Ent. Reference No. RN101430924

Media Public Water Supply

Enf. Coordinator America Ruiz

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>)	1	5%
	Other written NOVs	2	4%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	1	20%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	2	50%
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) 79%

>> Repeat Violator (Subtotal 3)

N/A

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Unsatisfactory Performer

Adjustment Percentage (Subtotal 7) 10%

>> Compliance History Summary

Compliance History Notes

Enhancement for one NOV with the same/similar violation, two NOVs with dissimilar violations, one agreed order containing a denial of liability, and two agreed orders without a denial of liability. Enhancement for Unsatisfactory Performer Classification.

Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7) 89%

>> Final Compliance History Adjustment

Final Adjustment Percentage *capped at 100% 89%

Screening Date	14-Dec-2021	Docket No.	2021-1615-PWS-E	PCW
Respondent	City of Roscoe			<i>Policy Revision 5 (January 28, 2021)</i>
Case ID No.	61691			<i>PCW Revision February 11, 2021</i>
Reg. Ent. Reference No.	RN101430924			
Media	Public Water Supply			
Enf. Coordinator	America Ruiz			

Violation Number

Rule Cite(s)

Violation Description

Base Penalty

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual	<input type="text" value="x"/>	<input type="text"/>	<input type="text"/>	<input type="text" value="50.0%"/>
	Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>	

>> 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

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" value="x"/>
semiannual	<input type="text"/>
annual	<input type="text"/>
single event	<input type="text"/>

Violation Base Penalty

Good Faith Efforts to Comply Reduction

	Before NOE/NOV	NOE/NOV to EDPRP/Settlement Offer
Extraordinary	<input type="text"/>	<input type="text"/>
Ordinary	<input type="text"/>	<input type="text"/>
N/A	<input type="text" value="x"/>	<input type="text"/>

Notes

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. 61691
Reg. Ent. Reference No. RN101430924
Media Public Water Supply
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	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)	\$5,000	31-Dec-2021	23-Nov-2022	0.90	\$15	\$299	\$314
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
 The delayed cost includes the estimated amount to investigate, identify, and implement the necessary corrective actions to return to compliance with the acute MCL for nitrate, calculated from the last day of the monitoring period of noncompliance to 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
 (Empty box for notes)

Approx. Cost of Compliance \$5,000

TOTAL \$314

Screening Date 14-Dec-2021
Respondent City of Roscoe

Docket No. 2021-1615-PWS-E

PCW

Policy Revision 5 (January 28, 2021)

PCW Revision February 11, 2021

Case ID No. 61691
Reg. Ent. Reference No. RN101430924

Media Public Water Supply
Enf. Coordinator America Ruiz

Violation Number 2
Rule Cite(s)

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

Violation Description

Failed to provide public notification and submit a copy of the public notification, accompanied with a signed Certificate of Delivery, to the Executive Director regarding the failure to conduct water quality parameter sampling at each of the Facility's entry points and the required distribution sample sites, have the samples analyzed, and report the results to the Executive Director for the July 1, 2018 through December 31, 2018 and the January 1, 2019 through June 30, 2019 monitoring periods.

Base Penalty \$5,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential			

Percent 0.0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor
	x		

Percent 10.0%

Matrix Notes

100% of the rule requirements were not met.

Adjustment \$4,500

\$500

Violation Events

Number of Violation Events 2 703 Number of violation days

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty \$1,000

Two single events are recommended.

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 \$1,000

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$7

Violation Final Penalty Total \$1,890

This violation Final Assessed Penalty (adjusted for limits) \$1,890

Economic Benefit Worksheet

Respondent City of Roscoe
Case ID No. 61691
Reg. Ent. Reference No. RN101430924
Media Public Water Supply
Violation No. 2

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	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)	\$50	10-Jan-2020	24-Sep-2022	2.71	\$7	n/a	\$7

Notes for DELAYED costs

The other (as needed) delayed cost includes the estimated amount to ensure that the delinquent public notifications (\$25 per notification x two notifications) are provided to persons served by the Facility and a copy of the public notifications, accompanied with a signed Certificate of Delivery, are submitted to the Executive Director, calculated from the due date of the earliest public notification to 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 \$50

TOTAL \$7

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.



Compliance History Report

Compliance History Report for CN600738843, RN101430924, Rating Year 2021 which includes Compliance History (CH) components from September 1, 2016, through August 31, 2021.

