

**EXECUTIVE SUMMARY - ENFORCEMENT MATTER****DOCKET NO.:** 2007-0547-PWS-E **TCEQ ID:** RN101220887, RN101192540, RN101251023**CASE NO.:** 33106**RESPONDENT NAME:** James A. Dyche dba Crest Water Company

|  |   |  |
|--|---|--|
| <b>ORDER TYPE:</b>   |   |  |
| <input checked="" type="checkbox"/> 1660 AGREED ORDER  | <input type="checkbox"/> FINDINGS AGREED ORDER              | <input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING       |
| <input type="checkbox"/> FINDINGS DEFAULT ORDER  | <input type="checkbox"/> SHUTDOWN ORDER                     | <input type="checkbox"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER |
| <input type="checkbox"/> AMENDED ORDER   | <input type="checkbox"/> EMERGENCY ORDER                    |  |
| <b>CASE TYPE:</b>  |   |  |
| <input type="checkbox"/> AIR   | <input type="checkbox"/> MULTI-MEDIA (check all that apply) | <input type="checkbox"/> INDUSTRIAL AND HAZARDOUS WASTE              |
| <input checked="" type="checkbox"/> PUBLIC WATER SUPPLY  | <input type="checkbox"/> PETROLEUM STORAGE TANKS            | <input type="checkbox"/> OCCUPATIONAL CERTIFICATION                  |
| <input type="checkbox"/> WATER QUALITY   | <input type="checkbox"/> SEWAGE SLUDGE                      | <input type="checkbox"/> UNDERGROUND INJECTION CONTROL               |
| <input type="checkbox"/> MUNICIPAL SOLID WASTE   | <input type="checkbox"/> RADIOACTIVE WASTE                  | <input type="checkbox"/> DRY CLEANER REGISTRATION                    |
| <p><b>SITE WHERE VIOLATION(S) OCCURRED:</b> Rolling Oaks Subdivision PWS (RN101220887), located at the intersection State Highway 171 and County Road 1202, Johnson County; Northcrest Addition PWS (RN101251023), located behind Lot 3605 Northcrest Drive, Johnson County; Fisherman's Paradise PWS (RN101192540), located left of the intersection of Old Wagon Road and Indian Trail, Johnson County</p> <p><b>TYPE OF OPERATION:</b> Public water supplies</p> <p><b>SMALL BUSINESS:</b> <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p><b>OTHER SIGNIFICANT MATTERS:</b> There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.</p> <p><b>INTERESTED PARTIES:</b> No one other than the ED and the Respondent has expressed an interest in this matter.</p> <p><b>COMMENTS RECEIVED:</b> The <i>Texas Register</i> comment period expired on September 10, 2007. No comments were received.</p> <p><b>CONTACTS AND MAILING LIST:</b><br/> <b>TCEQ Attorney/SEP Coordinator:</b> None<br/> <b>TCEQ Enforcement Coordinator:</b> Ms. Andrea Linson-Mgbeoduru, Enforcement Division, Enforcement Team 2, MC 169, (512) 239-1482; Mr. David Van Soest, Enforcement Division, MC 219, (512) 239-0468<br/> <b>Respondent:</b> Mr. James A. Dyche, Owner, Crest Water Company, P.O. Box 460, Keene, Texas 76059<br/> <b>Respondent's Attorney:</b> Not represented by counsel on this enforcement matter</p> |   |  |

DOCKET NO.: 2007-0547-PWS-E

**VIOLATION SUMMARY CHART:**

| VIOLATION INFORMATION  | PENALTY CONSIDERATIONS  | CORRECTIVE ACTIONS TAKEN/REQUIRED  |
|--|---|--|
| <p><b>Type of Investigation:</b><br/> <input type="checkbox"/> Complaint<br/> <input type="checkbox"/> Routine<br/> <input type="checkbox"/> Enforcement Follow-up<br/> <input checked="" type="checkbox"/> Records Review</p> <p><b>Date(s) of Complaints Relating to this Case:</b><br/>None</p> <p><b>Dates of Investigations Relating to this Case:</b> February 12 and 15, 2007 and March 9, 2007</p> <p><b>Date of NOE Relating to this Case:</b> March 25, 2007 (NOE)</p> <p><b>Background Facts:</b> These were routine record reviews. Ten violations were documented.</p> <p><b>WATER</b></p> <p>1) Fisherman's Paradise PWS</p> <p>Failed to maintain records as required [30 TEX. ADMIN. CODE § 290.46(n)(3)].</p> <p>2) Northcrest Addition PWS</p> <p>a. Failed to make available sanitary control easements for each of the four wells at the time of the inspection [30 TEX. ADMIN. CODE § 290.41(c)(1)(F)].</p> <p>b. Failed to cover and design, fabricate, erect, test and disinfect all potable water storage facilities in strict accordance with current American Water Works Association ("AWWA") standards, and to provide facilities with the minimum number, size, and type of roof vents, man ways, drains, sample connections, access ladders, overflows, liquid level indicators and other appurtenances as specified in these rules [30 TEX. ADMIN. CODE § 290.43(c), (c)(2), and (c)(8)].</p> <p>c. Failed to provide a minimum well production capacity of at least 0.6 gallons per minute ("gpm") per connection [30 TEX. ADMIN. CODE § 290.45(b)(1)(C)(i) and TEX. HEALTH &amp; SAFETY CODE § 341.0315(c)]</p> | <p><b>Total Assessed:</b> \$1,749</p> <p><b>Total Deferred:</b> \$349<br/> <input checked="" type="checkbox"/> Expedited Settlement<br/> <input type="checkbox"/> Financial Inability to Pay</p> <p><b>SEP Conditional Offset:</b> \$0</p> <p><b>Total Paid to General Revenue:</b> \$1,400</p> <p><b>Site Compliance History Classification</b><br/> <input type="checkbox"/> High <input type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p><b>Person Compliance History Classification</b><br/> <input type="checkbox"/> High <input type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p><b>Major Source:</b> <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p><b>Applicable Penalty Policy:</b> September 2002</p> | <p><b>Corrective Actions Taken:</b></p> <p>1) The Executive Director recognizes that the Respondent has implemented the following corrective measures:</p> <p>a. At Fisherman's Paradise PWS, increased the well production capacity from 36 gpm to 70 gpm as of March 29, 2007; and</p> <p>b. At Northcrest Addition PWS, taken the 10,000 gallon ground storage tank offline, as of February 29, 2007.</p> <p><b>Ordering Provisions:</b></p> <p>2) The Order will require the Respondent to:</p> <p>a. Within 60 days after the effective date of this Agreed Order, submit copies of well completion data for Well No. 1 at Fisherman's Paradise PWS, and Well No. 1 at Rolling Oaks Subdivision PWS, and copies of well drillers logs for Well Nos. 3 and 4 at Northcrest Addition PWS, or submit documentation verifying that an exception has been granted by TCEQ;</p> <p>b. Within 75 days after the effective date of this Agreed Order, submit written certification of compliance with Ordering Provision No. 2.a.;</p> <p>c. Within 90 days after the effective date of this Agreed Order:</p> <p>i. Secure sanitary control easements covering all property within 150 feet of each well location from adjacent landowners and record the deeds at the county courthouse for all four wells located at Northcrest Addition PWS, and Well No. 1 at Rolling Oaks Subdivision PWS; and</p> <p>ii. Provide Well No. 1 at Northcrest Addition PWS with a casing at least 18 inches above the elevation of the finished floor.</p> |

DOCKET NO.: 2007-0547-PWS-E

|   |  |  |
|---|--|--|
| <p>d. Failed to maintain records as required [30 TEX. ADMIN. CODE § 290.46(n)(3)].</p> <p>e. Failed to provide Well No. 1 with a casing 18 inches above the elevation of the finished floor of the pump house or natural ground surface with a minimum of one inch above the sealing block or pump motor foundation block [30 TEX. ADMIN. CODE § 290.41(c)(3)(B)].</p> <p>3) Rolling Oaks Subdivision PWS</p> <p>a. Failed to make available sanitary control easements for Well No. 1 at the time of the inspection [30 TEX. ADMIN. CODE § 290.41(c)(1)(F)].</p> <p>b. Failed to cover and design, fabricate, erect, test, and disinfect all potable water storage facilities in strict accordance with current American Water Works Association (AWWA) standards and to provide facilities with the minimum number, size and type of roof vents, man ways, drains, sample connections, access ladders, overflows, liquid level indicators, and other appurtenances as specified in these rules [30 TEX. ADMIN. CODE § 290.43(c), (c)(2), (c)(5), (c)(6) and (c)(7)].</p> <p>c. Failed to provide a minimum well production capacity of at least 0.6 gpm per connection [30 TEX. ADMIN. CODE § 290.45(b)(1)(C)(i) and TEX. HEALTH &amp; SAFETY CODE § 341.0315(c)].</p> <p>d. Failed to maintain records as required [30 TEX. ADMIN. CODE § 290.46(n)(3)].</p> |  | <p>d. Within 105 days after the effective date of this Agreed Order, submit written certification of compliance with Ordering Provision Nos. 2.c.i. through 2.c.ii.;</p> <p>e. Within 180 days after the effective date of this Agreed Order:</p> <p>i. Provide a minimum well production capacity of at least 0.6 gpm per connection at Northcrest Addition PWS, and Rolling Oaks Subdivision PWS; and</p> <p>ii. Ensure that the storage tanks at Northcrest Addition PWS and Rolling Oaks Subdivision PWS meet AWWA standards; and</p> <p>f. Within 195 days after the effective date of this Agreed Order, submit written certification and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision No. 2.e.</p> |
|---|--|--|





# Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision December 8, 2006

TCEQ

|              |                     |             |                  |             |                |  |
|--------------|---------------------|-------------|------------------|-------------|----------------|--|
| <b>DATES</b> | <b>Assigned PCW</b> | 26-Mar-2007 | <b>Screening</b> | 30-Mar-2007 | <b>EPA Due</b> |  |
|--------------|---------------------|-------------|------------------|-------------|----------------|--|

|  |   |
|--|---|
| <b>RESPONDENT/FACILITY INFORMATION</b> |   |
| <b>Respondent</b>                      | James A. Dyche dba Crest Water Company (Fisherman's Paradise PWS) |
| <b>Reg. Ent. Ref. No.</b>              | RN101192540   |
| <b>Facility/Site Region</b>            | 4-Dallas/Fort Worth   |
| <b>Major/Minor Source</b>              | Minor   |

|  |                     |                          |                        |
|--|---------------------|--------------------------|------------------------|
| <b>CASE INFORMATION</b>                |                     |                          |                        |
| <b>Enf./Case ID No.</b>                | 33106               | <b>No. of Violations</b> | 2                      |
| <b>Docket No.</b>                      | 2007-0547-PWS-E     | <b>Order Type</b>        | 1660                   |
| <b>Media Program(s)</b>                | Public Water Supply | <b>Enf. Coordinator</b>  | Andrea Linson-Mgbeodur |
| <b>Multi-Media</b>                     |                     | <b>EC's Team</b>         | EnforcementTeam 2      |
| <b>Admin. Penalty \$ Limit Minimum</b> | \$50                | <b>Maximum</b>           | \$1,000                |

## Penalty Calculation Section

**TOTAL BASE PENALTY (Sum of violation base penalties)** **Subtotal 1**

### ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

**Compliance History** **Subtotals 2, 3, & 7**

**Notes**

**Culpability** **Subtotal 4**

**Notes**

**Good Faith Effort to Comply** **Subtotal 5**

|               |                      |                               |
|---------------|----------------------|-------------------------------|
|               | Before NOV           | NOV to EDPRP/Settlement Offer |
| Extraordinary | <input type="text"/> | <input type="text"/>          |
| Ordinary      | <input type="text"/> | <input type="text"/>          |
| N/A           | X                    | (mark with x)                 |

**Notes**

**Total EB Amounts**  **Subtotal 6**   
**Approx. Cost of Compliance**  **0% Enhancement\***  
*\*Capped at the Total EB \$ Amount*

**SUM OF SUBTOTALS 1-7** **Final Subtotal**

**OTHER FACTORS AS JUSTICE MAY REQUIRE** **Adjustment**

Reduces or enhances the Final Subtotal by the indicated percentage. (Enter number only; e.g. -30 for -30%.)

**Notes**

**Final Penalty Amount**

**STATUTORY LIMIT ADJUSTMENT** **Final Assessed Penalty**

**DEFERRAL** **Adjustment**

Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

**Notes**

**Reduction**

**PAYABLE PENALTY**

Screening Date 30-Mar-2007

Docket No. 2007-0547-PWS-E

PCW

Respondent James A. Dyché dba Crest Water Company

Policy Revision 2 (September 2002)

Case ID No. 33106

PCW Revision December 8, 2006

Reg. Ent. Reference No. RN101192540

Media [Statute] Public Water Supply

Enf. Coordinator Andrea Linson-Mgbeoduru

### Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

| Component                     | Number of...   | Enter Number Here | Adjust. |
|-------------------------------|--|-------------------|---------|
| NOVs                          | Written NOVs with same or similar violations as those in the current enforcement action (number of NOVs meeting criteria)  | 2                 | 10%     |
|                               | Other written NOVs   | 0                 | 0%      |
| Orders                        | Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)   | 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 (number of judgments or consent decrees meeting criteria)  | 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 (number of counts)  | 0                 | 0%      |
| Emissions                     | Chronic excessive emissions events (number of events)  | 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 (number of audits for which notices were submitted)              | 0                 | 0%      |
|                               | Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which violations were disclosed)   | 0                 | 0%      |
| Please Enter Yes or No        |  |                   |         |
| 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) 10%

>> Repeat Violator (Subtotal 3)

N/A

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

N/A

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance History Notes

Enhancement is due to two previous Notices of Violation ("NOV") with violations that are same or similar to the current enforcement action.

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

Screening Date 30-Mar-2007

Docket No. 2007-0547-PWS-E

PCW

Respondent James A. Dyche dba Crest Water Company

Policy Revision 2 (September 2002)

Case ID No. 33106

PCW Revision December 8, 2006

Reg. Ent. Reference No. RN101192540

Media [Statute] Public Water Supply

Enf. Coordinator Andrea Linson-Mgbeoduru

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code § 290.46(n)(3)

Violation Description Failed to maintain records as required. Specifically, during the investigation, the Respondent could not provide a well log for Well No. 1.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

OR

| Release   | Harm  |          |       |
|-----------|-------|----------|-------|
|           | Major | Moderate | Minor |
| Actual    |       |          |       |
| Potential |       |          |       |

Percent 0%

>> Programmatic Matrix

| Falsification | Major | Moderate | Minor |
|---------------|-------|----------|-------|
|               |       |          | x     |

Percent 1%

Matrix Notes

Failed to meet 15% of the rule requirement.

Adjustment \$990

\$10

Violation Events

Number of Violation Events 1

43 Number of violation days

mark only one with an x

|              |   |
|--------------|---|
| daily        |   |
| monthly      |   |
| quarterly    |   |
| semiannual   |   |
| annual       |   |
| single event | x |

Violation Base Penalty \$10

One single event is recommended.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$20

Violation Final Penalty Total \$11

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

## Economic Benefit Worksheet

**Respondent** James A. Dyché dba Crest Water Company

(Fisherman's Paradise PWS)

**Case ID No.** 33106

**Reg. Ent. Reference No.** RN101192540

**Media** Public Water Supply

**Violation No.** 1

|                         |                              |
|-------------------------|------------------------------|
| <b>Percent Interest</b> | <b>Years of Depreciation</b> |
| 5.0                     | 15                           |

**Item Cost    Date Required    Final Date    Yrs    Interest Saved    Onetime Costs    EB Amount**

Item Description    No commas or \$

**Delayed Costs**

|                          |       |             |            |     |      |     |      |
|--------------------------|-------|-------------|------------|-----|------|-----|------|
| Equipment                |       |             | 0.0        | \$0 | \$0  | \$0 |      |
| Buildings                |       |             | 0.0        | \$0 | \$0  | \$0 |      |
| Other (as needed)        |       |             | 0.0        | \$0 | \$0  | \$0 |      |
| Engineering/construction |       |             | 0.0        | \$0 | \$0  | \$0 |      |
| Land                     |       |             | 0.0        | \$0 | n/a  | \$0 |      |
| Record Keeping System    | \$500 | 15-Feb-2007 | 1-Dec-2007 | 0.8 | \$20 | n/a | \$20 |
| Training/Sampling        |       |             | 0.0        | \$0 | n/a  | \$0 |      |
| Remediation/Disposal     |       |             | 0.0        | \$0 | n/a  | \$0 |      |
| Permit Costs             |       |             | 0.0        | \$0 | n/a  | \$0 |      |
| Other (as needed)        |       |             | 0.0        | \$0 | n/a  | \$0 |      |

Notes for DELAYED costs

Estimated cost to obtain the required well completion data. Date required is the investigation date. Final date is the expected date of compliance.

**Avoided Costs**

**ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)**

|                               |  |  |     |     |     |     |
|-------------------------------|--|--|-----|-----|-----|-----|
| Disposal                      |  |  | 0.0 | \$0 | \$0 | \$0 |
| Personnel                     |  |  | 0.0 | \$0 | \$0 | \$0 |
| Inspection/Reporting/Sampling |  |  | 0.0 | \$0 | \$0 | \$0 |
| Supplies/equipment            |  |  | 0.0 | \$0 | \$0 | \$0 |
| Financial Assurance [2]       |  |  | 0.0 | \$0 | \$0 | \$0 |
| ONE-TIME avoided costs [3]    |  |  | 0.0 | \$0 | \$0 | \$0 |
| Other (as needed)             |  |  | 0.0 | \$0 | \$0 | \$0 |

Notes for AVOIDED costs

Approx. Cost of Compliance \$500

TOTAL \$20

Screening Date 30-Mar-2007

Docket No. 2007-0547-PWS-E

PCW

Respondent James A. Dyche dba Crest Water Company

FALSE

Case ID No. 33106

PCW Revision December 8, 2006

Reg. Ent. Reference No. RN101192540

Media [Statute] Public Water Supply

Enf. Coordinator Andrea Linson-Mgbeoduru

Violation Number 2

Rule Cite(s) 30 Tex. Admin. Code § 290.45(b)(1)(C)(i) and Tex. Health & Safety Code § 341.0315(c)

Violation Description Failed to provide a minimum well production capacity of at least 0.6 gallons per minute ("gpm") per connection. Specifically, a facility with 95 connections is required to provide 57 gpm. At the time of the investigation the facility was providing 36 gpm, indicating a 37% deficiency.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

| Release   | Harm  |          |       | Percent |
|-----------|-------|----------|-------|---------|
|           | Major | Moderate | Minor |         |
| Actual    |       |          |       | 10%     |
| Potential |       | x        |       |         |

>> Programmatic Matrix

| Falsification | Major | Moderate | Minor | Percent |
|---------------|-------|----------|-------|---------|
|               |       |          |       | 0%      |

Matrix Notes Failure to provide adequate well capacity could compromise the system's ability to provide a safe and adequate supply of water.

Adjustment \$900

\$100

Violation Events

Number of Violation Events 1 Number of violation days 43

|              |   |
|--------------|---|
| daily        |   |
| monthly      |   |
| quarterly    | x |
| semiannual   |   |
| annual       |   |
| single event |   |

mark only one with an x

Violation Base Penalty \$100

One quarterly event is recommended calculated from the investigation date, February 15, 2007, to the screening date, March 30, 2007.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$1,010

Violation Final Penalty Total \$110

This violation Final Assessed Penalty (adjusted for limits) \$110

## Economic Benefit Worksheet

**Respondent** James A. Dyche dba Crest Water Company (Fisherman's Paradise PWS)  
**Case ID No.** 33106  
**Reg. Ent. Reference No.** RN101192540  
**Media** Public Water Supply  
**Violation No.** 2

|                         |                              |
|-------------------------|------------------------------|
| <b>Percent Interest</b> | <b>Years of Depreciation</b> |
| 5.0                     | 15                           |

| Item Description         | Item Cost | Date Required | Final Date | Yrs | Interest Saved | Onetime Costs | EB Amount |
|--------------------------|-----------|---------------|------------|-----|----------------|---------------|-----------|
| <b>Delayed Costs</b>     |           |               |            |     |                |               |           |
| Equipment                |           |               |            | 0.0 | \$0            | \$0           | \$0       |
| Buildings                |           |               |            | 0.0 | \$0            | \$0           | \$0       |
| Other (as needed)        |           |               |            | 0.0 | \$0            | \$0           | \$0       |
| Engineering/construction | \$16,000  | 15-Feb-2007   | 1-Feb-2008 | 1.0 | \$48           | \$962         | \$1,010   |
| Land                     |           |               |            | 0.0 | \$0            | n/a           | \$0       |
| Record Keeping System    |           |               |            | 0.0 | \$0            | n/a           | \$0       |
| Training/Sampling        |           |               |            | 0.0 | \$0            | n/a           | \$0       |
| Remediation/Disposal     |           |               |            | 0.0 | \$0            | n/a           | \$0       |
| Permit Costs             |           |               |            | 0.0 | \$0            | n/a           | \$0       |
| Other (as needed)        |           |               |            | 0.0 | \$0            | n/a           | \$0       |

**Notes for DELAYED costs**  
 Estimated cost to increase well capacity. Date required is the investigation date. Final date is the expected date of compliance.

| Item Description  | Yrs | Interest Saved | Onetime Costs | EB Amount |
|---|-----|----------------|---------------|-----------|
| <b>ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)</b> |     |                |               |           |
| Disposal  | 0.0 | \$0            | \$0           | \$0       |
| Personnel   | 0.0 | \$0            | \$0           | \$0       |
| Inspection/Reporting/Sampling   | 0.0 | \$0            | \$0           | \$0       |
| Supplies/equipment  | 0.0 | \$0            | \$0           | \$0       |
| Financial Assurance [2]   | 0.0 | \$0            | \$0           | \$0       |
| ONE-TIME avoided costs [3]  | 0.0 | \$0            | \$0           | \$0       |
| Other (as needed)   | 0.0 | \$0            | \$0           | \$0       |

**Notes for AVOIDED costs**  
 (Empty box for notes)

**Approx. Cost of Compliance** **TOTAL**  
\$15,000 \$1,010

# Compliance History

|   |   |                 |              |
|---|---|-----------------|--------------|
| Customer/Respondent/Owner-Operator:           | CN602259640 DYCHE, JAMES A  | Classification: | Rating:      |
| Regulated Entity:                             | RN101192540 FISHERMANS PARADISE PWS   | Classification: | Site Rating: |
| ID Number(s):                                 | PUBLIC WATER SYSTEM/SUPPLY  | REGISTRATION    | 1260056      |
|   | WATER LICENSING   | LICENSE         | 1260056      |
| Location:                                     | LEFT OF THE INTERSECTION OF OLD WAGON RD AND INDIAN TRAIL, JOHNSON COUNTY, TX |                 |              |
| TCEQ Region:                                  | REGION 04 - DFW METROPLEX   |                 |              |
| Date Compliance History Prepared:             | April 13, 2007  |                 |              |
| Agency Decision Requiring Compliance History: | Enforcement   |                 |              |
| Compliance Period:                            | March 23, 2002 to March 23, 2007  |                 |              |

TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History

Name: Andrea Linson-Mgbeoduru Phone: 512-239-1482

## Site Compliance History Components

- |  |     |
|--|-----|
| 1. Has the site been in existence and/or operation for the full five year compliance period? | Yes |
| 2. Has there been a (known) change in ownership of the site during the compliance period?    | No  |
| 3. If Yes, who is the current owner?   | N/A |
| 4. If Yes, who was/were the prior owner(s)?  | N/A |
| 5. When did the change(s) in ownership occur?  | N/A |

### Components (Multimedia) for the Site :

- A. Final Enforcement Orders, court judgements, and consent decrees of the state of Texas and the federal government.  
N/A
- B. Any criminal convictions of the state of Texas and the federal government.  
N/A
- C. Chronic excessive emissions events.  
N/A
- D. The approval dates of investigations. (CCEDS Inv. Track. No.)
- |   |            |          |  |
|---|------------|----------|--|
| 1 | 02/21/2003 | (22097)  |  |
| 2 | 09/29/2003 | (247725) |  |
| 3 | 10/17/2006 | (509829) |  |
| 4 | 03/20/2007 | (540940) |  |
- E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)
- |              |   |          |                       |
|--------------|---|----------|-----------------------|
| Date:        | 02/25/2003  | (22097)  |                       |
| Self Report? | NO  |          | Classification: Minor |
| Citation:    | 30 TAC Chapter 290, SubChapter D 290.46(n)(3)   |          |                       |
| Description: | Failure to obtain and keep on file for future reference, accurate information pertaining to well #1.  |          |                       |
| Date:        | 10/13/2006  | (509829) |                       |
| Self Report? | NO  |          | Classification: Minor |
| Citation:    | 30 TAC Chapter 290, SubChapter D 290.46(n)(3)   |          |                       |
| Description: | Failure to obtain and keep on file for future reference, accurate information pertaining to well #1.  |          |                       |
| Self Report? | NO  |          | Classification: Minor |
| Citation:    | 30 TAC Chapter 290, SubChapter D 290.41(c)(3)(K)  |          |                       |
| Description: | Failure to provide well #3 (G1260056C) with a screened casing vent, which must face downward and be elevated so as to minimize the drawing of contaminants into the well. |          |                       |
| Self Report? | NO  |          | Classification: Minor |
| Citation:    | 30 TAC Chapter 290, SubChapter D 290.41(c)(3)(O)  |          |                       |
| Description: | Failure to maintain the three strands of barbed wire at the top of the fence at Fishermans Paradise.  |          |                       |
| Self Report? | NO  |          | Classification: Minor |
| Citation:    | 30 TAC Chapter 290, SubChapter D 290.43(c)(1)   |          |                       |

Description: Failure to protect the vent opening on the ground storage tank with a 16-mesh or finer corrosion resistant screening.

Self Report? NO

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter D 290.45(b)(1)(C)(i)  
5A THC Chapter 341, SubChapter A 341.0315(c)

Description: Failure to provide a minimum well production capacity of at least 0.6 gallons per minute per connection.

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

K. Sites Outside of Texas

N/A



# Penalty Calculation Worksheet (PCW)

|              |          |             |           |             |         |  |
|--------------|----------|-------------|-----------|-------------|---------|--|
| <b>DATES</b> | Assigned | 26-Mar-2007 | Screening | 30-Mar-2007 | EPA Due |  |
|              | PCW      | 30-Mar-2007 |           |             |         |  |

|  |  |                    |                           |
|--|--|--------------------|---------------------------|
| <b>RESPONDENT/FACILITY INFORMATION</b> |  |                    |                           |
| Respondent                             | James A. Dyché dba Crest Water Company |                    | (Northcrest Addition PWS) |
| Reg. Ent. Ref. No.                     | RN101251023                            |                    |                           |
| Facility/Site Region                   | 4-Dallas/Fort Worth                    | Major/Minor Source | Minor                     |

|                         |                     |                   |                        |         |
|-------------------------|---------------------|-------------------|------------------------|---------|
| <b>CASE INFORMATION</b> |                     |                   |                        |         |
| Enf./Case ID No.        | 33106               | No. of Violations | 5                      |         |
| Docket No.              | 2007-0547-PWS-E     | Order Type        | 1660                   |         |
| Media Program(s)        | Public Water Supply | Enf. Coordinator  | Andrea Linson-Mgbeodur |         |
| Multi-Media             |                     | EC's Team         | EnforcementTeam 2      |         |
| Admin. Penalty \$       | Limit Minimum       | \$50              | Maximum                | \$1,000 |

## Penalty Calculation Section

**TOTAL BASE PENALTY (Sum of violation base penalties)** **Subtotal 1**

### ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

**Compliance History**  Enhancement **Subtotals 2, 3, & 7**

Notes: Enhancement is due to two previous Notices of Violation ("NOV") with violations that are same or similar to the current enforcement action.

**Culpability**   Enhancement **Subtotal 4**

Notes: The Respondent does not meet the culpability criteria.

**Good Faith Effort to Comply**  Reduction **Subtotal 5**

|               |                                     |                               |
|---------------|-------------------------------------|-------------------------------|
|               | Before NOV                          | NOV to EDPRP/Settlement Offer |
| Extraordinary | <input type="text"/>                | <input type="text"/>          |
| Ordinary      | <input type="text"/>                | <input type="text"/>          |
| N/A           | <input checked="" type="checkbox"/> | (mark with x)                 |

Notes: The Respondent does not meet the good faith criteria.

**Total EB Amounts**  **Subtotal 6**   
 Approx. Cost of Compliance  \*Capped at the Total EB \$ Amount

**SUM OF SUBTOTALS 1-7** **Final Subtotal**

**OTHER FACTORS AS JUSTICE MAY REQUIRE**  **Adjustment**

Reduces or enhances the Final Subtotal by the indicated percentage. (Enter number only; e.g. -30 for -30%.)

Notes:

**Final Penalty Amount**

**STATUTORY LIMIT ADJUSTMENT** **Final Assessed Penalty**

**DEFERRAL**  Reduction **Adjustment**

Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes:

Deferral offered for expedited settlement.

**PAYABLE PENALTY**

Screening Date 30-Mar-2007

Docket No. 2007-0547-PWS-E

PCW

Respondent James A. Dyché dba Crest Water Company

Policy Revision 2 (September 2002)

Case ID No. 33106

PCW Revision March 19, 2007

Reg. Ent. Reference No. RN101251023

Media [Statute] Public Water Supply

Enf. Coordinator Andrea Linson-Mgbeoduru

### Compliance History Worksheet

#### >> Compliance History Site Enhancement (Subtotal 2)

| Component                     | Number of...   | Enter Number Here | Adjust. |
|-------------------------------|--|-------------------|---------|
| NOVs                          | Written NOVs with same or similar violations as those in the current enforcement action (number of NOVs meeting criteria)  | 2                 | 10%     |
|                               | Other written NOVs   | 0                 | 0%      |
| Orders                        | Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)   | 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 (number of judgments or consent decrees meeting criteria)  | 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 (number of counts)  | 0                 | 0%      |
| Emissions                     | Chronic excessive emissions events (number of events)  | 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 (number of audits for which notices were submitted)              | 0                 | 0%      |
|                               | Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which violations were disclosed)   | 0                 | 0%      |
| <i>Please Enter Yes or No</i> |  |                   |         |
| Other                         | Environmental management systems in place for one year or more   | No                | 0%      |
|                               | Voluntary on-site compliance assessments conducted by the executive director under a special assistance program  | No                | 0%      |
|                               | Participation in a voluntary pollution reduction program   | No                | 0%      |
|                               | Early compliance with, or offer of a product that meets future state or federal government environmental requirements  | No                | 0%      |

Adjustment Percentage (Subtotal 2) 10%

#### >> Repeat Violator (Subtotal 3)

N/A

Adjustment Percentage (Subtotal 3) 0%

#### >> Compliance History Person Classification (Subtotal 7)

N/A

Adjustment Percentage (Subtotal 7) 0%

#### >> Compliance History Summary

Compliance History Notes

Enhancement is due to two previous Notices of Violation ("NOV") with violations that are same or similar to the current enforcement action.

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

Screening Date 30-Mar-2007

Docket No. 2007-0547-PWS-E

PCW

Respondent James A. Dyché dba Crest Water Company

Policy Revision 2 (September 2002)

Case ID No. 33106

PCW Revision March 19, 2007

Reg. Ent. Reference No. RN101251023

Media [Statute] Public Water Supply

Enf. Coordinator Andrea Linson-Mgbeoduru

Violation Number

Rule Cite(s)

Violation Description

Base Penalty

>> Environmental, Property and Human Health Matrix

| Release   | Harm                 |                      |                                     | Percent                         |
|-----------|----------------------|----------------------|-------------------------------------|---------------------------------|
|           | Major                | Moderate             | Minor                               |                                 |
| Actual    | <input type="text"/> | <input type="text"/> | <input type="text"/>                | <input type="text" value="5%"/> |
| Potential | <input type="text"/> | <input type="text"/> | <input checked="" type="checkbox"/> |                                 |

OR

>> Programmatic Matrix

| Falsification        | Major                | Moderate             | Minor                | Percent                         |
|----------------------|----------------------|----------------------|----------------------|---------------------------------|
| <input type="text"/> | <input type="text"/> | <input type="text"/> | <input type="text"/> | <input type="text" value="0%"/> |

Matrix Notes

Adjustment

Violation Events

Number of Violation Events  Number of violation days

|              |                                     |
|--------------|-------------------------------------|
| daily        | <input type="text"/>                |
| monthly      | <input type="text"/>                |
| quarterly    | <input type="text"/>                |
| semiannual   | <input type="text"/>                |
| annual       | <input type="text"/>                |
| single event | <input checked="" type="checkbox"/> |

mark only one with an x

Violation Base Penalty

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount

Violation Final Penalty Total

This violation Final Assessed Penalty (adjusted for limits)

## Economic Benefit Worksheet

**Respondent** James A. Dyche dba Crest Water Company (Northcrest Addition PWS)  
**Case ID No.** 33106  
**Reg. Ent. Reference No.** RN101251023  
**Media** Public Water Supply  
**Violation No.** 1

|                         |                              |
|-------------------------|------------------------------|
| <b>Percent Interest</b> | <b>Years of Depreciation</b> |
| 5.0                     | 15                           |

| Item Description         | Item Cost | Date Required | Final Date | Yrs | Interest Saved | Onetime Costs | EB Amount |
|--------------------------|-----------|---------------|------------|-----|----------------|---------------|-----------|
| <b>Delayed Costs</b>     |           |               |            |     |                |               |           |
| Equipment                |           |               |            | 0.0 | \$0            | \$0           | \$0       |
| Buildings                |           |               |            | 0.0 | \$0            | \$0           | \$0       |
| Other (as needed)        | \$4,000   | 12-Feb-2007   | 1-Jan-2008 | 0.9 | \$12           | \$236         | \$248     |
| Engineering/construction |           |               |            | 0.0 | \$0            | \$0           | \$0       |
| Land                     |           |               |            | 0.0 | \$0            | n/a           | \$0       |
| Record Keeping System    |           |               |            | 0.0 | \$0            | n/a           | \$0       |
| Training/Sampling        |           |               |            | 0.0 | \$0            | n/a           | \$0       |
| Remediation/Disposal     |           |               |            | 0.0 | \$0            | n/a           | \$0       |
| Permit Costs             |           |               |            | 0.0 | \$0            | n/a           | \$0       |
| Other (as needed)        |           |               |            | 0.0 | \$0            | n/a           | \$0       |

**Notes for DELAYED costs**  
 Estimated cost to obtain a sanitary control easement or an exception to the easement requirements for the wells.  
 Date required is the investigation date. Final date is the expected date of compliance.

| Avoided Costs                 | ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs) |  |  |     |     |     |     |
|-------------------------------|--|--|--|-----|-----|-----|-----|
| Disposal                      |  |  |  | 0.0 | \$0 | \$0 | \$0 |
| Personnel                     |  |  |  | 0.0 | \$0 | \$0 | \$0 |
| Inspection/Reporting/Sampling |  |  |  | 0.0 | \$0 | \$0 | \$0 |
| Supplies/equipment            |  |  |  | 0.0 | \$0 | \$0 | \$0 |
| Financial Assurance [2]       |  |  |  | 0.0 | \$0 | \$0 | \$0 |
| ONE-TIME avoided costs [3]    |  |  |  | 0.0 | \$0 | \$0 | \$0 |
| Other (as needed)             |  |  |  | 0.0 | \$0 | \$0 | \$0 |

**Notes for AVOIDED costs**

Approx. Cost of Compliance \$4,000
TOTAL \$248

Screening Date 30-Mar-2007

Docket No. 2007-0547-PWS-E

PCW

Respondent James A. Dyche dba Crest Water Company

Policy Revision 2 (September 2002)

Case ID No. 33106

PCW Revision March 19, 2007

Reg. Ent. Reference No. RN101251023

Media [Statute] Public Water Supply

Enf. Coordinator Andrea Linson-Mgbeoduru

Violation Number 2

Rule Cite(s) 30 Tex. Admin. Code § 290.43(c), (c)(2), and (c)(8)

Violation Description

Failed to cover and design, fabricate, erect, test, maintain, and disinfect all potable water storage facilities in strict accordance with current American Water Works Association (AWWA) standards and to provide facilities with the minimum number, size and type of roof vents, man ways, drains, sample connections, access ladders, overflows, liquid level indicators, and other appurtenances as specified in these rules. Specifically, during the investigation, three 4,300 gallon ground storage tanks at the Northcrest Pump Station, and two 8,000 gallon ground storage tanks at the Burleson Pump Station did not have proper roof access openings and were not AWWA approved tanks.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

OR

| Release   | Harm  |          |       | Percent |
|-----------|-------|----------|-------|---------|
|           | Major | Moderate | Minor |         |
| Actual    |       |          |       | 10%     |
| Potential |       | x        |       |         |

>> Programmatic Matrix

| Falsification | Major | Moderate | Minor | Percent |
|---------------|-------|----------|-------|---------|
|               |       |          |       | 0%      |

Matrix Notes

Failure to provide tanks that meet AWWA standards could expose customers of the water supply system to significant amounts of pollutants which would exceed levels that are protective of human health as a result of the violation.

Adjustment \$900

\$100

Violation Events

Number of Violation Events 5 Number of violation days 46

|                         |              |   |
|-------------------------|--------------|---|
| mark only one with an x | daily        |   |
|                         | monthly      |   |
|                         | quarterly    | x |
|                         | semiannual   |   |
|                         | annual       |   |
|                         | single event |   |

Violation Base Penalty \$500

Five quarterly events are recommended based on one quarterly event for each tank, calculated from the investigation date, February 12, 2007, to the screening date, March 30, 2007.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$1,680

Violation Final Penalty Total \$550

This violation Final Assessed Penalty (adjusted for limits) \$550

## Economic Benefit Worksheet

**Respondent** James A. Dyche dba Crest Water Company (Northcrest Addition PWS)  
**Case ID No.** 33106  
**Reg. Ent. Reference No.** RN101251023  
**Media** Public Water Supply  
**Violation No.** 2

|                         |                              |
|-------------------------|------------------------------|
| <b>Percent Interest</b> | <b>Years of Depreciation</b> |
| 5.0                     | 15                           |

| Item Description | Item Cost<br><small>No commas or \$</small> | Date Required | Final Date | Yrs | Interest Saved | Onetime Costs | EB Amount |
|------------------|---|---------------|------------|-----|----------------|---------------|-----------|
|------------------|---|---------------|------------|-----|----------------|---------------|-----------|

**Delayed Costs**

|                          |          |             |            |     |      |         |         |
|--------------------------|----------|-------------|------------|-----|------|---------|---------|
| Equipment                | \$30,000 | 12-Feb-2007 | 1-Dec-2007 | 0.8 | \$80 | \$1,600 | \$1,680 |
| Buildings                |          |             |            | 0.0 | \$0  | \$0     | \$0     |
| Other (as needed)        |          |             |            | 0.0 | \$0  | \$0     | \$0     |
| Engineering/construction |          |             |            | 0.0 | \$0  | \$0     | \$0     |
| Land                     |          |             |            | 0.0 | \$0  | n/a     | \$0     |
| Record Keeping System    |          |             |            | 0.0 | \$0  | n/a     | \$0     |
| Training/Sampling        |          |             |            | 0.0 | \$0  | n/a     | \$0     |
| Remediation/Disposal     |          |             |            | 0.0 | \$0  | n/a     | \$0     |
| Permit Costs             |          |             |            | 0.0 | \$0  | n/a     | \$0     |
| Other (as needed)        |          |             |            | 0.0 | \$0  | n/a     | \$0     |

Notes for DELAYED costs

Estimated cost to replace the storage tanks with tanks that meet AWWA standards. Date required is the investigation date. Final date is the expected date of compliance.

**Avoided Costs**

**ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)**

|                               |  |  |  |     |     |     |     |
|-------------------------------|--|--|--|-----|-----|-----|-----|
| Disposal                      |  |  |  | 0.0 | \$0 | \$0 | \$0 |
| Personnel                     |  |  |  | 0.0 | \$0 | \$0 | \$0 |
| Inspection/Reporting/Sampling |  |  |  | 0.0 | \$0 | \$0 | \$0 |
| Supplies/equipment            |  |  |  | 0.0 | \$0 | \$0 | \$0 |
| Financial Assurance [2]       |  |  |  | 0.0 | \$0 | \$0 | \$0 |
| ONE-TIME avoided costs [3]    |  |  |  | 0.0 | \$0 | \$0 | \$0 |
| Other (as needed)             |  |  |  | 0.0 | \$0 | \$0 | \$0 |

Notes for AVOIDED costs

Approx. Cost of Compliance

\$30,000

**TOTAL**

\$1,680

Screening Date 30-Mar-2007

Docket No. 2007-0547-PWS-E

PCW

Respondent James A. Dyche dba Crest Water Company

Policy Revision 2 (September 2002)

Case ID No. 33106

PCW Revision March 19, 2007

Reg. Ent. Reference No. RN101251023

Media [Statute] Public Water Supply

Enf. Coordinator Andrea Linson-Mgbeoduru

Violation Number 3

Rule Cite(s) 30 Tex. Admin. Code § 290.45(b)(1)(C)(i) and Tex. Health & Safety Code 341.0315(c)

Violation Description Failed to provide a minimum well production capacity of at least 0.6 gallons per minute ("gpm") per connection. Specifically, a facility with 207 connections is required to provide 124 gpm. At the time of the investigation the facility was providing 111 gpm, indicating an 11% deficiency.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

OR

| Release   | Harm  |          |       | Percent |
|-----------|-------|----------|-------|---------|
|           | Major | Moderate | Minor |         |
| Actual    |       |          |       | 10%     |
| Potential |       | x        |       |         |

>> Programmatic Matrix

| Falsification | Major | Moderate | Minor | Percent |
|---------------|-------|----------|-------|---------|
|               |       |          |       | 0%      |

Matrix Notes

Failure to provide adequate well capacity could compromise the system's ability to provide a safe and adequate supply of water.

Adjustment \$900

\$100

Violation Events

Number of Violation Events 1 46 Number of violation days

|                            |              |   |
|----------------------------|--------------|---|
| mark only one<br>with an x | daily        |   |
|                            | monthly      |   |
|                            | quarterly    | x |
|                            | semiannual   |   |
|                            | annual       |   |
|                            | single event |   |

Violation Base Penalty \$100

One quarterly event is recommended calculated from the investigation date, February 12, 2007, to the screening date, March 30, 2007.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$1,018

Violation Final Penalty Total \$110

This violation Final Assessed Penalty (adjusted for limits) \$110

## Economic Benefit Worksheet

**Respondent** James A. Dyche dba Crest Water Company

(Northcrest Addition PWS)

**Case ID No.** 33106

**Reg. Ent. Reference No.** RN101251023

**Media** Public Water Supply

**Violation No.** 3

|                         |                              |
|-------------------------|------------------------------|
| <b>Percent Interest</b> | <b>Years of Depreciation</b> |
| 5.0                     | 15                           |

| Item Description               | Item Cost | Date Required | Final Date | Yrs | Interest Saved | Onetime Costs | EB Amount |
|--------------------------------|-----------|---------------|------------|-----|----------------|---------------|-----------|
| <small>No commas or \$</small> |           |               |            |     |                |               |           |

**Delayed Costs**

|                          |          |             |            |     |      |       |         |
|--------------------------|----------|-------------|------------|-----|------|-------|---------|
| Equipment                |          |             |            | 0.0 | \$0  | \$0   | \$0     |
| Buildings                |          |             |            | 0.0 | \$0  | \$0   | \$0     |
| Other (as needed)        |          |             |            | 0.0 | \$0  | \$0   | \$0     |
| Engineering/construction | \$15,000 | 12-Feb-2007 | 1-Feb-2008 | 1.0 | \$48 | \$970 | \$1,018 |
| Land                     |          |             |            | 0.0 | \$0  | n/a   | \$0     |
| Record Keeping System    |          |             |            | 0.0 | \$0  | n/a   | \$0     |
| Training/Sampling        |          |             |            | 0.0 | \$0  | n/a   | \$0     |
| Remediation/Disposal     |          |             |            | 0.0 | \$0  | n/a   | \$0     |
| Permit Costs             |          |             |            | 0.0 | \$0  | n/a   | \$0     |
| Other (as needed)        |          |             |            | 0.0 | \$0  | n/a   | \$0     |

Notes for DELAYED costs

Estimated cost to increase well capacity. Date required is the investigation date. Final date is the expected date of compliance.

**Avoided Costs**

**ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)**

|                               |  |  |  |     |     |     |     |
|-------------------------------|--|--|--|-----|-----|-----|-----|
| Disposal                      |  |  |  | 0.0 | \$0 | \$0 | \$0 |
| Personnel                     |  |  |  | 0.0 | \$0 | \$0 | \$0 |
| Inspection/Reporting/Sampling |  |  |  | 0.0 | \$0 | \$0 | \$0 |
| Supplies/equipment            |  |  |  | 0.0 | \$0 | \$0 | \$0 |
| Financial Assurance [2]       |  |  |  | 0.0 | \$0 | \$0 | \$0 |
| ONE-TIME avoided costs [3]    |  |  |  | 0.0 | \$0 | \$0 | \$0 |
| Other (as needed)             |  |  |  | 0.0 | \$0 | \$0 | \$0 |

Notes for AVOIDED costs

Approx. Cost of Compliance

\$15,000

**TOTAL**

\$1,018

Screening Date 30-Mar-2007

Docket No. 2007-0547-PWS-E

PCW

Respondent James A. Dyche dba Crest Water Company

Policy Revision 2 (September 2002)

Case ID No. 33106

PCW Revision March 19, 2007

Reg. Ent. Reference No. RN101251023

Media [Statute] Public Water Supply

Enf. Coordinator Andrea Linson-Mgbeoduru

Violation Number 4

Rule Cite(s) 30 Tex. Admin. Code § 290.46(n)(3)

Violation Description Failed to maintain records as required. Specifically, during the investigation, the Respondent could not provide well drillers logs for Well Nos. 3 and 4.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

| Release   | Harm  |          |       | Percent |
|-----------|-------|----------|-------|---------|
|           | Major | Moderate | Minor |         |
| Actual    |       |          |       | 0%      |
| Potential |       |          |       |         |

>> Programmatic Matrix

| Falsification | Major | Moderate | Minor | Percent |
|---------------|-------|----------|-------|---------|
|               |       |          | x     | 1%      |

Matrix Notes: Failed to meet 15% of the rule requirement.

Adjustment \$990

\$10

Violation Events

Number of Violation Events 2 46 Number of violation days

mark only one with an x

|              |   |
|--------------|---|
| daily        |   |
| monthly      |   |
| quarterly    |   |
| semiannual   |   |
| annual       |   |
| single event | x |

Violation Base Penalty \$20

Two single events are recommended based on one single event for each well.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$112

Violation Final Penalty Total \$22

This violation Final Assessed Penalty (adjusted for limits) \$22

## Economic Benefit Worksheet

**Respondent** James A. Dyche dba Crest Water Company

(Northcrest Addition PWS)

**Case ID No.** 33106

**Reg. Ent. Reference No.** RN101251023

**Media** Public Water Supply

**Violation No.** 4

| Percent Interest | Years of Depreciation |
|------------------|-----------------------|
| 5.0              | 15                    |

| Item Description | Item Cost | Date Required | Final Date | Yrs | Interest Saved | Onetime Costs | EB Amount |
|------------------|-----------|---------------|------------|-----|----------------|---------------|-----------|
|------------------|-----------|---------------|------------|-----|----------------|---------------|-----------|

No commas or \$

**Delayed Costs**

|                          |         |             |            |     |     |       |       |
|--------------------------|---------|-------------|------------|-----|-----|-------|-------|
| Equipment                |         |             |            | 0.0 | \$0 | \$0   | \$0   |
| Buildings                |         |             |            | 0.0 | \$0 | \$0   | \$0   |
| Other (as needed)        | \$2,000 | 12-Feb-2007 | 1-Dec-2007 | 0.8 | \$5 | \$107 | \$112 |
| Engineering/construction |         |             |            | 0.0 | \$0 | \$0   | \$0   |
| Land                     |         |             |            | 0.0 | \$0 | n/a   | \$0   |
| Record Keeping System    |         |             |            | 0.0 | \$0 | n/a   | \$0   |
| Training/Sampling        |         |             |            | 0.0 | \$0 | n/a   | \$0   |
| Remediation/Disposal     |         |             |            | 0.0 | \$0 | n/a   | \$0   |
| Permit Costs             |         |             |            | 0.0 | \$0 | n/a   | \$0   |
| Other (as needed)        |         |             |            | 0.0 | \$0 | n/a   | \$0   |

Notes for DELAYED costs

Estimated cost to obtain the required well completion data. Date required is the investigation date. Final date is the expected date of compliance.

**Avoided Costs**

**ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)**

|                               |  |  |  |     |     |     |     |
|-------------------------------|--|--|--|-----|-----|-----|-----|
| Disposal                      |  |  |  | 0.0 | \$0 | \$0 | \$0 |
| Personnel                     |  |  |  | 0.0 | \$0 | \$0 | \$0 |
| Inspection/Reporting/Sampling |  |  |  | 0.0 | \$0 | \$0 | \$0 |
| Supplies/equipment            |  |  |  | 0.0 | \$0 | \$0 | \$0 |
| Financial Assurance [2]       |  |  |  | 0.0 | \$0 | \$0 | \$0 |
| ONE-TIME avoided costs [3]    |  |  |  | 0.0 | \$0 | \$0 | \$0 |
| Other (as needed)             |  |  |  | 0.0 | \$0 | \$0 | \$0 |

Notes for AVOIDED costs

Approx. Cost of Compliance

\$2,000

**TOTAL**

\$112

Screening Date 30-Mar-2007

Docket No. 2007-0547-PWS-E

PCW

Respondent James A. Dyche dba Crest Water Company

Policy Revision 2 (September 2002)

Case ID No. 33106

PCW Revision March 19, 2007

Reg. Ent. Reference No. RN101251023

Media [Statute] Public Water Supply

Enf. Coordinator Andrea Linson-Mgbeoduru

Violation Number 5

Rule Cite(s) 30 Tex. Admin. Code § 290.41(c)(3)(B)

Violation Description Failed to provide Well No. 1 with a casing 18 inches above the elevation of the finished floor of the pump house or natural ground surface with a minimum of one inch above the sealing block or pump motor foundation block. Specifically, during the investigation, it was noted that the casing on Well No. 1 was approximately five inches above the finished floor.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

| OR        | Release | Harm  |          |       | Percent |
|-----------|---------|-------|----------|-------|---------|
|           |         | Major | Moderate | Minor |         |
| Actual    |         |       |          |       | 10%     |
| Potential |         |       | x        |       |         |

>> Programmatic Matrix

|  | Falsification | Major | Moderate | Minor | Percent |
|--|---------------|-------|----------|-------|---------|
|  |               |       |          |       | 0%      |

Matrix Notes Human health or the environment could be exposed to a significant amount of contaminants that would not exceed levels protective of human health as a result of the failure to properly protect the water source.

Adjustment \$900

\$100

Violation Events

Number of Violation Events 1 Number of violation days 46

|                         |              |   |
|-------------------------|--------------|---|
| mark only one with an x | daily        |   |
|                         | monthly      |   |
|                         | quarterly    | x |
|                         | semiannual   |   |
|                         | annual       |   |
|                         | single event |   |

Violation Base Penalty \$100

One quarterly event is recommended, calculated from the investigation date, February 12, 2007, to the screening date, March 30, 2007.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$31

Violation Final Penalty Total \$110

This violation Final Assessed Penalty (adjusted for limits) \$110

## Economic Benefit Worksheet

**Respondent** James A. Dyche dba Crest Water Company

(Northcrest Addition PWS)

**Case ID No.** 33106

**Reg. Ent. Reference No.** RN101251023

**Media** Public Water Supply

**Violation No.** 5

| Percent Interest | Years of Depreciation |
|------------------|-----------------------|
| 5.0              | 15                    |

| Item Description | Item Cost | Date Required | Final Date | Yrs | Interest Saved | Onetime Costs | EB Amount |
|------------------|-----------|---------------|------------|-----|----------------|---------------|-----------|
|------------------|-----------|---------------|------------|-----|----------------|---------------|-----------|

No commas or \$

**Delayed Costs**

|                          |       |             |            |     |     |      |      |
|--------------------------|-------|-------------|------------|-----|-----|------|------|
| Equipment                |       |             |            | 0.0 | \$0 | \$0  | \$0  |
| Buildings                |       |             |            | 0.0 | \$0 | \$0  | \$0  |
| Other (as needed)        |       |             |            | 0.0 | \$0 | \$0  | \$0  |
| Engineering/construction | \$500 | 12-Feb-2007 | 1-Jan-2008 | 0.9 | \$1 | \$29 | \$31 |
| Land                     |       |             |            | 0.0 | \$0 | n/a  | \$0  |
| Record Keeping System    |       |             |            | 0.0 | \$0 | n/a  | \$0  |
| Training/Sampling        |       |             |            | 0.0 | \$0 | n/a  | \$0  |
| Remediation/Disposal     |       |             |            | 0.0 | \$0 | n/a  | \$0  |
| Permit Costs             |       |             |            | 0.0 | \$0 | n/a  | \$0  |
| Other (as needed)        |       |             |            | 0.0 | \$0 | n/a  | \$0  |

Notes for DELAYED costs

Estimated cost to complete necessary well site construction. Date required is the investigation date. Final date is the expected date of compliance.

**Avoided Costs**

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

|                               |  |  |  |     |     |     |     |
|-------------------------------|--|--|--|-----|-----|-----|-----|
| Disposal                      |  |  |  | 0.0 | \$0 | \$0 | \$0 |
| Personnel                     |  |  |  | 0.0 | \$0 | \$0 | \$0 |
| Inspection/Reporting/Sampling |  |  |  | 0.0 | \$0 | \$0 | \$0 |
| Supplies/equipment            |  |  |  | 0.0 | \$0 | \$0 | \$0 |
| Financial Assurance [2]       |  |  |  | 0.0 | \$0 | \$0 | \$0 |
| ONE-TIME avoided costs [3]    |  |  |  | 0.0 | \$0 | \$0 | \$0 |
| Other (as needed)             |  |  |  | 0.0 | \$0 | \$0 | \$0 |

Notes for AVOIDED costs

Approx. Cost of Compliance

\$500

**TOTAL**

\$31

# Compliance History

|   |   |                         |                 |              |
|---|---|-------------------------|-----------------|--------------|
| Customer/Respondent/Owner-Operator:           | CN602259640   | DYCHE, JAMES A          | Classification: | Rating:      |
| Regulated Entity:                             | RN101251023   | NORTHCREST ADDITION PWS | Classification: | Site Rating: |
| ID Number(s):                                 | PUBLIC WATER SYSTEM/SUPPLY                                      |                         | REGISTRATION    | 1260034      |
|   | WATER LICENSING   |                         | LICENSE         | 1260034      |
| Location:                                     | LOCATED BEHIND LOT 3605 NORTHCREST DRIVE,<br>JOHNSON COUNTY, TX |                         |                 |              |
| TCEQ Region:                                  | REGION 04 - DFW METROPLEX                                       |                         |                 |              |
| Date Compliance History Prepared:             | April 13, 2007  |                         |                 |              |
| Agency Decision Requiring Compliance History: | Enforcement   |                         |                 |              |
| Compliance Period:                            | March 23, 2002 to March 23, 2007                                |                         |                 |              |

TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History

Name: Andrea Linson-Mgbeoduru Phone: 512-239-1482

## Site Compliance History Components

- |  |            |
|--|------------|
| 1. Has the site been in existence and/or operation for the full five year compliance period? | Yes        |
| 2. Has there been a (known) change in ownership of the site during the compliance period?    | No         |
| 3. If Yes, who is the current owner?   | <u>N/A</u> |
| 4. If Yes, who was/were the prior owner(s)?  | <u>N/A</u> |
| 5. When did the change(s) in ownership occur?  | <u>N/A</u> |

### Components (Multimedia) for the Site :

- A. Final Enforcement Orders, court judgements, and consent decrees of the state of Texas and the federal government.

N/A

- B. Any criminal convictions of the state of Texas and the federal government.

N/A

- C. Chronic excessive emissions events.

N/A

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

- |   |            |          |
|---|------------|----------|
| 1 | 12/23/2002 | (18827)  |
| 2 | 09/29/2003 | (247726) |
| 3 | 10/04/2006 | (497653) |
| 4 | 03/20/2007 | (540249) |

- E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)

Date: 12/19/2002 (18827)

Self Report? NO

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter D 290.41(c)(1)(F)

Description: Failure to make available sanitary control easements for each of the four wells at the time of inspection.

Self Report? NO

Classification: Minor

Citation: 30 TAC Chapter 290, SubChapter D 290.43(c)(2)

Description: Failure to provide the ground storage tank with a properly designed roof access opening.

Date: 09/29/2006 (497653)

Self Report? NO

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter D 290.41(c)(1)(F)

Description: Failure to make available sanitary control easements for each of the four wells at the time of inspection.

Self Report? NO

Classification: Minor

Citation: 30 TAC Chapter 290, SubChapter D 290.43(c)(2)

Description: Failure to provide the ground storage tank with a properly designed roof access opening.

Self Report? NO

Classification: Minor

Citation: 30 TAC Chapter 290, SubChapter D 290.41(c)(3)(J)

Description: Failure to provide an adequate concrete sealing block on well #1 (G1260034A).  
 Self Report? NO Classification: Minor  
 Citation: 30 TAC Chapter 290, SubChapter D 290.41(c)(3)(K)

Description: Failure to properly seal the wellhead at well #1 (G1260034A).  
 Self Report? NO Classification: Minor  
 Citation: 30 TAC Chapter 290, SubChapter D 290.41(c)(3)(N)

Description: Failure to install a flow meter on each well pump discharge line at the Burleson Oaks Pump Station to provide water usage records and to assist in more efficient system operation.  
 Self Report? NO Classification: Minor  
 Citation: 30 TAC Chapter 290, SubChapter D 290.43(c)[G]

Description: Failure to cover and design, fabricate, erect, test and disinfect in strict accordance with current American Water Works Association (AWWA) standards; all facilities for potable water storage.  
 Self Report? NO Classification: Minor  
 Citation: 30 TAC Chapter 290, SubChapter D 290.43(c)(3)

Description: Failure to provide all of the ground storage tanks at the Northcrest and Burleson Oaks Pump Stations with a properly designed overflow pipes.  
 Self Report? NO Classification: Minor  
 Citation: 30 TAC Chapter 290, SubChapter D 290.43(c)(4)

Description: Failure to equip the ground storage tanks at the Northcrest and Burleson Oaks Pump Stations with water level indicators located at the tank sites.  
 Self Report? NO Classification: Minor  
 Citation: 30 TAC Chapter 290, SubChapter D 290.43(c)(6)

Description: Failure to maintain the 10,000 gallon ground storage tank at the Northcrest Pump Station in a watertight condition.  
 Self Report? NO Classification: Minor  
 Citation: 30 TAC Chapter 290, SubChapter D 290.43(c)(8)

Description: Failure to initiate maintenance and housekeeping practices to ensure the good working condition and general appearance of the system's facilities and equipment. These practices should include repairing, repainting, or replacing the ground storage tanks at the Northcrest and Burleson Oaks Pump Stations.  
 Self Report? NO Classification: Minor  
 Citation: 30 TAC Chapter 290, SubChapter D 290.45(b)(1)(C)(i)  
 5A THC Chapter 341, SubChapter A 341.0315(c)

Description: Failure to provide a minimum well production capacity of at least 0.6 gallons per minute per connection.  
 Self Report? NO Classification: Minor  
 Citation: 30 TAC Chapter 290, SubChapter D 290.46(n)(3)  
 5A THC Chapter 341, SubChapter A 341.0315(c)

Description: Failure to provide well drillers logs for well #3 (G1260034C) & well #4 (G1260034D).  
 Self Report? NO Classification: Minor  
 Citation: 30 TAC Chapter 290, SubChapter D 290.41(c)(3)(B)

Description: Failure to provide well #1 (G12160034A) with a casing 18 inches above the elevation of the finished floor of the pump house or natural ground surface with a minimum of one inch above the sealing block or pump motor foundation block

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

K. Sites Outside of Texas

N/A



# Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision March 19, 2007

## TCEQ

|       |          |             |           |             |         |  |
|-------|----------|-------------|-----------|-------------|---------|--|
| DATES | Assigned | 26-Mar-2007 | Screening | 30-Mar-2007 | EPA Due |  |
|       | PCW      | 30-Mar-2007 |           |             |         |  |

## RESPONDENT/FACILITY INFORMATION

|                      |  |                                |
|----------------------|--|--------------------------------|
| Respondent           | James A. Dyche dba Crest Water Company | (Rolling Oaks Subdivision PWS) |
| Reg. Ent. Ref. No.   | RN101220887                            |                                |
| Facility/Site Region | 4-Dallas/Fort Worth                    | Major/Minor Source             |
|                      |  | Minor                          |

## CASE INFORMATION

|                   |                     |                   |                        |
|-------------------|---------------------|-------------------|------------------------|
| Enf./Case ID No.  | 33106               | No. of Violations | 4                      |
| Docket No.        | 2007-0547-PWS-E     | Order Type        | 1660                   |
| Media Program(s)  | Public Water Supply | Enf. Coordinator  | Andrea Linson-Mgbeodur |
| Multi-Media       |                     | EC's Team         | EnforcementTeam 2      |
| Admin. Penalty \$ | Limit Minimum       | \$50              | Maximum                |
|                   |                     | \$1,000           |                        |

## Penalty Calculation Section

**TOTAL BASE PENALTY (Sum of violation base penalties)** Subtotal 1

### ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

**Compliance History** Subtotals 2, 3, & 7

Notes: Enhancement is due to two previous Notices of Violation ("NOV") with violations that are same or similar to the current enforcement action.

