

Executive Summary – Enforcement Matter – Case No. 61807

City of Rotan

RN101428282

Docket No. 2022-0098-PWS-E

Order Type:

1660 Agreed Order

Findings Order Justification:

N/A

Media:

PWS

Small Business:

No

Location(s) Where Violation(s) Occurred:

City of Rotan PWS, 302 West Sammy Baugh Avenue, Rotan, Fisher 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 27, 2022

Comments Received: No

Penalty Information

Total Penalty Assessed: \$8,763

Amount Deferred for Expedited Settlement: \$1,752

Total Paid to General Revenue: \$7,011

Total Due to General Revenue: \$0

Payment Plan: N/A

Compliance History Classifications:

Person/CN - High

Site/RN - N/A

Major Source: Yes

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: January 3, 2022 through January 14, 2022

Date(s) of NOE(s): January 14, 2022

Executive Summary – Enforcement Matter – Case No. 61807
City of Rotan
RN101428282
Docket No. 2022-0098-PWS-E

Violation Information

1. Failed 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 ("ED") for the January 1, 2016 through June 30, 2016, the July 1, 2016 through December 31, 2016, and the January 1, 2017 through June 30, 2017 monitoring periods [30 TEX. ADMIN. CODE § 290.117(e)(2), (h), and (i)(3)].
2. Failed to comply with the maximum contaminant level of 0.080 milligrams per liter ("mg/L") for total trihalomethanes ("TTHM") based on the locational running annual average. Specifically, the locational running annual average concentrations of TTHM for Stage 2 Disinfection Byproducts were 0.105 mg/L at Site 1 and 0.090 mg/L at Site 2 for the fourth quarter of 2021 [30 TEX. ADMIN. CODE § 290.115(f)(1) and TEX. HEALTH & SAFETY CODE § 341.0315(c)].
3. Failed to provide a consumer notification of lead tap water monitoring results to persons served at the sites (taps) that were tested, and failed to mail a copy of the consumer notification of tap results to the ED along with certification that the consumer notification has been distributed in a manner consistent with TCEQ requirements for the January 1, 2018 through December 31, 2020 monitoring period [30 TEX. ADMIN. CODE § 290.117(i)(6) and (j)].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

N/A

Technical Requirements:

The Order will require the Respondent to:

- a. Collect one water quality parameter sample at each entry point and one water quality parameter sample at each of the Facility's required distribution sample sites on a quarterly basis throughout the first six-month monitoring period and ensure that the samples are analyzed and the results reported to the ED;
- b. Within 30 days, provide consumer notification of lead tap water monitoring results to persons served at all sites (taps) that were tested during the January 1, 2018 through December 31, 2020 monitoring period. Submit to the ED a sample copy of the consumer notification and certification that consumer notification was distributed in a manner consistent with TCEQ requirements;

Executive Summary – Enforcement Matter – Case No. 61807
City of Rotan
RN101428282
Docket No. 2022-0098-PWS-E

- c. Within 45 days, submit written certification to demonstrate compliance with b.;
- d. Within 195 days, submit written certification to demonstrate compliance with a.;
- e. Within 365 days, return to compliance with the maximum contaminant level for TTHM based on a locational running annual average; and
- f. Within 380 days, submit written certification to demonstrate compliance with e.

Contact Information

TCEQ Attorney: N/A

TCEQ Enforcement Coordinator: Tayler McKenzie, Enforcement Division, Enforcement Team 4, MC 219, (512) 239-2511; Michael Parrish, Enforcement Division, MC 219, (512) 239-2548

Respondent: The Honorable Pete Garcia, Mayor, City of Rotan, 302 West Sammy Baugh Avenue, Rotan, Texas 79546
Carla Thornton, City Manager, City of Rotan, 302 West Sammy Baugh Avenue, Rotan, Texas 79546

Respondent's Attorney: N/A



Penalty Calculation Worksheet (PCW)

Policy Revision 5 (January 28, 2021)