Customer, Respondent, or Owner/Operator: CN600738843, City of Roscoe **Classification:** UNSATISFACTORY **Rating:** 111.50
Regulated Entity: RN101430924, CITY OF ROSCOE **Classification:** NOT APPLICABLE **Rating:** N/A
Complexity Points: N/A **Repeat Violator:** N/A
CH Group: 14 - Other
Location: 115 CYPRESS STREET IN ROSCOE, NOLAN COUNTY, TEXAS
TCEQ Region: REGION 03 - ABILENE

ID Number(s):
PUBLIC WATER SYSTEM/SUPPLY REGISTRATION
1770001

Compliance History Period: September 01, 2016 to August 31, 2021 **Rating Year:** 2021 **Rating Date:** 09/01/2021

Date Compliance History Report Prepared: December 14, 2021

Agency Decision Requiring Compliance History: Enforcement

Component Period Selected: December 14, 2016 to December 14, 2021

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

Name: America Ruiz

Phone: (512) 239-2601

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: 05/04/2017 ADMINORDER 2016-0374-PWS-E (Findings Order-Agreed Order Without Denial)
 - Classification: Minor
 - Citation: 30 TAC Chapter 290, SubChapter D 290.41(c)(3)(K)
 - Description: Failure to provide a well casing vent with an opening that is covered with a 16-mesh or finer corrosion-resistant screen, facing downward, elevated and located so as to minimize the drawing of contaminants into the well.
 - Classification: Minor
 - Citation: 30 TAC Chapter 290, SubChapter D 290.46(t)
 - Description: Failure to post a legible sign at the Facility's production, treatment and storage facilities that contains the name of the Facility and an emergency telephone number where a responsible official can be contacted.
 - Classification: Minor
 - Citation: 30 TAC Chapter 290, SubChapter D 290.42(m)
30 TAC Chapter 290, SubChapter D 290.43(e)
 - Description: Failure to provide an intruder-resistant fence or lockable building for the standpipe and pressure maintenance facilities.
 - Classification: Minor
 - Citation: 30 TAC Chapter 290, SubChapter D 290.46(m)(1)
 - Description: Failure to conduct annual inspections of the Facility's one ground storage tank and two elevated storage tanks
 - Classification: Major
 - Citation: 30 TAC Chapter 290, SubChapter D 290.46(e)(4)(B)
 - Rqmt Prov: Provision No. 2.a.iii ORDER
 - Description: Failure to use an operator with a Class "C" or higher groundwater license at a groundwater system serving more than 250 connections, but no more than 1,000 connections. Failure to comply with Agreed Commission Order Docket

- 2 Effective Date: 03/20/2018 ADMINORDER 2017-0953-PWS-E (1660 Order-Agreed Order With Denial)
Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.117(g)(2)(A)
Description: LCR SOWT - The system failed to submit the Source Water Treatment Recommendation for alternative treatment including ion exchange, reverse osmosis, lime softening, coagulation/filtration, or none from the end of the reduced monitoring period from 01/01/2016 to 12/31/2016 plus 180 days.
Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.117(f)(3)(A)
Description: LCR OCCT - The system failed to submit the Optimal Corrosion Control Treatment (OCCT) Recommendation in accordance with TCEQ rules after exceeding the lead/copper action level during the reduced monitoring period from 01/01/2016 to 12/31/2016 plus 180 days.
Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter H 290.271(b)
30 TAC Chapter 290, SubChapter H 290.274(a)
30 TAC Chapter 290, SubChapter H 290.274(c)
Description: CCR 2015 - The system failed to provide the Consumer Confidence Report (CCR) for 2015 to its bill-paying customers and/or the TCEQ by July 1st of the following year.
- 3 Effective Date: 07/01/2019 ADMINORDER 2018-0434-PWS-E (Findings Order-Agreed Order Without Denial)
Classification: Major
Citation: 30 TAC Chapter 290, SubChapter F 290.106(f)(2)
5A THSC Chapter 341, SubChapter A 341.031(a)
Description: NO3 AMCL 4Q2017 - This system exceeded the MCL of 10 mg/L for nitrate (as nitrogen) with a sample result of 12 mg/L collected on 12/04/2017.
Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.117(e)
30 TAC Chapter 290, SubChapter F 290.117(h)
30 TAC Chapter 290, SubChapter F 290.117(i)(3)
Description: LCR WQP MR 2nd 6M2017 - The system failed to monitor for water quality parameters in accordance with TCEQ rules two times during the 2nd 6M2017 monitoring period at entry point location W Booster -1500 BLK Broadway / Cedar EP001 and the distribution system.

B. Criminal convictions:

N/A

C. Chronic excessive emissions events:

N/A

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

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: 04/01/2021 (1775756)
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(A)
30 TAC Chapter 290, SubChapter F 290.122(f)
40 CFR Chapter 141, SubChapter D, PT 141, SubPT Q 141.201(a)
40 CFR Chapter 141, SubChapter D, PT 141, SubPT Q 141.201(c)(3)
Description: JAN/2020 RTCR Routine MR PN Posting and Reporting Violation - Failure to submit a signed certificate of delivery to the Executive Director certifying that public notice was issued pursuant to 30 Tex. Admin. Code §290.122 during the time period that public notice was required for failing to conduct routine coliform monitoring for the month of 01/2020.
- 2 Date: 11/23/2021 (1775756)
Self Report? NO Classification: Major
Citation: 30 TAC Chapter 290, SubChapter F 290.106(f)(2)
Description: NO3 AMCL 4Q2021 - This system exceeded the MCL of 10 mg/L for nitrate (as nitrogen) with a sample result of 16 mg/L collected on 11/17/2021.
- 3 Date: 12/14/2021 (1776223)

Self Report? NO

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter D 290.46(m)(4)

Description: Failure to provide watertight piping in the distribution system.