**Culpability** Subtotal 4

Notes: The Respondent does not meet the culpability criteria.

**Good Faith Effort to Comply** Subtotal 5

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

Notes: The Respondent does not meet the good faith criteria.

**Total EB Amounts**  Subtotal 6   
 Approx. Cost of Compliance  \*Capped at the Total EB \$ Amount

**SUM OF SUBTOTALS 1-7** Final Subtotal

**OTHER FACTORS AS JUSTICE MAY REQUIRE** Adjustment

Reduces or enhances the Final Subtotal by the indicated percentage. (Enter number only; e.g. -30 for -30%.)

Notes

**Final Penalty Amount**

**STATUTORY LIMIT ADJUSTMENT** Final Assessed Penalty

**DEFERRAL** Adjustment

Reduces the Final Assessed Penalty by the indicted percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes

Deferral offered for expedited settlement.

**PAYABLE PENALTY**

Screening Date 30-Mar-2007

Docket No. 2007-0547-PWS-E

PCW

Respondent James A. Dyche dba Crest Water Company

Policy Revision 2 (September 2002)

Case ID No. 33106

PCW Revision March 19, 2007

Reg. Ent. Reference No. RN101220887

Media [Statute] Public Water Supply

Enf. Coordinator Andrea Linson-Mgbeoduru

**Compliance History Worksheet**

>> Compliance History Site Enhancement (Subtotal 2)

| Component                     | Number of...   | Enter Number Here | Adjust. |
|-------------------------------|--|-------------------|---------|
| NOVs                          | Written NOVs with same or similar violations as those in the current enforcement action (number of NOVs meeting criteria)  | 2                 | 10%     |
|                               | Other written NOVs   | 0                 | 0%      |
| Orders                        | Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)   | 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 (number of judgments or consent decrees meeting criteria)  | 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 (number of counts)  | 0                 | 0%      |
| Emissions                     | Chronic excessive emissions events (number of events)  | 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 (number of audits for which notices were submitted)              | 0                 | 0%      |
|                               | Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which violations were disclosed)   | 0                 | 0%      |
| Please Enter Yes or No        |  |                   |         |
| 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) 10%

>> Repeat Violator (Subtotal 3)

N/A

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

N/A

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance History Notes

Enhancement is due to two previous Notices of Violation ("NOV") with violations that are same or similar to the current enforcement action.

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

Screening Date 30-Mar-2007

Docket No. 2007-0547-PWS-E

PCW

Respondent James A. Dyche dba Crest Water Company

Policy Revision 2 (September 2002)

Case ID No. 33106

PCW Revision March 19, 2007

Reg. Ent. Reference No. RN101220887

Media [Statute] Public Water Supply

Enf. Coordinator Andrea Linson-Mgbeoduru

Violation Number 1

Rule Cite(s)

30 Tex. Admin. Code § 290.41(c)(1)(F)

Violation Description

Failed to make available sanitary control easements for Well No. 1 at the time of the inspection. Specifically, during the investigation, the Respondent could not provide sanitary control easement documentation for Well No. 1.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

OR

| Release   | Harm  |          |       |
|-----------|-------|----------|-------|
|           | Major | Moderate | Minor |
| Actual    |       |          |       |
| Potential |       |          | x     |

Percent 5%

>> Programmatic Matrix

| Falsification | Harm  |          |       |
|---------------|-------|----------|-------|
|               | Major | Moderate | Minor |
|               |       |          |       |

Percent 0%

Matrix Notes

Failure to obtain a sanitary control easement could expose customers of the water supply to an insignificant amount of pollutants which would not exceed levels protective of human health.

Adjustment \$950

\$50

Violation Events

Number of Violation Events 1

21 Number of violation days

|              |   |
|--------------|---|
| daily        |   |
| monthly      |   |
| quarterly    |   |
| semiannual   |   |
| annual       |   |
| single event | x |

mark only one with an x

Violation Base Penalty \$50

One single event is recommended.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$57

Violation Final Penalty Total \$55

This violation Final Assessed Penalty (adjusted for limits) \$55

## Economic Benefit Worksheet

Respondent James A. Dyche dba Crest Water Company

(Rolling Oaks Subdivision PWS)

Case ID No. 33106

Reg. Ent. Reference No. RN101220887

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 | Onetime Costs | EB Amount |
|------------------|-----------|---------------|------------|-----|----------------|---------------|-----------|
|------------------|-----------|---------------|------------|-----|----------------|---------------|-----------|

**Delayed Costs**

|                          |         |            |            |     |     |      |      |
|--------------------------|---------|------------|------------|-----|-----|------|------|
| Equipment                |         |            |            | 0.0 | \$0 | \$0  | \$0  |
| Buildings                |         |            |            | 0.0 | \$0 | \$0  | \$0  |
| Other (as needed)        | \$1,000 | 9-Mar-2007 | 1-Jan-2008 | 0.8 | \$3 | \$54 | \$57 |
| Engineering/construction |         |            |            | 0.0 | \$0 | \$0  | \$0  |
| Land                     |         |            |            | 0.0 | \$0 | n/a  | \$0  |
| Record Keeping System    |         |            |            | 0.0 | \$0 | n/a  | \$0  |
| Training/Sampling        |         |            |            | 0.0 | \$0 | n/a  | \$0  |
| Remediation/Disposal     |         |            |            | 0.0 | \$0 | n/a  | \$0  |
| Permit Costs             |         |            |            | 0.0 | \$0 | n/a  | \$0  |
| Other (as needed)        |         |            |            | 0.0 | \$0 | n/a  | \$0  |

Notes for DELAYED costs

Estimated cost to obtain a sanitary control easement or an exception to the easement requirements for the well. Date required is the investigation date. Final date is the expected date of compliance.

**Avoided Costs**

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

|                               |  |  |  |     |     |     |     |
|-------------------------------|--|--|--|-----|-----|-----|-----|
| Disposal                      |  |  |  | 0.0 | \$0 | \$0 | \$0 |
| Personnel                     |  |  |  | 0.0 | \$0 | \$0 | \$0 |
| Inspection/Reporting/Sampling |  |  |  | 0.0 | \$0 | \$0 | \$0 |
| Supplies/equipment            |  |  |  | 0.0 | \$0 | \$0 | \$0 |
| Financial Assurance [2]       |  |  |  | 0.0 | \$0 | \$0 | \$0 |
| ONE-TIME avoided costs [3]    |  |  |  | 0.0 | \$0 | \$0 | \$0 |
| Other (as needed)             |  |  |  | 0.0 | \$0 | \$0 | \$0 |

Notes for AVOIDED costs

Approx. Cost of Compliance

\$1,000

TOTAL

\$57

Screening Date 30-Mar-2007

Docket No. 2007-0547-PWS-E

PCW

Respondent James A. Dyche dba Crest Water Company

Policy Revision 2 (September 2002)

Case ID No. 33106

PCW Revision March 19, 2007

Reg. Ent. Reference No. RN101220887

Media [Statute] Public Water Supply

Enf. Coordinator Andrea Linson-Mgbeoduru

Violation Number 2

Rule Cite(s) 30 Tex. Admin. Code §§ 290.43(c), (c)(2), (c)(5), (c)(6) and (c)(7)

Violation Description

Failed to cover and design, fabricate, erect, test, and disinfect all potable water storage facilities in strict accordance with current American Water Works Association (AWWA) standards and to provide facilities with the minimum number, size and type of roof vents, man ways, drains, sample connections, access ladders, overflows, liquid level indicators, and other appurtenances as specified in these rules. Specifically, during the investigation, it was noted that the facility uses four 4,300 gallon ground storage tanks, which did not have proper roof hatches and were not AWWA approved. Tank Nos. 1 and 4 contained several spots where the tanks were leaking due to corrosion. Tank Nos. 1, 3, and 4 were bottom fill tanks without proper inlets, which made them susceptible to short-circuiting. Additionally, none of the tanks had any drains.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

OR

| Release   | Harm  |          |       | Percent |
|-----------|-------|----------|-------|---------|
|           | Major | Moderate | Minor |         |
| Actual    |       |          |       | 10%     |
| Potential |       | x        |       |         |

>> Programmatic Matrix

| Falsification | Major | Moderate | Minor | Percent |
|---------------|-------|----------|-------|---------|
|               |       |          |       | 0%      |

Matrix Notes

Failure to provide tanks that meet AWWA standards could expose customers of the water supply system to significant amounts of pollutants which would not exceed levels that are protective of human health as a result of the violation.

Adjustment \$900

\$100

Violation Events

Number of Violation Events 4 Number of violation days 21

|              |   |
|--------------|---|
| daily        |   |
| monthly      |   |
| quarterly    | x |
| semiannual   |   |
| annual       |   |
| single event |   |

mark only one with an x

Violation Base Penalty \$400

Four quarterly events are recommended based on one quarterly event for each tank cited, calculated from the investigation date, March 9, 2007, to the screening date, March 30, 2007.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$1,024

Violation Final Penalty Total \$440

This violation Final Assessed Penalty (adjusted for limits) \$440

## Economic Benefit Worksheet

Respondent James A. Dyché dba Crest Water Company

(Rolling Oaks Subdivision PWS)

Case ID No. 33106

Reg. Ent. Reference No. RN101220887

Media Public Water Supply

Violation No. 2

| Percent Interest | Years of Depreciation |
|------------------|-----------------------|
| 5.0              | 15                    |

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

**Delayed Costs**

|                          |          |            |            |     |      |       |         |
|--------------------------|----------|------------|------------|-----|------|-------|---------|
| Equipment                | \$20,000 | 9-Mar-2007 | 1-Dec-2007 | 0.7 | \$49 | \$975 | \$1,024 |
| Buildings                |          |            |            | 0.0 | \$0  | \$0   | \$0     |
| Other (as needed)        |          |            |            | 0.0 | \$0  | \$0   | \$0     |
| Engineering/construction |          |            |            | 0.0 | \$0  | \$0   | \$0     |
| Land                     |          |            |            | 0.0 | \$0  | n/a   | \$0     |
| Record Keeping System    |          |            |            | 0.0 | \$0  | n/a   | \$0     |
| Training/Sampling        |          |            |            | 0.0 | \$0  | n/a   | \$0     |
| Remediation/Disposal     |          |            |            | 0.0 | \$0  | n/a   | \$0     |
| Permit Costs             |          |            |            | 0.0 | \$0  | n/a   | \$0     |
| Other (as needed)        |          |            |            | 0.0 | \$0  | n/a   | \$0     |

Notes for DELAYED costs

Estimated cost to replace the storage tanks with tanks that meet AWWA standards. Date required is the investigation date. Final date is the expected date of compliance.