PCW Revision February 11, 2021

DATES	Assigned	18-Jan-2022	Screening	19-Jan-2022	EPA Due	31-Mar-2022
	PCW	20-Jan-2022				

RESPONDENT/FACILITY INFORMATION	
Respondent	City of Rotan (PCW No. 1)
Reg. Ent. Ref. No.	RN101428282
Facility/Site Region	3-Abilene
Major/Minor Source	Major

CASE INFORMATION			
Enf./Case ID No.	61807	No. of Violations	1
Docket No.	2022-0098-PWS-E	Order Type	1660
Media Program(s)	Public Water Supply	Government/Non-Profit	Yes
Multi-Media		Enf. Coordinator	Taylor McKenzie
		EC's Team	Enforcement Team 2
Admin. Penalty \$ Limit Minimum	\$50	Maximum	\$1,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)	Subtotal 1	\$900
---	-------------------	-------

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History	27.0% Adjustment	Subtotals 2, 3, & 7	\$243
---------------------------	------------------	--------------------------------	-------

Notes: Enhancement for two NOVs with the same/similar violations, one NOV with dissimilar violations, and one agreed order without a denial of liability. Reduction for High Performer Classification.

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

Notes: The Respondent does not meet the culpability criteria.

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

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

Total EB Amounts: \$229
 Estimated Cost of Compliance: \$240
 *Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7	Final Subtotal	\$1,143
-----------------------------	-----------------------	---------

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

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

Final Penalty Amount	\$1,143
-----------------------------	---------

STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$1,143
-----------------------------------	-------------------------------	---------

DEFERRAL	20.0%	Reduction	Adjustment	-\$228
-----------------	-------	-----------	-------------------	--------

Reduces the Final Assessed Penalty by the indicated percentage.

Notes:

Deferral offered for expedited settlement.

PAYABLE PENALTY	\$915
------------------------	-------

Screening Date 19-Jan-2022

Docket No. 2022-0098-PWS-E

PCW

Respondent City of Rotan (PCW No. 1)

Policy Revision 5 (January 28, 2021)

Case ID No. 61807

PCW Revision February 11, 2021

Reg. Ent. Reference No. RN101428282

Media Public Water Supply

Enf. Coordinator Tayler McKenzie

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>)	2	10%
	Other written NOVs	1	2%
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	1	25%
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) 37%

>> Repeat Violator (Subtotal 3)

N/A

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

High Performer

Adjustment Percentage (Subtotal 7) -10%

>> Compliance History Summary

Compliance History Notes

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

Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7) 27%

>> Final Compliance History Adjustment

Final Adjustment Percentage *capped at 100% 27%

Screening Date 19-Jan-2022
Respondent City of Rotan (PCW No. 1)
Case ID No. 61807
Reg. Ent. Reference No. RN101428282
Media Public Water Supply
Enf. Coordinator Tayler McKenzie

Docket No. 2022-0098-PWS-E

PCW

*Policy Revision 5 (January 28, 2021)
 PCW Revision February 11, 2021*

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code § 290.117(e)(2), (h), and (i)(3)

Violation Description Failed 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 January 1, 2016 through June 30, 2016, the July 1, 2016 through December 31, 2016, and the January 1, 2017 through June 30, 2017 monitoring periods.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual				30.0%
	Potential	x			

>> Programmatic Matrix

	Falsification	Major	Moderate	Minor	Percent
					0.0%

Matrix Notes Failed to conduct water quality parameter sampling could result in persons served by the Facility being exposed to undetected contaminants which would exceed levels protective of human health.

Adjustment \$700

\$300

Violation Events

Number of Violation Events 3 2028 Number of violation days

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty \$900

Three single events are recommended (one for each monitoring period).

