

**EXECUTIVE SUMMARY - ENFORCEMENT MATTER**  
**DOCKET NO.: 2006-0505-PWS-E TCEQ ID: RN 103105557 CASE NO.:29352**  
**RESPONDENT NAME: CAROLYN HILGEN DBA CAROLYNS COUNTRY CAFÉ**

Page 1 of 2

**ORDER TYPE:**

<input type="checkbox"/> 1660 AGREED ORDER	<input type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> AMENDED ORDER	<input type="checkbox"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
<input type="checkbox"/> SHUTDOWN ORDER	<input checked="" type="checkbox"/> FINDINGS DEFAULT ORDER	<input type="checkbox"/> EMERGENCY ORDER	

**CASE TYPE:**

<input type="checkbox"/> AGRICULTURE	<input type="checkbox"/> AIR	<input type="checkbox"/> INDUSTRIAL AND HAZARDOUS WASTE	<input type="checkbox"/> MUNICIPAL SOLID WASTE
<input type="checkbox"/> OCCUPATIONAL CERTIFICATION	<input type="checkbox"/> PETROLEUM STORAGE TANKS	<input checked="" type="checkbox"/> PUBLIC WATER SUPPLY	<input type="checkbox"/> RADIOACTIVE WASTE
<input type="checkbox"/> MULTI-MEDIA (check all that apply)	<input type="checkbox"/> SEWAGE SLUDGE	<input type="checkbox"/> UNDERGROUND INJECTION CONTROL	<input type="checkbox"/> USED OIL
<input type="checkbox"/> USED OIL FILTER	<input type="checkbox"/> WATER QUALITY		

**SITE WHERE VIOLATION(S) OCCURRED:** 37470 Farm-to-Market Road 529, Brookshire, Waller County

**TYPE OF OPERATION:** A restaurant with a public water supply

**SMALL BUSINESS:**  Yes  No

**OTHER SIGNIFICANT MATTERS:** There are no previous 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 January 2, 2007. No comments were received.

**CONTACTS AND MAILING LIST:**

**TCEQ Attorney:** Ms. Deanna Sigman, Litigation Division, MC 175, (512) 239-0619; Ms. Jennifer Cook, Litigation Division, MC 175, (512) 239-1873

**TCEQ Enforcement Coordinator:** Ms. Rebecca Clausewitz, Enforcement Division, Section I, MC R-13, (210) 403-4012

**TCEQ Regional Contact:** Mr. Stephen Smith, Houston Regional Office, MC R-12, (713) 767-3581

**Respondent:** Ms. Carolyn Hilgen, Owner, dba Carolyns Country Café, 37470 Farm-to Market Road 529, Brookshire, Texas 77423

**Respondent's Attorney:** Not represented by counsel.

**RESPONDENT'S NAME: CAROLYN HILGEN DBA CAROLYNS COUNTRY CAFÉ**  
**DOCKET NO.: 2006-0505-PWS-E**

**VIOLATION SUMMARY CHART:**

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p><b>Type of Investigation:</b> <input type="checkbox"/> Complaint <input type="checkbox"/> Routine  <input type="checkbox"/> Enforcement Follow-up <input checked="" type="checkbox"/> Records Review</p> <p><b>Date(s) of Complaints Relating to this Case:</b> None</p> <p><b>Date(s) of Investigation(s) Relating to this Case:</b> March 30, 2006</p> <p><b>Date(s) of NOV(s)/NOE(s) Relating to this Case:</b> October 3, 2005 (NOV); October 24, 2005 (NOV); October 31, 2005 (NOV); December 1, 2005 (NOV); December 21, 2005 (NOV); January 25, 2006 (NOV); February 23, 2006 (NOV); March 22, 2006 (NOV); March 30, 2006 (NOE)</p> <p><b>Background Facts:</b></p> <p>An EDRP was filed on September 8, 2006. The Respondent received notice of the EDRP on or about September 9, 2006. The Respondent has not filed an Answer or requested a hearing.</p> <p>The Respondent in this case does not owe any other penalties according to the Administrative Penalty Database Report.</p> <p><b>PWS:</b></p> <p>1) Failed to conduct routine bacteriological monitoring of the public water supply and failed to provide public notification of the failure to perform bacteriological monitoring of the public water supply during the months of July through December 2005 and January and February 2006 [30 TEX. ADMIN. CODE §§ 290.109(c)(2)(A)(i) and 290.122(c)(2)(B) and TEX. HEALTH &amp; SAFETY CODE § 341.033(d)].</p> <p>2) Failed to pay past due public health service fees for Account No. 92370083 [30 TEX. ADMIN. CODE § 290.51(a)(3) and TEX. WATER CODE § 5.702].</p>	<p><b>Total Assessed:</b> \$2,840</p> <p><b>Total Deferred:</b> \$0  <input type="checkbox"/> Expedited Settlement  <input type="checkbox"/> Financial Inability to Pay</p> <p><b>SEP Conditional Offset:</b> \$0</p> <p><b>Total Due to General Revenue:</b> \$2,840</p> <p>This is a Default Order. The Respondent has not actually paid any of the assessed penalty but will be required to do so under the terms of this proposed Order.</p> <p><b>Site Compliance History Classification:</b> N/A</p> <p><b>Person Compliance History Classification:</b> N/A</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>Ordering Provision(s):</b></p> <p>The Respondent shall:</p> <p>1) Within 30 days:</p> <p>a) Begin collecting monthly samples of the Facility's water system, according to the Facility's written Sample Siting Plan.</p> <p>b) Submit payment for all outstanding public health service fees, including any associated penalties and interest.</p> <p>2) Within 45 days, submit written certification of compliance, include detailed supporting documentation including receipts, and/or other records to demonstrate compliance.</p>



Policy Revision 2 (September 2002)

# Penalty Calculation Worksheet (PCW)

PCW Revision May 19, 2005

<b>DATES</b>	<b>Assigned</b>	01-May-2006	<b>Screening</b>	09-May-2006	<b>EPA Due</b>	01-Sep-2006
	<b>PCW</b>	05-May-2006				

<b>RESPONDENT/FACILITY INFORMATION</b>	
<b>Respondent</b>	Carolyn Hilgen dba Carolyns Country Café
<b>Reg. Ent. Ref. No.</b>	RN103105557
<b>Facility/Site Region</b>	12-Houston
<b>Major/Minor Source</b>	Minor Source

<b>CASE INFORMATION</b>			
<b>Enf./Case ID No.</b>	29352	<b>No. of Violations</b>	2
<b>Docket No.</b>	2006-0505-PWS-E	<b>Order Type</b>	Findings
<b>Media Program(s)</b>	Public Water Supply	<b>Enf. Coordinator</b>	Rebecca Clausewitz
<b>Multi-Media</b>		<b>EC's Team</b>	Enforcement Team 2
<b>Admin. Penalty \$ Limit Minimum</b>	\$50	<b>Maximum</b>	\$1,000

## Penalty Calculation Section

<b>TOTAL BASE PENALTY (Sum of violation base penalties)</b>	<b>Subtotal 1</b>	\$2,000
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### ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

<b>Compliance History</b>	42% Enhancement	<b>Subtotals 2, 3, &amp; 7</b>	\$840
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**Notes** Enhancement due to eight prior NOV's for violations that are same or similar, and one NOV which is not same or similar.

<b>Culpability</b>	No	0% Enhancement	<b>Subtotal 4</b>	\$0
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**Notes** The Respondent does not meet the culpability criteria.

<b>Good Faith Effort to Comply</b>	0% Reduction	<b>Subtotal 5</b>	\$0
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	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary		
N/A	x	(mark with a small x)
<b>Notes</b>	The Respondent is not yet in compliance.	