Self Report? NO

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter D 290.44(d)(6)

30 TAC Chapter 290, SubChapter D 290.46(l)

Description: Failure to flush all dead-end mains monthly.

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 ROSCOE
RN101430924**

**§
§
§
§
§**

**BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY**

**AGREED ORDER
DOCKET NO. 2021-1615-PWS-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. 341. 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 public water supply located at 115 Cypress Street in Roscoe, Nolan County, Texas (the "Facility"). The Facility provides water for human consumption, has approximately 594 service connections, and serves at least 25 people per day for at least 60 days per year. As such, the Facility is a public water system as defined in 30 TEX. ADMIN. CODE § 290.38(71).
2. During a record review conducted on November 29, 2021 through December 10, 2021, an investigator documented that:
 - a. The single sample concentration for nitrate was 16 milligrams per liter ("mg/L") for the fourth quarter of 2021; and
 - b. The Respondent did not provide public notification and submit a copy of the public notification, accompanied with a signed Certificate of Delivery, to the Executive Director regarding the failure to conduct water quality parameter sampling at each of the Facility's entry points and the required distribution sample sites, have the samples analyzed, and report the results to the Executive

Director for the July 1, 2018 through December 31, 2018 and the January 1, 2019 through June 30, 2019 monitoring periods.

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. 341 and the rules of the TCEQ.
2. As evidenced by Finding of Fact No. 2.a, the Respondent failed to comply with the acute maximum contaminant level ("MCL") of 10 mg/L for nitrate, in violation of 30 TEX. ADMIN. CODE § 290.106(f)(2) and TEX. HEALTH & SAFETY CODE § 341.031(a).
3. As evidenced by Finding of Fact No. 2.b, the Respondent failed to provide public notification and submit a copy of the public notification, accompanied with a signed Certificate of Delivery, to the Executive Director regarding the failure to conduct water quality parameter sampling at each of the Facility's entry points and the required distribution sample sites, have the samples analyzed, and report the results to the Executive Director, in violation of 30 TEX. ADMIN. CODE § 290.122(c)(2)(A) and (f).
4. Pursuant to TEX. HEALTH & SAFETY CODE § 341.049(a), 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.
5. An administrative penalty in the amount of \$6,615 is justified by the facts recited in this Order, and considered in light of the factors set forth in TEX. HEALTH & SAFETY CODE § 341.049(b). The Respondent paid \$210 of the penalty. The remaining amount of \$6,405 shall be paid in 35 monthly payments of \$183 each. The first monthly payment shall be paid within 30 days after the effective date of this Order. The subsequent payments shall each be paid not later than 30 days following the due date of the previous payment until the penalty is paid in full. If the Respondent fails to comply with the payment requirements of this Order, including the payment schedule, the Executive Director may accelerate the maturity of the remaining installments, in which event the unpaid balance shall become immediately due and payable without demand or notice. The Respondent's failure to meet the payment schedule of this Order and/or the acceleration of any remaining balance constitutes the failure by the Respondent to timely and satisfactorily comply with all the terms and conditions of this Order and the Executive Director may demand payment of all or part of the deferred penalty amount.

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. 5 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. 2021-1615-PWS-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 undertake the following technical requirements:
 - a. Within 30 days after the effective date of this Order provide public notification and submit a copy of the public notification, accompanied with a signed Certificate of Delivery, to the Executive Director regarding the failure to conduct water quality parameter sampling at each of the Facility's entry points and the required distribution sample sites, have the samples analyzed, and report the results to the Executive Director for the July 1, 2018 through December 31, 2018 and the January 1, 2019 through June 30, 2019 monitoring periods, in accordance with 30 TEX. ADMIN. CODE § 290.122.
 - b. Within 45 days after the effective date of this Order, submit written certification as described in Ordering Provision No. 2.d below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision No. 2.a.
 - c. Within 90 days after the effective date of this Order, begin complying with the acute MCL for nitrate, in accordance with 30 TEX. ADMIN. CODE § 290.106. This provision will be satisfied upon two quarters of compliant monitoring and reporting.
 - d. Within 285 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 No. 2.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:

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

3. All relief not expressly granted in this Order is denied.
4. 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 Facility operations referenced in this Order.
5. 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.
6. 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.
7. 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.
8. 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.
9. 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.

10. 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



8/15/2022

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: