EXECUTIVE SUMMARY - ENFORCEMENT MATTER

DOCKET NO.: 2006-1771-PWS-E **TCEQ ID:** RN101185320 **CASE NO.:** 31362

RESPONDENT NAME: City of Cockrell Hill

ORDER TYPE:		
X 1660 AGREED ORDER	__FINDINGS AGREED ORDER	__FINDINGS ORDER FOLLOWING SOAH HEARING
__FINDINGS DEFAULT ORDER	__SHUTDOWN ORDER	__IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
__AMENDED ORDER	__EMERGENCY ORDER	
CASE TYPE:		
__AIR	__MULTI-MEDIA (check all that apply)	__INDUSTRIAL AND HAZARDOUS WASTE
X PUBLIC WATER SUPPLY	__PETROLEUM STORAGE TANKS	__OCCUPATIONAL CERTIFICATION
__WATER QUALITY	__SEWAGE SLUDGE	__UNDERGROUND INJECTION CONTROL
__MUNICIPAL SOLID WASTE	__RADIOACTIVE WASTE	__DRY CLEANER REGISTRATION

SITE WHERE VIOLATION(S) OCCURRED: City of Cockrell Hill Public Water Supply, 4125 West Clarendon Drive, Cockrell Hill, Dallas County

TYPE OF OPERATION: Public water supply

SMALL BUSINESS: ____ Yes __X__ No

OTHER SIGNIFICANT MATTERS: There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.

INTERESTED PARTIES: No one other than the ED and the Respondent has expressed an interest in this matter.

COMMENTS RECEIVED: The *Texas Register* comment period expired on October 8, 2007. No comments were received.

CONTACTS AND MAILING LIST:

TCEQ Attorney/SEP Coordinator: Ms. Melissa Keller, Enforcement Division, MC 219, (512) 239-1768
TCEQ Enforcement Coordinator: Ms. Yuliya Dunaway, Enforcement Division, Enforcement Team 1, MC R-13, (210) 403-4077; Mr. Bryan Sinclair, Enforcement Division, MC 219, (512) 239-2171
TCEQ Field Investigator: Ms. Erin Tanski, DFW Regional Office, MC R-04, (817) 588-5853
Respondent: The Honorable Luis Carrera, Mayor, City of Cockrell Hill, 4125 West Clarendon Drive, Cockrell Hill, Texas 752112
Respondent's Attorney: Not represented by counsel on this enforcement matter

VIOLATION SUMMARY CHART:

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
Type of Investigation: ___ Complaint ___ Routine ___ Enforcement Follow-up _X_ Records Review **Date(s) of Complaints Relating to this Case:** None **Date of Investigation Relating to this Case:** September 13, 2006 **Date of NOE Relating to this Case:** September 28, 2006 (NOE) **Background Facts:** This was a routine record review. Three violations were documented. **AIR** 1) Failed to have backflow prevention assemblies tested and certified to be operating within specifications at least annually by a recognized backflow prevention assembly tester. Specifically, Dairy Mart located at 3622 West Jefferson Boulevard, Laundrymat located at 3705 West Clarendon Drive and Texacolocated at 4201 West Jefferson Boulevard were not tested in the 12 months preceding the September 13, 2006 investigation [30 TEX. ADMIN. CODE § 290.44(h)(4) and TEX. HEALTH & SAFETY CODE § 341.0315(c)]. 2) Failed to develop and maintain an up-to-date chemical and microbiological monitoring plan. Specifically, at the time of the investigation, the monitoring plan lacked components for the disinfectant residual and the disinfection byproducts [30 TEX. ADMIN. CODE § 290.121(a)]. 3) Failed to maintain documentation of Customer Service Inspection reports that can be made available at the time of investigations. Specifically, at the time of the investigation, Customer Service Inspection reports were not available for the investigator's review [30 TEX. ADMIN. CODE § 290.46(f)(3)(E)(iv)].	**Total Assessed:** $2,203 **Total Deferred:** $441 _X_ Expedited Settlement __Financial Inability to Pay **SEP Conditional Offset:** $1,762 **Total Paid to General Revenue:** $0 **Site Compliance History Classification** __ **High** ___ **Average** __ **Poor** **Person Compliance History Classification** __ **High** ___ **Average** __ **Poor** **Major Source:** _X_ Yes ___ No **Applicable Penalty Policy:** September 2002	**Ordering Provisions:** 1) The Order will require the Respondent to implement and complete a Supplemental Environmental Project (SEP). (See SEP Attachment A). 2) The Order will require the Respondent to: a) Within 30 days after the effective date of this Agreed Order: i. Prepare and begin maintaining an up-to-date chemical and microbiological monitoring plan; and ii. Begin preparing and submitting Customer Service Inspection reports and make them available at the time of Commission inspection. b) Within 45 days after the effective date of this Agreed Order, submit written certification and include supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision No. 2.a.; c) Within 60 days after the effective date of this Agreed Order, test all backflow prevention assemblies and certify each to be operating within specifications; and d) Within 75 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.c.