Good Faith Efforts to Comply

0.0%

Reduction \$0

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

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

Violation Subtotal \$900

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$229

Violation Final Penalty Total \$1,143

This violation Final Assessed Penalty (adjusted for limits) \$1,143

Economic Benefit Worksheet

Respondent City of Rotan (PCW No. 1)
Case ID No. 61807
Reg. Ent. Reference No. RN101428282
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
------------------	-----------	---------------	------------	-----	----------------	-------------	-----------

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	\$80	30-Jun-2017	14-Jan-2023	5.55	\$22	n/a	\$22
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 collect all required water quality parameter samples [\$20 per sample x two missed samples x (one entry point + one distribution sample site) x one monitoring period], 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	\$80	30-Jun-2016	19-Jan-2022	5.56	\$25	\$80	\$105
ONE-TIME avoided costs	\$80	31-Dec-2016	19-Jan-2022	5.05	\$22	\$80	\$102

Notes for AVOIDED costs
 Each of the avoided costs include the estimated amount to collect all required water quality parameter samples [\$20 per sample x two missed samples x (one entry point + one distribution sample site) x one monitoring period], calculated from the last day of the monitoring period in which sampling was required to the screening date.

Approx. Cost of Compliance \$240

TOTAL \$229



Penalty Calculation Worksheet (PCW)

Policy Revision 5 (January 28, 2021)

PCW Revision February 11, 2021

DATES	Assigned	18-Jan-2022	Screening	19-Jan-2022	EPA Due	31-Mar-2022
	PCW	20-Jan-2022				

RESPONDENT/FACILITY INFORMATION	
Respondent	City of Rotan (PCW No. 2)
Reg. Ent. Ref. No.	RN101428282
Facility/Site Region	3-Abilene
Major/Minor Source	Major

CASE INFORMATION			
Enf./Case ID No.	61807	No. of Violations	2
Docket No.	2022-0098-PWS-E	Order Type	1660
Media Program(s)	Public Water Supply	Government/Non-Profit	Yes
Multi-Media		Enf. Coordinator	Taylor McKenzie
		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	\$6,000
---	-------------------	---------

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History	27.0% Adjustment	Subtotals 2, 3, & 7	\$1,620
---------------------------	------------------	--------------------------------	---------

Notes: Enhancement for two NOV's with the same/similar violations, one NOV with dissimilar violations, and one agreed order without a denial of liability. Reduction for High Performer Classification.

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

Notes: The Respondent does not meet the culpability criteria.

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

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

Total EB Amounts	\$545
Estimated Cost of Compliance	\$5,055

*Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7	Final Subtotal	\$7,620
-----------------------------	-----------------------	---------

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

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

Final Penalty Amount	\$7,620
-----------------------------	---------

STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$7,620
-----------------------------------	-------------------------------	---------

DEFERRAL	20.0%	Reduction	Adjustment	-\$1,524
-----------------	-------	-----------	-------------------	----------

Reduces the Final Assessed Penalty by the indicated percentage.

Notes:

Deferral offered for expedited settlement.

PAYABLE PENALTY	\$6,096
------------------------	---------

Screening Date 19-Jan-2022

Docket No. 2022-0098-PWS-E

PCW

Respondent City of Rotan (PCW No. 2)

Policy Revision 5 (January 28, 2021)

Case ID No. 61807

PCW Revision February 11, 2021

Reg. Ent. Reference No. RN101428282

Media Public Water Supply

Enf. Coordinator Tayler McKenzie

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>)	2	10%
	Other written NOVs	1	2%
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	1	25%
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) 37%

>> Repeat Violator (Subtotal 3)

N/A

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

High Performer

Adjustment Percentage (Subtotal 7) -10%

>> Compliance History Summary

Compliance History Notes

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

Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7) 27%

>> Final Compliance History Adjustment

Final Adjustment Percentage *capped at 100% 27%

Screening Date 19-Jan-2022
Respondent City of Rotan (PCW No. 2)
Case ID No. 61807
Reg. Ent. Reference No. RN101428282
Media Public Water Supply
Enf. Coordinator Tayler McKenzie

Docket No. 2022-0098-PWS-E

PCW

Policy Revision 5 (January 28, 2021)

PCW Revision February 11, 2021

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code § 290.115(f)(1) and Tex. Health & Safety Code § 341.0315(c)

Violation Description Failed to comply with the maximum contaminant level ("MCL") of 0.080 milligrams per liter ("mg/L") for total trihalomethanes ("TTHM"), based on the locational running annual average. Specifically, the locational running annual average concentrations of TTHM for Stage 2 Disinfection Byproducts ("DBP2") were 0.105 mg/L at Site 1 and 0.090 mg/L at Site 2 for the fourth quarter of 2021.

Base Penalty \$5,000

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual		x		50.0%
	Potential				

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
				0.0%

Matrix Notes Exceeding the MCL for TTHM caused persons served by the Facility to be exposed to a significant amount of contaminants which did not exceed levels protective of human health.

Adjustment \$2,500

\$2,500

Violation Events

Number of Violation Events 2 92 Number of violation days

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	x
single event	

Violation Base Penalty \$5,000

Two annual events are recommended (one event per site).

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 \$5,000

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$541

Violation Final Penalty Total \$6,350

This violation Final Assessed Penalty (adjusted for limits) \$6,350

Economic Benefit Worksheet

Respondent City of Rotan (PCW No. 2)
Case ID No. 61807
Reg. Ent. Reference No. RN101428282
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
------------------	-----------	---------------	------------	-----	----------------	-------------	-----------

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)	\$5,000	31-Dec-2021	18-Jul-2023	1.55	\$26	\$515	\$541
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 Other (as needed) cost includes the estimated amount to investigate, identify, and implement the necessary corrective actions to return to compliance with the MCL for TTHM, calculated from the last day of the quarter 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

Approx. Cost of Compliance \$5,000

TOTAL \$541

Screening Date 19-Jan-2022 **Docket No.** 2022-0098-PWS-E **PCW**
Respondent City of Rotan (PCW No. 2) *Policy Revision 5 (January 28, 2021)*
Case ID No. 61807 *PCW Revision February 11, 2021*
Reg. Ent. Reference No. RN101428282
Media Public Water Supply
Enf. Coordinator Tayler McKenzie

Violation Number 2
Rule Cite(s) 30 Tex. Admin. Code § 290.117(i)(6) and (j)
Violation Description Failed to provide a consumer notification of lead tap water monitoring results to persons served at the sites (taps) that were tested, and failed to mail a copy of the consumer notification of tap results to the Executive Director along with certification that the consumer notification has been distributed in a manner consistent with TCEQ requirements for the January 1, 2018 through December 31, 2020 monitoring period.

Base Penalty \$5,000

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual				0.0%
	Potential				

>> Programmatic Matrix

Matrix Notes	Falsification	Major	Moderate	Minor	Percent
			x		
100% of the rule requirements were not met.					

Adjustment \$4,000

\$1,000

Violation Events

Number of Violation Events 1 384 Number of violation days

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty \$1,000

One single event is 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 \$4 **Violation Final Penalty Total** \$1,270

This violation Final Assessed Penalty (adjusted for limits) \$1,270

Economic Benefit Worksheet

Respondent City of Rotan (PCW No. 2)
Case ID No. 61807
Reg. Ent. Reference No. RN101428282
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
------------------	-----------	---------------	------------	-----	----------------	-------------	-----------

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)	\$55	31-Dec-2020	17-Aug-2022	1.63	\$4	n/a	\$4

Notes for DELAYED costs
 The delayed cost includes the estimated amount to prepare and mail the consumer notification for the January 1, 2018 through December 31, 2020 monitoring period to persons served at the locations which were sampled and to the TCEQ ((\$0.50 x ten sampled locations + \$50) x one monitoring period), calculated from the date the consumer notification was due 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 \$55

TOTAL \$4

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 CN600738397, RN101428282, Rating Year 2021 which includes Compliance History (CH) components from September 1, 2016, through August 31, 2021.

Customer, Respondent, or Owner/Operator: CN600738397, City of Rotan **Classification:** HIGH **Rating:** 0.00

Regulated Entity: RN101428282, CITY OF ROTAN **Classification:** NOT APPLICABLE **Rating:** N/A

Complexity Points: N/A **Repeat Violator:** N/A

CH Group: 14 - Other

Location: 302 WEST SAMMY BAUGH AVENUE IN ROTAN, FISHER COUNTY, TEXAS

TCEQ Region: REGION 03 - ABILENE

ID Number(s): PUBLIC WATER SYSTEM/SUPPLY REGISTRATION 0760002 WATER LICENSING LICENSE 0760002

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

Date Compliance History Report Prepared: January 18, 2022

Agency Decision Requiring Compliance History: Enforcement

Component Period Selected: January 18, 2017 to January 18, 2022

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

Name: Tayler McKenzie

Phone: (512) 239-2511

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 2016-1748-PWS-E (Findings Order-Agreed Order Without Denial)

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.117(c)(2)(A)
30 TAC Chapter 290, SubChapter F 290.117(h)
30 TAC Chapter 290, SubChapter F 290.117(i)(1)

Description: LCR IN MR 1st 6M2015 - The system failed to monitor and/or report distribution lead and copper levels to the TCEQ for the initial six-month monitoring period from 01/01/2015 to 06/30/2015 within the required timeline.

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.117(c)(2)(A)
30 TAC Chapter 290, SubChapter F 290.117(h)
30 TAC Chapter 290, SubChapter F 290.117(i)(1)

Description: LCR IN MR 2nd 6M2014 - The system failed to monitor and/or report distribution lead and copper levels to the TCEQ for the initial six-month monitoring period from 07/01/2014 to 12/31/2014 within the required timeline.

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.117(c)(2)(A)
30 TAC Chapter 290, SubChapter F 290.117(h)
30 TAC Chapter 290, SubChapter F 290.117(i)(1)

Description: LCR IN MR 1st 6M2014 - The system failed to monitor and/or report distribution lead and copper levels to the TCEQ for the initial six-month monitoring period from 01/01/2014 to 06/30/2014 within the required timeline.

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.117(h)
30 TAC Chapter 290, SubChapter F 290.117(i)(1)

Description: LCR RT MR 1st 6M2016 - The system failed to monitor and/or report distribution lead and copper levels to the

TCEQ for the routine six-month monitoring period from 01/01/2016 to 06/30/2016 within the required timeline.

Classification: Moderate

Description: Failure to have a current water purchase contract.
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter D 290.46(j)
30 TAC Chapter 290, SubChapter D 290.46(j)(2)

Description: Failure to perform Customer Service Inspections.
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter D 290.44(h)(4)

Description: Failure to have a backflow prevention assembly tested annually.
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter A 290.46(z)
30 TAC Chapter 290, SubChapter D 290.46(z)(1)
30 TAC Chapter 290, SubChapter D 290.46(z)(2)
30 TAC Chapter 290, SubChapter D 290.46(z)(3)
30 TAC Chapter 290, SubChapter D 290.46(z)(4)
30 TAC Chapter 290, SubChapter F 290.110(c)(5)(B)
30 TAC Chapter 290, SubChapter F 290.110(c)(5)(B)(i)
30 TAC Chapter 290, SubChapter F 290.110(c)(5)(B)(ii)
30 TAC Chapter 290, SubChapter F 290.110(c)(5)(B)(iii)
30 TAC Chapter 290, SubChapter F 290.110(c)(5)(C)
30 TAC Chapter 290, SubChapter F 290.110(c)(5)(C)(i)
30 TAC Chapter 290, SubChapter F 290.110(c)(5)(C)(ii)
30 TAC Chapter 290, SubChapter F 290.110(c)(5)(C)(iii)
30 TAC Chapter 290, SubChapter F 290.110(c)(5)(C)(iv)
30 TAC Chapter 290, SubChapter F 290.110(c)(5)(C)(v)
30 TAC Chapter 290, SubChapter F 290.110(c)(5)(D)
30 TAC Chapter 290, SubChapter F 290.110(c)(5)(D)(i)
30 TAC Chapter 290, SubChapter F 290.110(c)(5)(D)(ii)

Description: Failure to have a Nitrification Action Plan and to conduct the required monitoring for nitrification.
Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 290, SubChapter F 290.121(b)
30 TAC Chapter 290, SubChapter F 290.121(b)(2)
30 TAC Chapter 290, SubChapter F 290.121(b)(6)

Description: Failure to have an adequate monitoring plan.
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter D 290.38(41)
30 TAC Chapter 290, SubChapter D 290.43(e)

Description: Failure to maintain an intruder-resistant fence at the South 0.09 MG elevated storage tank (EST).
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter D 290.46(e)(3)(C)

Description: Failure to use at least two operators who hold a Class "C" or higher license.
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter D 290.46(f)(3)(A)(ii)(II)

Description: Failure to record the amount of water distributed daily.
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter D 290.46(l)

Description: Failure to flush dead-end lines monthly.
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.109(d)(6)

Description: Failure to develop and submit a Revised Total Coliform Rule (RTCR) Sample Siting Plan (SSP).
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter D 290.46(s)(2)(C)(i)

Description: Failure to properly verify the accuracy of the disinfectant residual analyzer.
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter D 290.46(m)(4)

Description: Failure to maintain the system in a watertight condition.
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter D 290.42(f)(1)

Description: Failure to provide adequate LAS storage facilities at the pump station.
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter D 290.42(f)(1)(C)

Description: Failure to provide a chemical content label to the LAS day tank.
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter D 290.43(c)(8)

Description: Failure to maintain the system's two elevated storage tanks (ESTs) in strict accordance with current AWWA standards.
Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter D 290.42(e)(4)(A)
Description: Failure to have a working full-face self-contained breathing apparatus (SCBA).
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter D 290.46(m)(6)
Description: Failure to have a working pump at the City of Rotan pump station.
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter D 290.43(c)(4)
Description: Failure to have proper liquid level indicators on the north 0.110 MG and south 0.09 MG elevated storage tanks.
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter D 290.45(f)(4)
30 TAC Chapter 290, SubChapter D 290.45(f)(6)
Description: Failure to meet production capacity requirements.

3 Date: 12/15/2021 (1783072)
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.115(f)(1)
Description: TTHM LRAA MCL 4Q2021 - During the 4th quarter of 2021 the system violated the maximum contaminant level for trihalomethanes with a LRAA of 0.105 mg/L at 1109 E McArthur ST, Rotan, TX (DBP2-01) and with a LRAA of 0.090 mg/L at 207 E 6TH ST, Rotan, TX (DBP2-02).

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 ROTAN
RN101428282**

**§
§
§
§
§**

**BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY**

**AGREED ORDER
DOCKET NO. 2022-0098-PWS-E**

I. JURISDICTION AND STIPULATIONS

On _____, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding the City of Rotan (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 together stipulate that:

1. The Respondent owns and operates a public water supply located at 302 West Sammy Baugh Avenue in Rotan, Fisher County, Texas (the "Facility"). The Facility provides water for human consumption, has approximately 1,454 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. The Executive Director and the Respondent agree that the TCEQ has jurisdiction to enter this Order pursuant to TEX. WATER CODE § 7.002 and TEX. HEALTH & SAFETY CODE § 341.049, and that the Respondent is subject to TCEQ's jurisdiction. The TCEQ has jurisdiction in this matter pursuant to TEX. WATER CODE § 5.013 and TEX. HEALTH & SAFETY CODE § 341.031 because it alleges violations of TEX. HEALTH & SAFETY CODE ch. 341 and the rules of the TCEQ.
3. The occurrence of any violation is in dispute and the entry of this Order shall not constitute an admission by the Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
4. An administrative penalty in the amount of \$8,763 is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent paid \$7,011 of the penalty and \$1,752 is deferred contingent upon the Respondent's timely and satisfactory compliance with all the terms of this Order. The deferred amount shall be waived only upon full compliance with all the terms and conditions contained in this Order. If the Respondent fails to timely and satisfactorily comply with any of the terms or requirements contained in this Order, the Executive Director may demand payment of all or part of the deferred penalty amounts.
5. The Executive Director and the Respondent agree on a settlement of the matters alleged in this enforcement action, subject to final approval in accordance with 30 TEX. ADMIN.

