

Executive Summary – Enforcement Matter – Case No. 62772

City of Rotan

RN102177805

Docket No. 2022-1009-MWD-E

Order Type:

1660 Agreed Order

Findings Order Justification:

N/A

Media:

MWD

Small Business:

No

Location(s) Where Violation(s) Occurred:

City of Rotan WWTF, located one mile southeast of the intersection of State Highway 70 and State Highway 92 (Snyder) Road, southeast of Rotan, Fisher County

Type of Operation:

Wastewater treatment facility

Other Significant Matters:

Additional Pending Enforcement Actions: No

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: None

Texas Register Publication Date: November 29, 2024

Comments Received: No

Penalty Information

Total Penalty Assessed: \$9,563

Amount Deferred for Expedited Settlement: \$1,912

Total Paid to General Revenue: \$7,651

Total Due to General Revenue: \$0

Payment Plan: N/A

Compliance History Classifications:

Person/CN - High

Site/RN - High

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: July 27, 2022

Date(s) of NOE(s): August 4, 2022

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City of Rotan

RN102177805

Docket No. 2022-1009-MWD-E

Violation Information

1. Failed to ensure the Facility and all of its systems of collection, treatment, and disposal are properly operated and maintained. Specifically, the dam between holding ponds 3 and 4 was significantly eroded [30 TEX. ADMIN. CODE § 305.125(1) and (5) and TCEQ Permit No. WQ0011256001, Operational Requirements No. 1].
2. Failed to employ or contract with one or more licensed wastewater treatment facility operators or wastewater system operations companies holding a valid Class D license or higher. Specifically, sample collection was conducted at the Facility by an unlicensed individual [30 TEX. ADMIN. CODE §§ 30.350(d) and 305.125(1) and TCEQ Permit No. WQ0011256001, Special Provisions No. 2].
3. Failed to collect and analyze effluent samples at the intervals specified in the permit. Specifically, the Respondent was not collecting and analyzing pH samples [30 TEX. ADMIN. CODE §§ 305.125(1) and 319.5(b) and TCEQ Permit No. WQ0011256001, Effluent Limitations and Monitoring Requirements B].
4. Failed to maintain adequate irrigation records at the Facility and make them readily available for review by a TCEQ representative for a period of three years. Specifically, the land application records did not contain the volume of effluent applied to the irrigation land [30 TEX. ADMIN. CODE §§ 305.125(1) and (11)(B) and 319.7(a) and (c) and TCEQ Permit No. WQ0011256001, Special Provisions No. 4.d].
5. Failed to have the automatic flow measuring device accurately calibrated by a trained person at plant start-up and thereafter not less often than annually. Specifically, no calibrations were conducted for the years of 2019, 2020, and 2021 [30 TEX. ADMIN. CODE §§ 217.33(a) and 305.125(1) and TCEQ Permit No. WQ0011256001, Monitoring Requirements No. 5].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

N/A

Technical Requirements:

The Order will require the Respondent to:

a. Within 30 days:

i. Develop and implement procedures and conduct employee training to:

A. Ensure samples are collected and analyzed in accordance with permit requirements; and

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City of Rotan

RN102177805

Docket No. 2022-1009-MWD-E

- B. Ensure annual calibration of the flow measuring device.
- ii. Calibrate the inline totalizing irrigation meter;
- iii. Hire an operator with a valid Class D license or higher to operate the Facility for a minimum of five days per week; and
- iv. Begin maintaining land application records and make them readily available.
- b. Within 45 days, submit written certification to demonstrate compliance with a.
- c. Within 60 days, repair the dam erosion between ponds 3 and 4.
- d. Within 75 days, submit written certification to demonstrate compliance with c.

Contact Information

TCEQ Attorney: N/A

TCEQ Enforcement Coordinator: Harley Hobson, Enforcement Division, Enforcement Team 1, MC 219, (512) 239-1337; Michael Parrish, Enforcement Division, MC 219, (512) 239-2548

Respondent: The Honorable Zach Johnson, 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	8-Aug-2022	Screening	16-Aug-2022	EPA Due	
	PCW	16-Aug-2022				

RESPONDENT/FACILITY INFORMATION

Respondent	City of Rotan
Reg. Ent. Ref. No.	RN102177805
Facility/Site Region	3-Abilene
Major/Minor Source	Minor

CASE INFORMATION

Enf./Case ID No.	62772	No. of Violations	5
Docket No.	2022-1009-MWD-E	Order Type	1660
Media Program(s)	Water Quality	Government/Non-Profit	Yes
Multi-Media		Enf. Coordinator	Harley Hobson
		EC's Team	Enforcement Team 1
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$25,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)	Subtotal 1	\$10,625
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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	-10.0%	Adjustment	Subtotals 2, 3, & 7	-\$1,062
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Notes Reduction for High 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 \$10,210
Estimated Cost of Compliance \$48,528
*Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7	Final Subtotal	\$9,563
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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 \$9,563

STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$9,563
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DEFERRAL	20.0%	Reduction	Adjustment	-\$1,912
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Reduces the Final Assessed Penalty by the indicated percentage.

Notes

Deferral offered for expedited settlement.

PAYABLE PENALTY	\$7,651
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Screening Date	16-Aug-2022	Docket No.	2022-1009-MWD-E	PCW
Respondent	City of Rotan			
Case ID No.	62772			
Reg. Ent. Reference No.	RN102177805			
Media	Water Quality			
Enf. Coordinator	Harley Hobson			

Policy Revision 5 (January 28, 2021)

PCW Revision February 11, 2021

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>)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (<i>number of 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) 0%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

High Performer

Adjustment Percentage (Subtotal 7) -10%

>> Compliance History Summary

Compliance History Notes

Reduction for High Performer Classification.

Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7) -10%

>> Final Compliance History Adjustment

Final Adjustment Percentage *capped at 100% -10%

Screening Date 16-Aug-2022 Respondent City of Rotan Case ID No. 62772 Reg. Ent. Reference No. RN102177805 Media Water Quality Enf. Coordinator Harley Hobson	Docket No. 2022-1009-MWD-E	PCW <i>Policy Revision 5 (January 28, 2021)</i> <i>PCW Revision February 11, 2021</i>
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Violation Number	1	
Rule Cite(s)		30 Tex. Admin. Code § 305.125(1) and (5) and Texas Commission on Environmental Quality ("TCEQ") Permit No. WQ0011256001, Operational Requirements No. 1
Violation Description		Failed to ensure the Facility and all of its systems of collection, treatment, and disposal are properly operated and maintained. Specifically, the dam between holding ponds 3 and 4 was significantly eroded.

Base Penalty	\$25,000
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>> Environmental, Property and Human Health Matrix

OR		Release	Harm	Major	Moderate	Minor	
		Actual					
		Potential			X		

Percent	5.0%
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>> Programmatic Matrix

	Falsification	Major	Moderate	Minor	

Percent	0.0%
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Matrix Notes	Human health or the environment will or could be exposed to significant amounts of pollutants that would not exceed levels that are protective of human health or environmental receptors as a result of the violation.
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Adjustment	\$23,750
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Adjustment	\$1,250
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Violation Events

Number of Violation Events	1	Number of violation days	20
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	daily	weekly	monthly	quarterly	semiannual	annual	single event
				X			

Violation Base Penalty	\$1,250
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One quarterly event is recommended from the investigation date (July 27, 2022) to the screening date (August 16, 2022).

Good Faith Efforts to Comply

	0.0%		Reduction	\$0
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	Extraordinary	Ordinary	N/A	
			X	

	Notes	The Respondent does not meet the good faith criteria for this violation.
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Violation Subtotal	\$1,250
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Economic Benefit (EB) for this violation

	Statutory Limit Test
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Estimated EB Amount	\$1,968	Violation Final Penalty Total	\$1,125
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This violation Final Assessed Penalty (adjusted for limits)	\$1,125
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Economic Benefit Worksheet

Respondent City of Rotan
Case ID No. 62772
Reg. Ent. Reference No. RN102177805
Media Water Quality
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	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	\$5,000	7-Aug-2019	20-Mar-2025	5.62	\$94	\$1,874	\$1,968
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0
Notes for DELAYED costs	Estimated Engineering/Construction cost to repair the erosion between holding pond 3 and pond 4. The Date Required is the initial investigation date. 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

TOTAL

Screening Date 16-Aug-2022 Respondent City of Rotan Case ID No. 62772 Reg. Ent. Reference No. RN102177805 Media Water Quality Enf. Coordinator Harley Hobson Violation Number 2 Rule Cite(s) 30 Tex. Admin. Code §§ 30.350(d) and 305.125(1) and TCEQ Permit No. WQ0011256001, Special Provisions No. 2 Violation Description Failed to employ or contract with one or more licensed wastewater treatment facility operators or wastewater system operations companies holding a valid Class D license or higher. Specifically, sample collection was conducted at the Facility by an unlicensed individual.	Docket No. 2022-1009-MWD-E	PCW <i>Policy Revision 5 (January 28, 2021)</i> <i>PCW Revision February 11, 2021</i>
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Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

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

>> Programmatic Matrix

	Falsification	Major	Moderate	Minor	
					Percent 0.0%

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

Adjustment \$21,250

Base Penalty \$3,750

Violation Events

Number of Violation Events 1 20 Number of violation days

	daily		weekly		monthly	X	quarterly		semiannual		annual		single event	

Violation Base Penalty \$3,750

One monthly event is recommended from the investigation date (July 27, 2022) to the screening date (August 16, 2022).

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 \$3,750

Economic Benefit (EB) for this violation

	Statutory Limit Test
Estimated EB Amount \$7,324	Violation Final Penalty Total \$3,375
This violation Final Assessed Penalty (adjusted for limits) \$3,375	

Economic Benefit Worksheet

Respondent City of Rotan
Case ID No. 62772
Reg. Ent. Reference No. RN102177805
Media Water Quality
Violation No. 2

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	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)	\$40,000	27-Jul-2022	18-Feb-2025	2.57	\$5,134	n/a	\$5,134
Notes for DELAYED costs Estimated Other cost to hire an operator with a valid Class D license or higher to operate the Facility. The Date Required is the investigation date. 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	\$40,000	27-Jul-2022	16-Aug-2022	0.05	\$0	\$2,190	\$2,190
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 Estimated avoided cost to hire an operator with a valid Class D license or higher to operate the Facility. The Date Required is the date the violation was documented. The Final Date is the screening date.							
Approx. Cost of Compliance				\$42,190	TOTAL		\$7,324

Screening Date 16-Aug-2022 Respondent City of Rotan Case ID No. 62772 Reg. Ent. Reference No. RN102177805 Media Water Quality Enf. Coordinator Harley Hobson Violation Number 3 Rule Cite(s) 30 Tex. Admin. Code §§ 305.125(1) and 319.5(b) and TCEQ Permit No. WQ0011256001, Effluent Limitations and Monitoring Requirements B Violation Description Failed to collect and analyze effluent samples at the intervals specified in the permit. Specifically, the Respondent was not collecting and analyzing pH samples.	Docket No. 2022-1009-MWD-E	PCW <i>Policy Revision 5 (January 28, 2021)</i> <i>PCW Revision February 11, 2021</i>
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Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

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

>> Programmatic Matrix

	Falsification	Major	Moderate	Minor	
					Percent 0.0%

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

Adjustment \$23,750

\$1,250

Violation Events

Number of Violation Events	1	20	Number of violation days
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	daily				
	weekly				
	monthly				
	quarterly				
	semiannual				
	annual				
	single event	x			Violation Base Penalty \$1,250

One single event is recommended.

Good Faith Efforts to Comply

	0.0%	
	Before NOE/NOV	NOE/NOV to EDP RP/Settlement Offer
Extraordinary		
Ordinary		
N/A	X	
Notes	The Respondent does not meet the good faith criteria for this violation.	