Additional ID No(s).: NE0027V, Permit No. 3123A

Attachment A
Docket Number: 2006-1771-PWS-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent:	**City of Cockrell Hill**
Payable Penalty Amount:	**One Thousand Seven Hundred Sixty-Two Dollars ($1,762)**
SEP Amount:	**One Thousand Seven Hundred Sixty-Two Dollars ($1,762)**
Type of SEP:	**Pre-approved**
Third-Party Recipient:	**Texas Association of Resource Conservation and Development Areas, Inc. ("RC&D")-Abandoned Tire Clean-Up**
Location of SEP:	**Dallas County**

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

1. Project Description

A. Project

The Respondent shall contribute to the Third-Party Recipient pursuant to the agreement between the Third-Party Recipient and the TCEQ. Specifically, the contribution will be used to clean-up sites where tires have been disposed of illegally. Eligible sites will be limited to those where a responsible party cannot be found and where reasonable efforts have been made to prevent the dumping. SEP monies will be used to pay for the direct cost of collecting and disposing of tires. All dollars contributed will be used solely for the direct cost of the project and no portion will be spent on administrative costs. The SEP will be done in accordance with all federal, state and local environmental laws and regulations.

The Respondent certifies that there is no prior commitment to do this project and that it is being performed solely in an effort to settle this enforcement action.

B. Environmental Benefit

This SEP will provide a discernible environmental benefit by providing for the proper disposal of tires and by reducing health threats associated with illegally dumped tires. Illegal tire dumpsites can become breeding grounds for mosquitoes and rodents which carry disease. The potential for tire fires is also reduced by removing illegally dumped tires. Tire fires can result in the contamination of surface water, ground water, and soil.

C. Minimum Expenditure

Respondent shall contribute at least the SEP Amount to the Third-Party Recipient and comply with all other provisions of this SEP.

2. Performance Schedule

Within 30 days after the effective date of this Agreed Order, the Respondent must contribute the SEP Amount to the Third-Party Recipient. The Respondent shall mail the contribution, with a copy of the Agreed Order, to:

Texas Association of Resource Conservation and Development Areas, Inc.
1716 Briarcrest Drive
Bryan, Texas 77802-2700

3. Records and Reporting

Concurrent with the payment of the SEP Amount, the Respondent shall provide the TCEQ SEP Coordinator with a copy of the check and transmittal letter indicating full payment of the SEP Amount to the Third-Party Recipient. The Respondent shall mail a copy of the check and transmittal letter to:

Enforcement Division
Attention: SEP Coordinator, MC 219
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

4. Failure to Fully Perform

If the Respondent does not perform its obligations under this SEP in any way, including full payment of the SEP Amount and submittal of the required reporting described in Section 3 above, the Executive Director may require immediate payment of all or part of the SEP Amount.

The check for any amount due shall be made out to "Texas Commission on Environmental Quality" and mailed to:

Texas Commission on Environmental Quality
Financial Administration Division, Revenues
Attention: Cashier, MC 214
P.O. Box 13088
Austin, Texas 78711-3088

The Respondent shall also mail a copy of the check to the TCEQ SEP Coordinator at the address in Section 3 above.

5. Publicity

Any public statements concerning this SEP made by or on behalf of the Respondent must include a clear statement that the project was performed as part of the settlement of an enforcement action brought by the TCEQ. Such statements include advertising, public relations, and press releases.

6. Clean Texas Program

The Respondent shall not include this SEP in any application made to TCEQ under the "Clean Texas" (or any successor) program(s). Similarly, the Respondent may not seek recognition for this contribution in any other state or federal regulatory program.

7. Other SEPs by TCEQ or Other Agencies

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

Penalty Calculation Worksheet (PCW)

TCEQ

Policy Revision 2 (September 2002) *PCW Revision May 19, 2005*

DATES					
Assigned	25-Sep-2006				
PCW	02-Oct-2006	Screening	02-Oct-2006	EPA Due	

RESPONDENT/FACILITY INFORMATION

Respondent	City of Cockrell Hill		
Reg. Ent. Ref. No.	RN101185320		
Facility/Site Region	4-Dallas/Fort Worth	Major/Minor Source	Major Source

CASE INFORMATION

Enf./Case ID No.	31362	No. of Violations	3
Docket No.	2006-1771-PWS-E	Order Type	1660
Media Program(s)	Public Water Supply	Enf. Coordinator	Yuliya Dunaway
Multi-Media		EC's Team	Enforcement Team 2
Admin. Penalty $ Limit Minimum	$50	Maximum	$1,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties) *Subtotal 1* $1,760

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History 23% Enhancement *Subtotals 2, 3, & 7* $405

Notes: The penalty enhancement is due to one prior Notice of Violations ("NOV") for the same or similar violations as those in the current enforcement action and nine dissimilar prior NOVs.

Culpability No 0% Enhancement *Subtotal 4* $0

Notes: The respondent does not meet the culpability criteria.

Good Faith Effort to Comply 0% Reduction *Subtotal 5* $0

	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary		
N/A	x	*(mark with a small x)*

Notes: The respondent does not meet the good faith effort criteria.

Economic Benefit 0% Enhancement* *Subtotal 6* $0

**Capped at the Total EB $ Amount*

Total EB Amounts	$642
Approx. Cost of Compliance	$1,000

SUM OF SUBTOTALS 1-7 Final Subtotal $2,165

OTHER FACTORS AS JUSTICE MAY REQUIRE Adjustment $0

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

Notes:

Final Penalty Amount $2,165

STATUTORY LIMIT ADJUSTMENT Final Assessed Penalty $2,203

DEFERRAL 20% Reduction Adjustment -$441

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 $1,762

Screening Date 02-Oct-2006 **Docket No.** 2006-1771-PWS-E **PCW**
Respondent City of Cockrell Hill *Policy Revision 2 (September 2002)*
Case ID No. 31362 *PCW Revision May 19, 2005*
Reg. Ent. Reference No. RN101185320
Media [Statute] Public Water Supply
Enf. Coordinator Yuliya Dunaway

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)*	1	5%
	Other written NOVs	9	18%
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 judgements 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*	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) **23%**

>> **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 The penalty enhancement is due to one prior Notice of Violations ("NOV") for the same or similar violations as those in the current enforcement action and nine dissimilar prior NOVs.

Total Adjustment Percentage (Subtotals 2, 3, & 7) **23%**

Screening Date 02-Oct-2006 **Docket No.** 2006-1771-PWS-E **PCW**

Respondent City of Cockrell Hill *Policy Revision 2 (September 2002)*

Case ID No. 31362 *PCW Revision May 19, 2005*

Reg. Ent. Reference No. RN101185320

Media [Statute] Public Water Supply

Enf. Coordinator Yuliya Dunaway

Violation Number 1

Primary Rule Cite(s) 30 Tex. Admin. Code § 290.44(h)(4)

Secondary Rule Cite(s) Tex. Health & Safety Code § 341.0315(c)

Violation Description Failure to have backflow prevention assemblies tested and certified to be operating within specifications at least annually by a recognized backflow prevention assembly tester. Specifically, Dairy Mart located at 3622 W Jefferson Blvd., Laundrymat located at 3705 W Clarendon Dr. and Texaco located at 4201 W Jefferson Blvd. were not tested in the 12 months preceding the September 13, 2006 investigation.