**Avoided Costs**

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

|                               |  |  |  |     |     |     |     |
|-------------------------------|--|--|--|-----|-----|-----|-----|
| Disposal                      |  |  |  | 0.0 | \$0 | \$0 | \$0 |
| Personnel                     |  |  |  | 0.0 | \$0 | \$0 | \$0 |
| Inspection/Reporting/Sampling |  |  |  | 0.0 | \$0 | \$0 | \$0 |
| Supplies/equipment            |  |  |  | 0.0 | \$0 | \$0 | \$0 |
| Financial Assurance [2]       |  |  |  | 0.0 | \$0 | \$0 | \$0 |
| ONE-TIME avoided costs [3]    |  |  |  | 0.0 | \$0 | \$0 | \$0 |
| Other (as needed)             |  |  |  | 0.0 | \$0 | \$0 | \$0 |

Notes for AVOIDED costs

Approx. Cost of Compliance

\$20,000

**TOTAL**

\$1,024

Screening Date 30-Mar-2007

Docket No. 2007-0547-PWS-E

PCW

Respondent James A. Dyche dba Crest Water Company

Policy Revision 2 (September 2002)

Case ID No. 33106

PCW Revision March 19, 2007

Reg. Ent. Reference No. RN101220887

Media [Statute] Public Water Supply

Enf. Coordinator Andrea Linson-Mgbeoduru

Violation Number 3

Rule Cite(s)

30 Tex. Admin. Code § 290.45(b)(1)(C)(i) and Tex. Health & Safety Code 341.0315(c)

Violation Description

Failed to provide a minimum well production capacity of at least 0.6 gallons per minute ("gpm") per connection. Specifically, a facility with 71 connections is required to provide 43 gpm. At the time of the investigation the facility was providing 30 gpm, indicating a 30% deficiency.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

| Release   | Harm  |          |       | Percent |
|-----------|-------|----------|-------|---------|
|           | Major | Moderate | Minor |         |
| Actual    |       |          |       | 10%     |
| Potential |       | x        |       |         |

>> Programmatic Matrix

| Falsification | Major | Moderate | Minor | Percent |
|---------------|-------|----------|-------|---------|
|               |       |          |       | 0%      |

Matrix Notes

Failure to provide adequate well capacity could compromise the system's ability to provide a safe and adequate supply of water.

Adjustment \$900

\$100

Violation Events

Number of Violation Events 1 Number of violation days 21

|              |   |
|--------------|---|
| daily        |   |
| monthly      |   |
| quarterly    | x |
| semiannual   |   |
| annual       |   |
| single event |   |

mark only one with an x

Violation Base Penalty \$100

One quarterly event is recommended calculated from the investigation date, March 9, 2007, to the screening date, March 30, 2007.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$857

Violation Final Penalty Total \$110

This violation Final Assessed Penalty (adjusted for limits) \$110

## Economic Benefit Worksheet

**Respondent** James A. Dyche dba Crest Water Company

(Rolling Oaks Subdivision PWS)

**Case ID No.** 33106

**Reg. Ent. Reference No.** RN101220887

**Media** Public Water Supply

**Violation No.** 3

| Percent Interest | Years of Depreciation |
|------------------|-----------------------|
| 5.0              | 15                    |

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

**Delayed Costs**

| Item Description         | Item Cost | Date Required | Final Date | Yrs | Interest Saved | Onetime Costs | EB Amount |
|--------------------------|-----------|---------------|------------|-----|----------------|---------------|-----------|
| Equipment                |           |               |            | 0.0 | \$0            | \$0           | \$0       |
| Buildings                |           |               |            | 0.0 | \$0            | \$0           | \$0       |
| Other (as needed)        |           |               |            | 0.0 | \$0            | \$0           | \$0       |
| Engineering/construction | \$15,000  | 9-Mar-2007    | 1-Jan-2008 | 0.8 | \$41           | \$816         | \$857     |
| Land                     |           |               |            | 0.0 | \$0            | n/a           | \$0       |
| Record Keeping System    |           |               |            | 0.0 | \$0            | n/a           | \$0       |
| Training/Sampling        |           |               |            | 0.0 | \$0            | n/a           | \$0       |
| Remediation/Disposal     |           |               |            | 0.0 | \$0            | n/a           | \$0       |
| Permit Costs             |           |               |            | 0.0 | \$0            | n/a           | \$0       |
| Other (as needed)        |           |               |            | 0.0 | \$0            | n/a           | \$0       |

Notes for DELAYED costs

Estimated cost to increase well capacity. Date required is the investigation date. Final date is the expected date of compliance.

**Avoided Costs**

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

| Item Description              | Item Cost | Date Required | Final Date | Yrs | Interest Saved | Onetime Costs | EB Amount |
|-------------------------------|-----------|---------------|------------|-----|----------------|---------------|-----------|
| Disposal                      |           |               |            | 0.0 | \$0            | \$0           | \$0       |
| Personnel                     |           |               |            | 0.0 | \$0            | \$0           | \$0       |
| Inspection/Reporting/Sampling |           |               |            | 0.0 | \$0            | \$0           | \$0       |
| Supplies/equipment            |           |               |            | 0.0 | \$0            | \$0           | \$0       |
| Financial Assurance [2]       |           |               |            | 0.0 | \$0            | \$0           | \$0       |
| ONE-TIME avoided costs [3]    |           |               |            | 0.0 | \$0            | \$0           | \$0       |
| Other (as needed)             |           |               |            | 0.0 | \$0            | \$0           | \$0       |

Notes for AVOIDED costs

Approx. Cost of Compliance

\$15,000

TOTAL

\$857

Screening Date 30-Mar-2007

Docket No. 2007-0547-PWS-E

PCW

Respondent James A. Dyche dba Crest Water Company

Policy Revision 2 (September 2002)

Case ID No. 33106

PCW Revision March 19, 2007

Reg. Ent. Reference No. RN101220887

Media [Statute] Public Water Supply

Enf. Coordinator Andrea Linson-Mgbeoduru

Violation Number 4

Rule Cite(s)

30 Tex. Admin. Code § 290.46(n)(3)

Violation Description

Failed to maintain records as required. Specifically, during the investigation, the Respondent could not provide a well log for Well No. 1.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

OR

| Release   | Harm  |          |       |
|-----------|-------|----------|-------|
|           | Major | Moderate | Minor |
| Actual    |       |          |       |
| Potential |       |          |       |

Percent 0%

>> Programmatic Matrix

| Falsification | Major | Moderate | Minor |
|---------------|-------|----------|-------|
|               |       |          | X     |

Percent 1%

Matrix Notes

Failed to meet 15% of the rule requirement.

Adjustment \$990

\$10

Violation Events

Number of Violation Events 1

21 Number of violation days

mark only one with an x

|              |   |
|--------------|---|
| daily        |   |
| monthly      |   |
| quarterly    |   |
| semiannual   |   |
| annual       |   |
| single event | X |

Violation Base Penalty \$10

One single event is recommended.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$51

Violation Final Penalty Total \$11

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

## Economic Benefit Worksheet

**Respondent** James A. Dyche dba Crest Water Company

(Rolling Oaks Subdivision PWS)

**Case ID No.** 33106

**Reg. Ent. Reference No.** RN101220887

**Media** Public Water Supply

**Violation No.** 4

| Percent Interest | Years of Depreciation |
|------------------|-----------------------|
| 5.0              | 15                    |

| Item Description               | Item Cost | Date Required | Final Date | Yrs | Interest Saved | Onetime Costs | EB Amount |
|--------------------------------|-----------|---------------|------------|-----|----------------|---------------|-----------|
| <small>No commas or \$</small> |           |               |            |     |                |               |           |

**Delayed Costs**

|                          |         |            |            |     |     |      |      |
|--------------------------|---------|------------|------------|-----|-----|------|------|
| Equipment                |         |            |            | 0.0 | \$0 | \$0  | \$0  |
| Buildings                |         |            |            | 0.0 | \$0 | \$0  | \$0  |
| Other (as needed)        | \$1,000 | 9-Mar-2007 | 1-Dec-2007 | 0.7 | \$2 | \$49 | \$51 |
| Engineering/construction |         |            |            | 0.0 | \$0 | \$0  | \$0  |
| Land                     |         |            |            | 0.0 | \$0 | n/a  | \$0  |
| Record Keeping System    |         |            |            | 0.0 | \$0 | n/a  | \$0  |
| Training/Sampling        |         |            |            | 0.0 | \$0 | n/a  | \$0  |
| Remediation/Disposal     |         |            |            | 0.0 | \$0 | n/a  | \$0  |
| Permit Costs             |         |            |            | 0.0 | \$0 | n/a  | \$0  |
| Other (as needed)        |         |            |            | 0.0 | \$0 | n/a  | \$0  |

Notes for DELAYED costs

Estimated cost to obtain the required well completion data. Date required is the investigation date. Final date is the expected date of compliance.

**Avoided Costs**

**ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)**

|                               |  |  |  |     |     |     |     |
|-------------------------------|--|--|--|-----|-----|-----|-----|
| Disposal                      |  |  |  | 0.0 | \$0 | \$0 | \$0 |
| Personnel                     |  |  |  | 0.0 | \$0 | \$0 | \$0 |
| Inspection/Reporting/Sampling |  |  |  | 0.0 | \$0 | \$0 | \$0 |
| Supplies/equipment            |  |  |  | 0.0 | \$0 | \$0 | \$0 |
| Financial Assurance [2]       |  |  |  | 0.0 | \$0 | \$0 | \$0 |
| ONE-TIME avoided costs [3]    |  |  |  | 0.0 | \$0 | \$0 | \$0 |
| Other (as needed)             |  |  |  | 0.0 | \$0 | \$0 | \$0 |

Notes for AVOIDED costs

Approx. Cost of Compliance

\$1,000

**TOTAL**

\$51

# Compliance History

|   |  |                              |                 |              |
|---|--|------------------------------|-----------------|--------------|
| Customer/Respondent/Owner-Operator:           | CN602259640  | DYCHE, JAMES A               | Classification: | Rating:      |
| Regulated Entity:                             | RN101220887  | ROLLING OAKS SUBDIVISION PWS | Classification: | Site Rating: |
| ID Number(s):                                 | PUBLIC WATER SYSTEM/SUPPLY   | REGISTRATION                 |                 | 1260064      |
|   | WATER LICENSING  | LICENSE                      |                 | 1260064      |
| Location:                                     | INTERSECTION OF STATE HIGHWAY 171 AND COUNTY ROAD 1202, JOHNSON COUNTY, TX |                              |                 |              |
| TCEQ Region:                                  | REGION 04 - DFW METROPLEX  |                              |                 |              |
| Date Compliance History Prepared:             | April 13, 2007   |                              |                 |              |
| Agency Decision Requiring Compliance History: | Enforcement  |                              |                 |              |
| Compliance Period:                            | March 23, 2002 to March 23, 2007   |                              |                 |              |

TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History

Name: Andrea Linson-Mgbeoduru Phone: 512-239-1482

## Site Compliance History Components

- |  |     |
|--|-----|
| 1. Has the site been in existence and/or operation for the full five year compliance period? | Yes |
| 2. Has there been a (known) change in ownership of the site during the compliance period?    | No  |
| 3. If Yes, who is the current owner?   | N/A |
| 4. If Yes, who was/were the prior owner(s)?  | N/A |
| 5. When did the change(s) in ownership occur?  | N/A |

### Components (Multimedia) for the Site :

- A. Final Enforcement Orders, court judgements, and consent decrees of the state of Texas and the federal government.  
N/A
- B. Any criminal convictions of the state of Texas and the federal government.  
N/A
- C. Chronic excessive emissions events.  
N/A
- D. The approval dates of investigations. (CCEDS Inv. Track. No.)
- |   |            |          |  |
|---|------------|----------|--|
| 1 | 02/24/2003 | (22096)  |  |
| 2 | 11/10/2006 | (510069) |  |
| 3 | 03/21/2007 | (543606) |  |
- E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)
- |              |  |          |                          |
|--------------|--|----------|--------------------------|
| Date:        | 02/25/2003   | (22096)  |                          |
| Self Report? | NO   |          | Classification: Minor    |
| Citation:    | 30 TAC Chapter 290, SubChapter D 290.46(n)(3)  |          |                          |
| Description: | Failure to obtain and keep on file for future reference, accurate information pertaining to the well.  |          |                          |
| Self Report? | NO   |          | Classification: Moderate |
| Citation:    | 30 TAC Chapter 290, SubChapter D 290.43(c)[G]  |          |                          |
| Description: | Failure to cover and design, fabricate, erect, test and disinfect in strict accordance with current American Water Works Association (AWWA) standards, all facilities for potable water storage. |          |                          |
| Self Report? | NO   |          | Classification: Minor    |
| Citation:    | 30 TAC Chapter 290, SubChapter D 290.43(c)(2)  |          |                          |
| Description: | Failure to provide the ground storage tanks with a properly designed roof access opening.  |          |                          |
| Date:        | 11/10/2006   | (510069) |                          |
| Self Report? | NO   |          | Classification: Minor    |
| Citation:    | 30 TAC Chapter 290, SubChapter D 290.46(n)(3)  |          |                          |
| Description: | Failure to obtain and keep on file for future reference, accurate information pertaining to the well.  |          |                          |
| Self Report? | NO   |          | Classification: Moderate |
| Citation:    | 30 TAC Chapter 290, SubChapter D 290.43(c)[G]  |          |                          |
| Description: | Failure to cover and design, fabricate, erect, test and disinfect in strict accordance   |          |                          |

with current American Water Works Association (AWWA) standards, all facilities for potable water storage.