Violation Subtotal \$1,250

Economic Benefit (EB) for this violation

	Statutory Limit Test
Estimated EB Amount \$57	Violation Final Penalty Total \$1,125
This violation Final Assessed Penalty (adjusted for limits) \$1,125	

Economic Benefit Worksheet

Respondent City of Rotan
Case ID No. 62772
Reg. Ent. Reference No. RN102177805
Media Water Quality
Violation No. 3

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	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	\$250	27-Jul-2022	18-Feb-2025	2.57	\$32	n/a	\$32
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated Training/Sampling cost to develop and implement procedures and conduct employee training to ensure samples are collected and analyzed in accordance with permit requirements and to ensure the flow measuring device is calibrated annually. The Date Required is the investigation date. 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)	\$25	27-Jul-2022	8-Aug-2022	0.03	\$0	\$25	\$25

Notes for AVOIDED costs

Estimated avoided cost to collect and analyze effluent samples. The Date Required is the initial known date of noncompliance, and the Final date is the screening date.

Approx. Cost of Compliance

\$275

TOTAL

\$57

Screening Date 16-Aug-2022 Respondent City of Rotan Case ID No. 62772 Reg. Ent. Reference No. RN102177805 Media Water Quality Enf. Coordinator Harley Hobson	Docket No. 2022-1009-MWD-E	PCW <i>Policy Revision 5 (January 28, 2021)</i> <i>PCW Revision February 11, 2021</i>
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Violation Number	4		
Rule Cite(s)		30 Tex. Admin. Code §§ 305.125(1) and (11)(B) and 319.7(a) and (c) and TCEQ Permit No. WQ0011256001, Special Provisions No. 4.d	
Violation Description		Failed to maintain adequate irrigation records at the Facility and make them readily available for review by a TCEQ representative for a period of three years. Specifically, the land application records did not contain the volume of effluent applied to the irrigation land.	

Base Penalty	\$25,000
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>> 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 2.5%

Matrix Notes	Between 30% and 70% of the rule requirements were not met.
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Adjustment	\$24,375
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	\$625
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Violation Events

Number of Violation Events	1		20	Number of violation days
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	daily				
	weekly				
	monthly				
	quarterly				
	semiannual				
	annual				
	single event	X			

Violation Base Penalty \$625

One single event is recommended.

Good Faith Efforts to Comply

	0.0%			
	Before NOE/NOV	NOE/NOV to EDPRP/Settlement Offer		
Extraordinary				
Ordinary				
N/A	X			

Reduction \$0

	The Respondent does not meet the good faith criteria for this violation.
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Violation Subtotal \$625

Economic Benefit (EB) for this violation

Estimated EB Amount	\$3	Statutory Limit Test	
		Violation Final Penalty Total	\$563
This violation Final Assessed Penalty (adjusted for limits)			\$563

Economic Benefit Worksheet

Respondent City of Rotan
Case ID No. 62772
Reg. Ent. Reference No. RN102177805
Media Water Quality
Violation No. 4

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	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	\$25	27-Jul-2022	18-Feb-2025	2.57	\$3	n/a	\$3
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0
Notes for DELAYED costs	Estimated Record Keeping System cost to maintain land application records and make them readily available for at least three years. The Date Required is the investigation date. 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

TOTAL \$3

Screening Date 16-Aug-2022 Respondent City of Rotan Case ID No. 62772 Reg. Ent. Reference No. RN102177805 Media Water Quality Enf. Coordinator Harley Hobson Violation Number 5 Rule Cite(s) 30 Tex. Admin. Code §§ 217.33(a) and 305.125(1) and TCEQ Permit No. WQ0011256001, Monitoring Requirements No. 5	Docket No. 2022-1009-MWD-E	PCW <i>Policy Revision 5 (January 28, 2021)</i> <i>PCW Revision February 11, 2021</i>
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Violation Description	Failed to have the automatic flow measuring device accurately calibrated by a trained person at plant start-up and thereafter not less often than annually. Specifically, no calibrations were conducted for the years of 2019, 2020, and 2021.
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Base Penalty	\$25,000
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>> Environmental, Property and Human Health Matrix