Base Penalty $1,000

>> **Environmental, Property and Human Health Matrix**

OR

Release	Harm: Major	Moderate	Minor
Actual			
Potential	x		

Percent 50%

>> **Programmatic Matrix**

Falsification	Major	Moderate	Minor

Percent

Matrix Notes: Failure to have backflow prevention assemblies tested could cause exposure to pollutants which would exceed levels that are protective of human health.

Adjustment -$500

Base Penalty Subtotal $500

Violation Events

Number of Violation Events 3

mark only one use a small x	
daily	
monthly	
quarterly	
semiannual	
annual	x
single event	

Violation Base Penalty $1,500

Three annual events are recommended for the three sites.

Economic Benefit (EB) for this violation

Estimated EB Amount $630

Statutory Limit Test

Violation Final Penalty Total $1,845

This violation Final Assessed Penalty (adjusted for limits) $1,845

Economic Benefit Worksheet

Respondent City of Cockrell Hill
Case ID No. 31362
Reg. Ent. Reference No. RN101185320
Media [Statute] Public Water Supply
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost (No commas or $)	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)				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: There are no delayed costs associated with this violation.

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	$600	13-Sep-2005	13-Sep-2006	1.0	$30	$600	$630
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: Estimated costs include the amount to annually test the backflow prevention devices, calculated from the date when violation occured to the estimated date of compliance.

Approx. Cost of Compliance: $600

TOTAL $630

Screening Date 02-Oct-2006 **Docket No.** 2006-1771-PWS-E **PCW**

Respondent City of Cockrell Hill *Policy Revision 2 (September 2002)*

Case ID No. 31362 *PCW Revision May 19, 2005*

Reg. Ent. Reference No. RN101185320

Media [Statute] Public Water Supply

Enf. Coordinator Yuliya Dunaway

Violation Number 2

Primary Rule Cite(s) 30 Tex. Admin. Code § 290.121(a)

Secondary Rule Cite(s)

Violation Description Failure to develop and maintain an up-to-date chemical and microbiological monitoring plan. Specifically, at the time of the investigation, the monitoring plan lacked components for the disinfectant residual and the disinfection byproducts.

Base Penalty $1,000

>> **Environmental, Property and Human Health Matrix**

Release	Harm: Major	Moderate	Minor
Actual			
Potential			

OR

Percent

>> **Programmatic Matrix**

Falsification	Major	Moderate	Minor
			x

Percent 1%

Matrix Notes: 10% of the rule requirements are not met.

Adjustment -$990

Base Penalty Subtotal $10

Violation Events

Number of Violation Events 1

mark only one use a small x

daily	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty $10

One single event is recommended.

Economic Benefit (EB) for this violation

Estimated EB Amount $3

Statutory Limit Test

Violation Final Penalty Total $12

This violation Final Assessed Penalty (adjusted for limits) $50

Economic Benefit Worksheet

Respondent City of Cockrell Hill
Case ID No. 31362
Reg. Ent. Reference No. RN101185320
Media [Statute] Public Water Supply
Violation No. 2

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost (No commas or $)	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)				0.0	$0	$0	$0
Engineering/construction				0.0	$0	$0	$0
Land				0.0	$0	n/a	$0
Record Keeping System	$100	13-Sep-2006	13-Apr-2007	0.6	$3	n/a	$3
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: The delayed costs include the amount to prepare and maintain an up-to-date chemical and microbiological monitoring plan, calculated from the date of the investigation to the estimated 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: There are no avoided costs associated with this violation.

Approx. Cost of Compliance: $100

TOTAL $3

Screening Date 02-Oct-2006 **Docket No.** 2006-1771-PWS-E **PCW**

Respondent City of Cockrell Hill *Policy Revision 2 (September 2002)*

Case ID No. 31362 *PCW Revision May 19, 2005*

Reg. Ent. Reference No. RN101185320

Media [Statute] Public Water Supply

Enf. Coordinator Yuliya Dunaway

Violation Number 3

Primary Rule Cite(s) 30 Tex. Admin. Code § 290.46(f)(3)(E)(iv)

Secondary Rule Cite(s)

Violation Description Failure to maintain documentation of Customer Service Agreements or Customer Service Inspection reports that can be made available at the time of Commission inspection.

Base Penalty $1,000

>> **Environmental, Property and Human Health Matrix**

Release	Harm: Major	Moderate	Minor
Actual			
Potential			

OR

Percent

>> **Programmatic Matrix**

Falsification	Major	Moderate	Minor
	x		

Percent 25%

Matrix Notes: 100% of the rule requirements were not met.

Adjustment -$750

Base Penalty Subtotal $250

Violation Events

Number of Violation Events: 1

mark only one use a small x	
daily	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty $250

One single event is recommended.

Economic Benefit (EB) for this violation

Estimated EB Amount $9

Statutory Limit Test

Violation Final Penalty Total $308

This violation Final Assessed Penalty (adjusted for limits) $308

Economic Benefit Worksheet

Respondent City of Cockrell Hill
Case ID No. 31362
Reg. Ent. Reference No. RN101185320
Media [Statute] Public Water Supply
Violation No. 3

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost (No commas or $)	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)				0.0	$0	$0	$0
Engineering/construction				0.0	$0	$0	$0
Land				0.0	$0	n/a	$0
Record Keeping System	$300	13-Sep-2006	13-Apr-2007	0.6	$9	n/a	$9
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 The delayed costs include the amount to prepare and maintain documentation of Customer Service Agreements or Customer Service Inspection reports, calculated from the date of the investigation to the estimated 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 There are no avoided costs associated with this violation.

Approx. Cost of Compliance $300

TOTAL $9

Compliance History

Customer/Respondent/Owner-Operator:	CN600740047	City of Cockrell Hill	Classification:	Rating:
Regulated Entity:	RN101185320	CITY OF COCKRELL HILL WATER SYSTEM	Classification:	Site Rating:
ID Number(s):	PUBLIC WATER SYSTEM/SUPPLY	REGISTRATION	0570038	
	WATER LICENSING	LICENSE	0570038	
Location:	4125 W CLARENDON DR, COCKRELL HILL, DALLAS COUNTY, TX			
TCEQ Region:	REGION 04 - DFW METROPLEX			
Date Compliance History Prepared:	September 25, 2006			
Agency Decision Requiring Compliance History:	Enforcement			
Compliance Period:	September 25, 2001 to September 25, 2006			

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

Name: Yuliya Dunaway Phone: (210) 403-4077

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 09/19/2006 (512662)
2 08/14/2003 (372750)
3 05/25/2006 (465291)
4 05/09/2006 (463776)
5 03/06/2006 (453090)
6 12/23/2004 (373743)
7 12/02/2004 (373710)
8 08/26/2004 (373452)
9 02/17/2005 (373744)
10 10/01/2004 (373453)
11 03/30/2005 (373979)
12 11/02/2004 (373456)

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

Date: 02/17/2005 (373744)
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.109(f)(3)
Description: EXCEEDED A MAXIMUM CONTAMINANT LEVEL (MCL) VIOLATION IN 02/2005.

Date: 12/08/2004 (373456)
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(3)(A)(i)
Description: FAILURE TO COLLECT ANY REPEATS IN 10/2004 FOLLOWING COLIFORM FOUND RESULTS.
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(A)

Description: FAILURE TO POST PN FOR NOT COLLECTING ANY REPEATS IN 10/2004 FOLLOWING COLIFORM FOUND RESULTS.

Date: 12/02/2004 (373710)

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.109(f)(3)

Description: EXCEEDED A MAXIMUM CONTAMINANT LEVEL (MCL) VIOLATION IN 11/2004.

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.122(b)(2)(A)

Description: FAILURE TO POST PN FOR EXCEEDING A MAXIMUM CONTAMINANT LEVEL (MCL) VIOLATION IN 11/2004.

Date: 12/28/2004 (373710)

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(3)(A)(i)

Description: FAILURE TO COLLECT ANY REPEAT SAMPLES AFTER COLIFORM FOUND RESULTS IN 11/2004.

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(A)

Description: FAILURE TO POST PN FOR NOT COLLECTING ANY REPEAT SAMPLES AFTER COLIFORM FOUND RESULTS IN 11/2004.

Date: 10/01/2004 (373453)

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.122(b)(2)(A)

Description: FAILURE TO POST A PN FOR EXCEEDING MAXIMUM CONTAMINANT LEVEL (MCL) VIOLATION IN 09/2004.

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.109(f)(3)

Description: EXCEEDED A MAXIMUM CONTAMINANT LEVEL (MCL) VIOLATION IN 09/2004.

Date: 12/23/2004 (373743)

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.109(f)(3)

Description: EXCEEDED A MAXIMUM CONTAMINANT LEVEL (MCL) VIOLATION IN 12/2004.

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.122(b)(2)(A)

Description: FAILURE TO POST PN FOR EXCEEDING A MAXIMUM CONTAMINANT LEVEL (MCL) VIOLATION IN 12/2004.

Date: 11/02/2004 (373456)

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.109(f)(3)

Description: EXCEEDED A MAXIMUM CONTAMINANT LEVEL (MCL) VIOLATION IN 10/2004.

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.122(b)(2)(A)

Description: FAILURE TO POST A PN FOR EXCEEDING A MAXIMUM CONTAMINANT LEVEL (MCL) VIOLATION IN 10/2004.

Date: 08/14/2003 (372750)

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.109(f)(3)

Description: EXCEEDED MAXIMUM CONTAMINANT LEVEL (MCL) VIOLATION IN 08/2003.

Date: 03/03/2006 (453090)

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 290, SubChapter D 290.46(f)(3)(E)(iv)

Description: Failure to complete a customer service inspection certification prior to providing continuous water service to new construction, on any existing service when the water purveyor has reason to believe that cross-connections or other unacceptable plumbing practices exist.

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter D 290.44(h)[G]

Description: Failure to adhere to rule §290.44(h) which provides protection against backflow and siphonage, potential contamination and health hazards.

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter D 290.46(e)(3)(C)

Description: Failure by the regulated entity, which serves 1,000 connections or more and only uses purchased treated water, to be at all times under the direct supervision of two competent operators holding a valid Class "C" or higher operator's license as issued under the direction of the Texas Commission on Environmental Quality.

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 290, SubChapter D 290.42(l)

Description: Failure to provide a plant operations manual.

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 290, SubChapter D 290.46(n)(2)

Description: Failure to prepare and maintain a map of the distribution system so that valves and mains may be easily located during emergencies.

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 288, SubChapter B 288.20[G]

Description: Failure to provide a drought contingency plan.

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 290, SubChapter F 290.121[G]

Description: Failure to provide an adequate monitoring plan.

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 290, SubChapter D 290.45(f)(2)

Description: Failure to state in the contract, the authorization to purchase enough water to meet the monthly or annual needs for the City of Cockrell Hill.

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 290, SubChapter D 290.46(f)(2)

Description: Failure to provide records (monthly operating reports) at time of inspection.

Date: 08/26/2004 (373452)

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.109(f)(3)

Description: EXCEEDED MAXIMUM CONTAMINANT LEVEL (MCL) VIOLATION IN 08/2004.

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.122(b)(2)(A)

Description: FAILURE TO POST A PN FOR EXCEEDING MAXIMUM CONTAMINANT LEVEL (MCL) VIOLATION IN 08/2004.

F. Environmental audits.

N/A

G. Type of environmental management systems (EMSs).

N/A

H. Voluntary on-site compliance assessment dates.

N/A

I. Participation in a voluntary pollution reduction program.

N/A

J. Early compliance.

N/A

Sites Outside of Texas

N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

IN THE MATTER OF AN	§	**BEFORE THE**
ENFORCEMENT ACTION	§	
CONCERNING	§	**TEXAS COMMISSION ON**
CITY OF COCKRELL HILL	§	
RN101185320	§	**ENVIRONMENTAL QUALITY**

AGREED ORDER
DOCKET NO. 2006-1771-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 City of Cockrell Hill ("the City") under the authority of TEX. HEALTH & SAFETY CODE ch. 341. The Executive Director of the TCEQ, through the Enforcement Division, and the City appear before the Commission and together stipulate that:

1. The City owns and operates a public water supply at 4125 West Clarendon Drive in Cockrell Hill, Dallas County, Texas (the "Facility") that has approximately 1203 service connections and serves at least 25 people per day for at least 60 days per year.

2. The Commission and the City agree that the Commission has jurisdiction to enter this Agreed Order, and that the City is subject to the Commission's jurisdiction.

3. The City received notice of the violations alleged in Section II ("Allegations") on or about October 2, 2006.

4. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by the City of any violation alleged in Section II ("Allegations"), nor of any statute or rule.

5. An administrative penalty in the amount of Two Thousand Two Hundred Three Dollars ($2,203) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). One Thousand Seven Hundred Sixty-Two Dollars ($1,762) of the administrative penalty shall be conditionally offset by the City's completion of a Supplemental Environmental Project and Four Hundred Forty-One Dollars ($441) is deferred contingent upon the City'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 the City fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require the City 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 the City have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.

8. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that the City has not complied with one or more of the terms or conditions in this Agreed Order.

9. 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.

10. 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

As owner and operator of the Facility, the City is alleged to have:

1. Failed to have backflow prevention assemblies tested and certified to be operating within specifications at least annually by a recognized backflow prevention assembly tester, in violation of 30 TEX. ADMIN. CODE § 290.44(h)(4) and TEX. HEALTH & SAFETY CODE § 341.0315(c), as documented during a record review conducted on September 13, 2006. Specifically, Dairy Mart located at 3622 West Jefferson Boulevard, Laundrymat located at 3705 West Clarendon Drive and Texaco located at 4201 West Jefferson Boulevard were not tested in the 12 months preceding the September 13, 2006 investigation.

2. Failed to develop and maintain an up-to-date chemical and microbiological monitoring plan, in violation of 30 TEX. ADMIN. CODE § 290.121(a), as documented during a record review conducted on September 13, 2006. Specifically, at the time of the investigation, the monitoring plan lacked components for the disinfectant residual and the disinfection byproducts.

3. Failed to maintain documentation of Customer Service Inspection reports that can be made available at the time of investigations, in violation of 30 TEX. ADMIN. CODE § 290.46(f)(3)(E)(iv), as documented during a record review conducted on September 13, 2006. Specifically, at the time of the investigation, Customer Service Inspection reports were not available for the investigator's review.

III. DENIALS

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

IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that the City pay an administrative penalty as set forth in Section I, Paragraph 5 above. The payment of this administrative penalty and the City'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: City of Cockrell Hill, Docket No. 2006-1771-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. The City shall implement and complete a Supplemental Environmental Project ("SEP") in accordance with TEX. WATER CODE § 7.067. As set forth in Section I, Paragraph 5 above, One Thousand Seven Hundred Sixty-Two Dollars ($1,762) of the assessed administrative penalty shall be offset with the condition that the City implement the SEP defined in Attachment A, incorporated herein by reference. The City's obligation to pay the conditionally offset of the administrative penalty assessed shall be discharged upon completion of all provisions of the SEP agreement.

3. It is further ordered that the City shall undertake the following technical requirements:

   a. Within 30 days after the effective date of this Agreed Order:

      i. Prepare and begin maintaining an up-to-date chemical and microbiological monitoring plan, in accordance with 30 TEX. ADMIN. CODE § 290.121; and

      ii. Begin preparing and submitting Customer Service Inspection reports and make them available at the time of Commission inspection, in accordance with 30 TEX. ADMIN. CODE § 290.46;

   b. Within 45 days after the effective date of this Agreed Order, submit written certification as described in Ordering Provision No. 3.d., and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision No. 3.a.;

c. Within 60 days after effective date of this Agreed Order, test all backflow prevention assemblies and certify each to be operating within specifications, in accordance with 30 TEX. ADMIN. CODE § 290.44; and

d. Within 75 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. 3.c.

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:

Manager, Water Section
Dallas/Fort Worth Regional Office
Texas Commission on Environmental Quality
2309 Gravel Drive
Fort Worth, Texas 76118-6951

4. The provisions of this Agreed Order shall apply to and be binding upon the City. The City 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.