CODE § 70.10(a). 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.

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 or conditions in this Order.
7. 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.
8. 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.

II. ALLEGATIONS

During a record review conducted from January 3, 2022 through January 14, 2022, an investigator documented that the Respondent:

1. Failed 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 January 1, 2016 through June 30, 2016, the July 1, 2016 through December 31, 2016, and the January 1, 2017 through June 30, 2017 monitoring periods, in violation of 30 TEX. ADMIN. CODE § 290.117(e)(2), (h), and (i)(3).
2. Failed to comply with the maximum contaminant level ("MCL") of 0.080 milligrams per liter ("mg/L") for total trihalomethanes ("TTHM"), based on the locational running annual average, in violation of 30 TEX. ADMIN. CODE § 290.115(f)(1) and TEX. HEALTH & SAFETY CODE § 341.0315(c). Specifically, the locational running annual average concentrations of TTHM for Stage 2 Disinfection Byproducts ("DBP2") were 0.105 mg/L at Site 1 and 0.090 mg/L at Site 2 for the fourth quarter of 2021.
3. Failed to provide a consumer notification of lead tap water monitoring results to persons served at the sites (taps) that were tested, and failed to mail a copy of the consumer notification of tap results to the Executive Director along with certification that the consumer notification has been distributed in a manner consistent with TCEQ requirements for the January 1, 2018 through December 31, 2020 monitoring period, in violation of 30 TEX. ADMIN. CODE § 290.117(i)(6) and (j).

III. DENIALS

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

IV. ORDERING PROVISIONS

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

1. The Respondent is assessed a penalty as set forth in Section I, Paragraph No. 4. The payment of this penalty and the Respondent's compliance with all of the requirements set forth in this Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective action or penalties for violations which are not raised here. Penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: City of Rotan, Docket No. 2022-0098-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. Collect one water quality parameter sample at each entry point and one water quality parameter sample at each of the Facility's required distribution sample sites on a quarterly basis throughout the first six-month monitoring period¹ and ensure that the samples are analyzed and the results reported to the Executive Director, in accordance with 30 TEX. ADMIN. CODE § 290.117.
 - b. Within 30 days after the effective date of this Order, provide consumer notification of lead tap water monitoring results to persons served at all sites (taps) that were tested during the January 1, 2018 through December 31, 2020 monitoring period. Submit to the Executive Director a sample copy of the consumer notification and certification that consumer notification was distributed in a manner consistent with TCEQ requirements, in accordance with 30 TEX. ADMIN. CODE § 290.117.
 - c. Within 45 days after the effective date of this Order, submit written certification as described in Ordering Provision No. 2.f below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision No. 2.b.
 - d. Within 195 days after the effective date of this Order, submit written certification as described in Ordering Provision No. 2.f below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision No. 2.a.
 - e. Within 365 days after the effective date of this Order, return to compliance with the MCL for TTHM based on a locational running annual average, in accordance with 30 TEX. ADMIN. CODE § 290.115.
 - f. Within 380 days after the effective date of this Order, submit written certification, and include detailed supporting documentation including

¹ "First six-month monitoring period" refers to the January 1 through June 30 or July 1 through December 31 monitoring period that begins immediately after the effective date of this Order.

photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision No. 2.e. 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. 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.

7. 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.
8. 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



For the Executive Director

8/15/2022

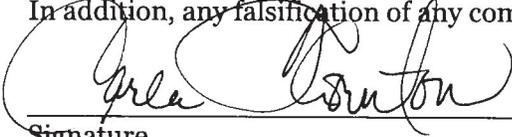
Date

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

APRIL 25, 2022

CARLA THORNTON

Name (Printed or typed)

Title

CITY MANAGER

Authorized Representative of
City of Rotan

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.