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

>> Programmatic Matrix

	Falsification	Major	Moderate	Minor	
Percent 0.0%					

Matrix Notes	Human health or the environment will or could be exposed to significant amounts of pollutants that would not exceed levels that are protective of human health or environmental receptors as a result of the violation.
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Adjustment	\$23,750
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	\$1,250
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Violation Events

Number of Violation Events	3	1083	Number of violation days
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	daily				
	weekly				
	monthly				
	quarterly				
	semiannual				
	annual				
	single event	x			

Violation Base Penalty	\$3,750
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Three single events are recommended.	
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Good Faith Efforts to Comply

	0.0%		Reduction	\$0
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	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.
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Violation Subtotal	\$3,750
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Economic Benefit (EB) for this violation

Estimated EB Amount	\$858	Statutory Limit Test
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Violation Final Penalty Total	\$3,375
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This violation Final Assessed Penalty (adjusted for limits)	\$3,375
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Economic Benefit Worksheet

Respondent City of Rotan
Case ID No. 62772
Reg. Ent. Reference No. RN102177805
Media Water Quality
Violation No. 5

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	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)	\$250	27-Jul-2022	18-Feb-2025	2.57	\$32	n/a	\$32
Estimated Training/Sampling cost captured in Economic Benefit No. 3.							
Notes for DELAYED costs Estimated Other cost to calibrate the flow measuring device. The Date Required is the investigation date. 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	\$788	29-Aug-2021	16-Aug-2022	0.96	\$38	\$788	\$826
Other (as needed)				0.00	\$0	\$0	\$0
Notes for AVOIDED costs Estimated One-Time avoided cost to calibrate the flow measuring device (\$250 per year plus accrued interest). The Date Required is the date the last annual calibration was due. The Final Date is the screening date.							

Approx. Cost of Compliance	\$1,038	TOTAL	\$858
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Compliance History Report

Compliance History Report for CN600738397, RN102177805, Rating Year 2023 which includes Compliance History (CH) components from September 1, 2018, through August 31, 2023.

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

Regulated Entity: RN102177805, CITY OF ROTAN **Classification:** HIGH **Rating:** 0.00

Complexity Points: 3 **Repeat Violator:** NO

CH Group: 08 - Sewage Treatment Facilities

Location: 1 mile southeast of the intersection of State Highway 70 and State Highway 92 (Snyder Road), southeast of the City of Rotan, Fisher County, Texas

TCEQ Region: REGION 03 - ABILENE

ID Number(s):
WASTEWATER PERMIT WQ0011256001

Compliance History Period: September 01, 2018 to August 31, 2023 **Rating Year:** 2023 **Rating Date:** 09/01/2023

Date Compliance History Report Prepared: July 22, 2024

Agency Decision Requiring Compliance History: Enforcement

Component Period Selected: July 22, 2019 to July 22, 2024

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

Name: Harley Hobson

Phone: (512) 239-1337

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:

N/A

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

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
CITY OF ROTAN
RN102177805

§ BEFORE THE
§
§ TEXAS COMMISSION ON
§
§ ENVIRONMENTAL QUALITY

AGREED ORDER DOCKET NO. 2022-1009-MWD-E

I. JURISDICTION AND STIPULATIONS

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

1. The Respondent owns and operates a wastewater treatment facility located one mile southeast of the intersection of State Highway 70 and State Highway 92 (Snyder Road), southeast of Rotan in Fisher County, Texas (the "Facility"). The Facility is near or adjacent to water in the state as defined in TEX. WATER CODE § 26.001(5).
2. The Executive Director and the Respondent agree that the TCEQ has jurisdiction to enter this Order pursuant to TEX. WATER CODE §§ 7.002, 7.051, and 7.073, and that the Respondent is subject to TCEQ's jurisdiction. The TCEQ has jurisdiction in this matter pursuant to TEX. WATER CODE § 5.013 because it alleges violations of TEX. WATER CODE ch. 26 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 \$9,563 is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent paid \$7,651 of the penalty and \$1,912 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 amount.
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 an investigation for the Facility conducted on July 27, 2022, an investigator documented that the Respondent:

1. Failed to ensure the Facility and all of its systems of collection, treatment, and disposal are properly operated and maintained, in violation of 30 TEX. ADMIN. CODE § 305.125(1) and (5) and TCEQ Permit No. WQ0011256001, Operational Requirements No. 1. Specifically, the dam between holding ponds 3 and 4 was significantly eroded.
2. Failed to employ or contract with one or more licensed wastewater treatment facility operators or wastewater system operations companies holding a valid Class D license or higher, in violation of 30 TEX. ADMIN. CODE §§ 30.350(d) and 305.125(1) and TCEQ Permit No. WQ0011256001, Special Provisions No. 2. Specifically, sample collection was conducted at the Facility by an unlicensed individual.
3. Failed to collect and analyze effluent samples at the intervals specified in the permit, in violation of 30 TEX. ADMIN. CODE §§ 305.125(1) and 319.5(b) and TCEQ Permit No. WQ0011256001, Effluent Limitations and Monitoring Requirements B. Specifically, the Respondent was not collecting and analyzing pH samples.
4. Failed to maintain adequate irrigation records at the Facility and make them readily available for review by a TCEQ representative for a period of three years, in violation of 30 TEX. ADMIN. CODE §§ 305.125(1) and (11)(B) and 319.7(a) and (c) and TCEQ Permit No. WQ0011256001, Special Provisions No. 4.d. Specifically, the land application records did not contain the volume of effluent applied to the irrigation land.
5. Failed to have the automatic flow measuring device accurately calibrated by a trained person at plant start-up and thereafter not less often than annually, in violation of 30 TEX. ADMIN. CODE §§ 217.33(a) and 305.125(1) and TCEQ Permit No. WQ0011256001, Monitoring Requirements No. 5. Specifically, no calibrations were conducted for the years of 2019, 2020, and 2021.

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. 2022-1009-MWD-E" to:

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

2. The Respondent shall undertake the following technical requirements:
 - a. Within 30 days after the effective date of this Order:
 - i. Develop and implement procedures and conduct employee training to:
 - a. Ensure samples are collected and analyzed in accordance with permit requirements; and
 - b. Ensure annual calibration of the flow measuring device.
 - ii. Calibrate the inline totalizing irrigation meter, in accordance with 30 TEX. ADMIN. CODE § 217.33 and TCEQ Permit No. WQ0011256001, Monitoring Requirements No. 5;
 - iii. Hire an operator with a valid Class D license or higher to operate the Facility for a minimum of five days per week, in accordance with 30 TEX. ADMIN. CODE § 30.350 and TCEQ Permit No. WQ0011256001, Special Provisions No. 2; and
 - iv. Begin maintaining land application records and make them readily available, in accordance with 30 TEX. ADMIN. CODE § 319.7 and TCEQ Permit No. WQ0011256001, Special Provisions No. 4.d.
 - b. Within 45 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. 2.a.i through 2.a.iv, in accordance with Ordering Provision No. 2.d.
 - c. Within 60 days after the effective date of this Order, repair the dam erosion between ponds 3 and 4.

- 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 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:

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

with a copy to:

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

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 Enforcement Division 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

11/27/2024

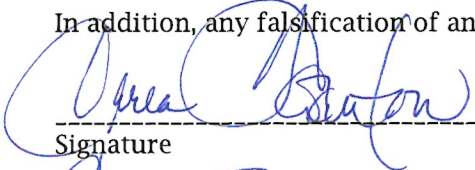
Date

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 OAG 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 OAG of any future enforcement actions; and
- TCEQ seeking other relief as authorized by law.

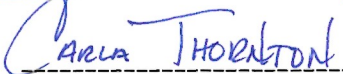
In addition, any falsification of any compliance documents may result in criminal prosecution.



Signature



Date



Name (Printed or typed)
Authorized Representative of
City of Rotan



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.