5. 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 the City shall be made in writing to the Executive Director. Extensions are not effective until the City receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.

6. This Agreed Order, issued by the Commission, shall not be admissible against the City 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.

7. 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.

8. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to the City, or three days after the date on which the Commission mails notice of the Order to the City, 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

_____ 10/18/07
For the Executive Director 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.

_____ 29 JAN 2007
Signature Date

Luis D. Carrera Mayor
Name (Printed or typed) Title
Authorized Representative of
City of Cockrell Hill

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.

Attachment A
Docket Number: 2006-1771-PWS-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent:	**City of Cockrell Hill**
Payable Penalty Amount:	**One Thousand Seven Hundred Sixty-Two Dollars ($1,762)**
SEP Amount:	**One Thousand Seven Hundred Sixty-Two Dollars ($1,762)**
Type of SEP:	**Pre-approved**
Third-Party Recipient:	**Texas Association of Resource Conservation and Development Areas, Inc. ("RC&D")-Abandoned Tire Clean-Up**
Location of SEP:	**Dallas County**

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

1. Project Description

A. Project

The Respondent shall contribute to the Third-Party Recipient pursuant to the agreement between the Third-Party Recipient and the TCEQ. Specifically, the contribution will be used to clean-up sites where tires have been disposed of illegally. Eligible sites will be limited to those where a responsible party cannot be found and where reasonable efforts have been made to prevent the dumping. SEP monies will be used to pay for the direct cost of collecting and disposing of tires. All dollars contributed will be used solely for the direct cost of the project and no portion will be spent on administrative costs. The SEP will be done in accordance with all federal, state and local environmental laws and regulations.

The Respondent certifies that there is no prior commitment to do this project and that it is being performed solely in an effort to settle this enforcement action.

B. Environmental Benefit

This SEP will provide a discernible environmental benefit by providing for the proper disposal of tires and by reducing health threats associated with illegally dumped tires. Illegal tire dumpsites can become breeding grounds for mosquitoes and rodents which carry disease. The potential for tire fires is also reduced by removing illegally dumped tires. Tire fires can result in the contamination of surface water, ground water, and soil.

C. Minimum Expenditure

Respondent shall contribute at least the SEP Amount to the Third-Party Recipient and comply with all other provisions of this SEP.

2. Performance Schedule

Within 30 days after the effective date of this Agreed Order, the Respondent must contribute the SEP Amount to the Third-Party Recipient. The Respondent shall mail the contribution, with a copy of the Agreed Order, to:

Texas Association of Resource Conservation and Development Areas, Inc.
1716 Briarcrest Drive
Bryan, Texas 77802-2700

3. Records and Reporting

Concurrent with the payment of the SEP Amount, the Respondent shall provide the TCEQ SEP Coordinator with a copy of the check and transmittal letter indicating full payment of the SEP Amount to the Third-Party Recipient. The Respondent shall mail a copy of the check and transmittal letter to:

Enforcement Division
Attention: SEP Coordinator, MC 219
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

4. Failure to Fully Perform

If the Respondent does not perform its obligations under this SEP in any way, including full payment of the SEP Amount and submittal of the required reporting described in Section 3 above, the Executive Director may require immediate payment of all or part of the SEP Amount.

The check for any amount due shall be made out to "Texas Commission on Environmental Quality" and mailed to:

Texas Commission on Environmental Quality
Financial Administration Division, Revenues
Attention: Cashier, MC 214
P.O. Box 13088
Austin, Texas 78711-3088

The Respondent shall also mail a copy of the check to the TCEQ SEP Coordinator at the address in Section 3 above.

5. Publicity

Any public statements concerning this SEP made by or on behalf of the Respondent must include a clear statement that the project was performed as part of the settlement of an enforcement action brought by the TCEQ. Such statements include advertising, public relations, and press releases.

6. Clean Texas Program

The Respondent shall not include this SEP in any application made to TCEQ under the "Clean Texas" (or any successor) program(s). Similarly, the Respondent may not seek recognition for this contribution in any other state or federal regulatory program.

7. Other SEPs by TCEQ or Other Agencies

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