|              |  |                 |          |
|--------------|--|-----------------|----------|
| Self Report? | NO   | Classification: | Minor    |
| Citation:    | 30 TAC Chapter 290, SubChapter D 290.43(c)(2)  |                 |          |
| Description: | Failure to provide the ground storage tanks with a properly designed roof access opening.                |                 |          |
| Self Report? | NO   | Classification: | Minor    |
| Citation:    | 30 TAC Chapter 290, SubChapter D 290.41(c)(1)(F)   |                 |          |
| Description: | Failure to provide sanitary control easements for Well # 1 (G1260064A).                                  |                 |          |
| Self Report? | NO   | Classification: | Minor    |
| Citation:    | 30 TAC Chapter 290, SubChapter D 290.43(c)(5)  |                 |          |
| Description: | Failure to provide proper inlets on storage tanks # 1, 3, & 4.   |                 |          |
| Self Report? | NO   | Classification: | Moderate |
| Citation:    | 30 TAC Chapter 290, SubChapter D 290.43(c)(6)  |                 |          |
| Description: | Failure to repair leaks on ground storage tanks #1 & 4.  |                 |          |
| Self Report? | NO   | Classification: | Minor    |
| Citation:    | 30 TAC Chapter 290, SubChapter D 290.43(c)(7)  |                 |          |
| Description: | Failure to provide proper drains on the ground storage tanks.  |                 |          |
| Self Report? | NO   | Classification: | Moderate |
| Citation:    | 30 TAC Chapter 290, SubChapter D 290.45(b)(1)(C)(i)<br>5A THC Chapter 341, SubChapter A 341.0315(c)      |                 |          |
| Description: | Failure to provide a minimum well production capacity of at least 0.6 gallons per minute per connection. |                 |          |

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

K. Sites Outside of Texas

N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN  
ENFORCEMENT ACTION  
CONCERNING  
JAMES A. DYCHE DBA CREST  
WATER COMPANY; RN101192540,  
RN101251023, RN101220887**

§  
§  
§  
§  
§  
§

**BEFORE THE  
TEXAS COMMISSION ON  
ENVIRONMENTAL QUALITY**

**AGREED ORDER  
DOCKET NO. 2007-0547-PWS-E**

**I. JURISDICTION AND STIPULATIONS**

At its \_\_\_\_\_ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding James A. Dyche dba Crest Water Company ("Mr. Dyche") under the authority of TEX. HEALTH & SAFETY CODE ch. 341. The Executive Director of the TCEQ, through the Enforcement Division, and Mr. Dyche appear before the Commission and together stipulate that:

1. Mr. Dyche owns and operates public water supply ("PWS") systems, which serve at least 25 people per day for at least 60 days per year, located at the following locations in Texas (the "Facilities"):
  - a. Fisherman's Paradise PWS, located left of the intersection of Old Wagon Road and Indian Trail in Johnson County, Texas that has approximately 95 connections, RN101192540;
  - b. Northcrest Addition PWS, located behind Lot 3605 Northcrest Drive in Johnson County, Texas that has approximately 207 connections, RN101251023; and
  - c. Rolling Oaks Subdivision PWS, located at the intersection of State Highway 171 and County Road 1202 in Johnson County, Texas that has approximately 71 connections, RN101220887.
2. The Commission and Mr. Dyche agree that the Commission has jurisdiction to enter this Agreed Order, and that Mr. Dyche is subject to the Commission's jurisdiction.
3. Mr. Dyche received notice of the violations alleged in Section II ("Allegations") on or about March 30, 2007.



4. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by Mr. Dyche of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
5. An administrative penalty in the amount of One Thousand Seven Hundred Forty-Nine Dollars (\$1,749) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). Mr. Dyche has paid One Thousand Four Hundred Dollars (\$1,400) of the administrative penalty and Three Hundred Forty-Nine Dollars (\$349) is deferred contingent upon Mr. Dyche's timely and satisfactory compliance with all the terms of this Agreed Order. The deferred amount will be waived upon full compliance with the terms of this Agreed Order. If Mr. Dyche fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require Mr. Dyche to pay all or part of the deferred penalty.
6. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.
7. The Executive Director of the TCEQ and Mr. Dyche have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
8. The Executive Director recognizes that Mr. Dyche has implemented the following corrective measures at:
  - a. Fisherman's Paradise PWS, increased the well production capacity from 36 gallons per minute ("gpm") to 70 gpm as of March 29, 2007.
  - b. Northcrest Addition PWS, taken the 10,000 gallon ground storage tank offline, as of February 29, 2007.
9. 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 Mr. Dyche has not complied with one or more of the terms or conditions in this Agreed Order.
10. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
11. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

## II. ALLEGATIONS

1. As owner and operator of Fisherman's Paradise PWS, Mr. Dyche is alleged to have failed to maintain records as required, in violation of 30 TEX. ADMIN. CODE § 290.46(n)(3), as documented during a record review conducted on February 15, 2007.



2. As owner and operator of Northcrest Addition PWS, Mr. Dyche is alleged to have:
  - a. Failed to make available sanitary control easements for each of the four wells at the time of the inspection, in violation of 30 TEX. ADMIN. CODE § 290.41(c)(1)(F), as documented during a record review conducted on February 12, 2007.
  - b. Failed to cover and design, fabricate, erect, test and disinfect all potable water storage facilities in strict accordance with current American Water Works Association ("AWWA") standards, and to provide facilities with the minimum number, size, and type of roof vents, man ways, drains, sample connections, access ladders, overflows, liquid level indicators and other appurtenances as specified in these rules, in violation of 30 TEX. ADMIN. CODE § 290.43(c), (c)(2), and (c)(8) as documented during a record review conducted on February 12, 2007.
  - c. Failed to provide a minimum well production capacity of at least 0.6 gpm per connection, in violation of 30 TEX. ADMIN. CODE § 290.45(b)(1)(C)(i) and TEX. HEALTH & SAFETY CODE § 341.0315(c), as documented during a record review conducted on February 12, 2007.
  - d. Failed to maintain records as required, in violation of 30 TEX. ADMIN. CODE § 290.46(n)(3), as documented during a record review conducted on February 12, 2007.
  - e. Failed to provide Well No. 1 with a casing 18 inches above the elevation of the finished floor of the pump house or natural ground surface with a minimum of one inch above the sealing block or pump motor foundation block, in violation of 30 TEX. ADMIN. CODE § 290.41(c)(3)(B), as documented during a record review conducted on February 12, 2007.
  
2. As owner and operator of Rolling Oaks Subdivision PWS, Mr. Dyche is alleged to have:
  - a. Failed to make available sanitary control easements for Well No. 1 at the time of the inspection, in violation of 30 TEX. ADMIN. CODE § 290.41(c)(1)(F), as documented during a record review conducted on March 9, 2007.
  - b. Failed to cover and design, fabricate, erect, test, and disinfect all potable water storage facilities in strict accordance with current American Water Works Association (AWWA) standards and to provide facilities with the minimum number, size and type of roof vents, man ways, drains, sample connections, access ladders, overflows, liquid level indicators, and other appurtenances as specified in these rules, in violation of 30 TEX. ADMIN. CODE § 290.43(c), (c)(2), (c)(5), (c)(6) and (c)(7), as documented during a record review conducted on March 9, 2007.
  - c. Failed to provide a minimum well production capacity of at least 0.6 gpm per connection, in violation of 30 TEX. ADMIN. CODE § 290.45(b)(1)(C)(i) and TEX. HEALTH & SAFETY CODE § 341.0315(c), as documented during a record review conducted on March 9, 2007.
  - d. Failed to maintain records as required, in violation of 30 TEX. ADMIN. CODE § 290.46(n)(3), as documented during a record review conducted on March 9, 2007.



### III. DENIALS

Mr. Dyche generally denies each allegation in Section II ("Allegations").

### IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that Mr. Dyche pay an administrative penalty as set forth in Section I, Paragraph 5 above. The payment of this administrative penalty and Mr. Dyche's compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective action or penalties for violations, which are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: James A. Dyche dba Crest Water Company, Docket No. 2007-0547-PWS-E" to:  
  

Financial Administration Division, Revenues Section  
Attention: Cashier's Office, MC 214  
Texas Commission on Environmental Quality  
P.O. Box 13088  
Austin, Texas 78711-3088
2. It is further ordered that Mr. Dyche shall undertake the following technical requirements:
  - a. Within 60 days after the effective date of this Agreed Order, submit copies of well completion data for Well No. 1 at Fisherman's Paradise PWS, and Well No. 1 at Rolling Oaks Subdivision PWS, and copies of well drillers logs for Well Nos. 3 and 4 at Northcrest Addition PWS, or submit documentation verifying that an exception has been granted by TCEQ, in accordance with 30 TEX. ADMIN. CODE § 290.46.
  - b. Within 75 days after the effective date of this Agreed Order, submit written certification of compliance with Ordering Provision No. 2.a., as described in Ordering Provision No. 2.f. below.
  - c. Within 90 days after the effective date of this Agreed Order:
    - i. Secure sanitary control easements covering all property within 150 feet of each well location from adjacent landowners and record the deeds at the county courthouse for all four wells located at Northcrest Addition PWS, and Well No. 1 at Rolling Oaks Subdivision PWS, in accordance with 30 TEX. ADMIN. CODE § 290.41; and
    - ii. Provide Well No. 1 at Northcrest Addition PWS with a casing at least 18 inches above the elevation of the finished floor, in accordance with 30 TEX. ADMIN. CODE § 290.41.



- d. Within 105 days after the effective date of this Agreed Order, submit written certification of compliance with Ordering Provision Nos. 2.c.i through 2.c.ii., as described in Ordering Provision No. 2.f. below
- e. Within 180 days after the effective date of this Agreed Order:
  - i. Provide a minimum well production capacity of at least 0.6 gpm per connection at Northcrest Addition PWS, and Rolling Oaks Subdivision PWS, in accordance with 30 TEX. ADMIN. CODE § 290.45.
  - ii. Ensure that the storage tanks at Northcrest Addition PWS and Rolling Oaks Subdivision PWS that meet AWWA standards, in accordance with 30 TEX. ADMIN. CODE § 290.43.
- f. Within 195 days after the effective date of this Agreed Order, submit written certification as described below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision No. 2.e. The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

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

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:

Water Section Manager  
Dallas/Fort Worth Regional Office  
Texas Commission on Environmental Quality  
2301 Gravel Drive  
Fort Worth, Texas 76118-6951

3. The provisions of this Agreed Order shall apply to and be binding upon Mr. Dyche. Mr. Dyche is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.



4. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by Mr. Dyche shall be made in writing to the Executive Director. Extensions are not effective until Mr. Dyche receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
5. This Agreed Order, issued by the Commission, shall not be admissible against Mr. Dyche in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
6. This agreement may be executed in multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreement may be transmitted by facsimile transmission to the other parties, which shall constitute an original signature for all purposes.
7. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to Mr. Dyche, or three days after the date on which the Commission mails notice of the Order to Mr. Dyche, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.



## SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

\_\_\_\_\_  
For the Commission

John Srdin  
\_\_\_\_\_  
For the Executive Director

9/7/07  
\_\_\_\_\_  
Date

I, the undersigned, have read and understand the attached Agreed Order. I am authorized to agree to the attached Agreed Order on behalf of the entity, if any, indicated below my signature, 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 my failure to comply with the Ordering Provisions, if any, in this order and/or my failure to timely pay the penalty amount, may result in:

- A negative impact on my compliance history;
- Greater scrutiny of any permit applications submitted by me;
- 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 against me;
- Automatic referral to the Attorney General's Office of any future enforcement actions against me; and
- TCEQ seeking other relief as authorized by law.

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

James A. Dyche  
\_\_\_\_\_  
Signature

June 29, 2007  
\_\_\_\_\_  
Date

James A. Dyche  
\_\_\_\_\_  
Name (Printed or typed)  
Authorized Representative of  
James A. Dyche dba Crest Water Company

Owner  
\_\_\_\_\_  
Title

**Instructions:** Send the original, signed Agreed Order with penalty payment to the Financial Administration Division, Revenues Section at the address in Section IV, Paragraph 1 of this Agreed Order.