<b>Economic Benefit</b>	0% Enhancement*	<b>Subtotal 6</b>	\$0
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Total EB Amounts	\$318	*Capped at the Total EB \$ Amount
Approx. Cost of Compliance	\$240	

<b>SUM OF SUBTOTALS 1-7</b>	<b>Final Subtotal</b>	\$2,840
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<b>OTHER FACTORS AS JUSTICE MAY REQUIRE</b>		<b>Adjustment</b>	\$0
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Reduces or enhances the Final Subtotal by the indicated percentage. (Enter number only; e.g. -30 for -30%.)

**Notes**

<b>Final Penalty Amount</b>	\$2,840
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<b>STATUTORY LIMIT ADJUSTMENT</b>	<b>Final Assessed Penalty</b>	\$2,840
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<b>DEFERRAL</b>	0% Reduction	<b>Adjustment</b>	\$0
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Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

**Notes** No deferral offered for Findings Orders.

<b>PAYABLE PENALTY</b>	\$2,840
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Screening Date 09-May-2006

Docket No. 2006-0505-PWS-E

PCW

Respondent Carolyn Hilgen dba Carolyns Country Café

Policy Revision 2 (September 2002)

Case ID No. 29352

PCW Revision May 19, 2005

Reg. Ent. Reference No. RN103105557

Media [Statute] Public Water Supply

Enf. Coordinator Rebecca Clausewitz

**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 ( <i>number of NOVs meeting criteria</i> )	8	40%
	Other written NOVs	1	2%
Orders	Any agreed final enforcement orders containing a denial of liability ( <i>number of orders meeting criteria</i> )	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government ( <i>number of judgements or consent decrees meeting criteria</i> )	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government ( <i>number of counts</i> )	0	0%
Emissions	Chronic excessive emissions events ( <i>number of events</i> )	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 ( <i>number of audits for which notices were</i>	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 ( <i>number of audits for which violations were disclosed</i> )	0	0%
<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) 42%**

>> **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 due to eight prior NOVs for violations that are same or similar, and one NOV which is not same or similar.

**Total Adjustment Percentage (Subtotals 2, 3, & 7) 42%**

Screening Date 09-May-2006 Docket No. 2006-0505-PWS-E **PCW**

Respondent Carolyn Hilgen dba Carolyns Country Café Policy Revision 2 (September 2002)

Case ID No. 29352 PCW Revision May 19, 2005

Reg. Ent. Reference No. RN103105557

Media [Statute] Public Water Supply

Enf. Coordinator Rebecca Clausewitz

Violation Number 1

Primary Rule Cite(s) 30 Tex. Admin. Code §§ 290.109(c)(2)(A)(i) and 290.122(c)(2)(B)

Secondary Rule Cite(s) Tex. Health & Safety Code § 341.033(d)

Violation Description Failure to conduct routine bacteriological monitoring of the public water supply and failure to provide public notification of the failure to perform routine bacteriological monitoring of the public water supply during the months of July through December 2005 and January and February 2006.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

Release	Harm			Percent
	Major	Moderate	Minor	
Actual				25%
Potential	X			

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent

Matrix Notes Failure to conduct bacteriological monitoring and provide public notice may result in undetected contaminated water being distributed to the public, resulting in illness.

Adjustment -\$750

Base Penalty Subtotal \$250

Violation Events

Number of Violation Events 8

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

Violation Base Penalty \$2,000

Eight monthly events are recommended .

Economic Benefit (EB) for this violation Statutory Limit Test

Estimated EB Amount \$318 Violation Final Penalty Total \$2,840

This violation Final Assessed Penalty (adjusted for limits) \$2,840

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**Economic Benefit Worksheet**

Respondent: Carolyn Hilgen dba Carolyns Country Café  
 Case ID No. 29352  
 Reg. Ent. Reference No. RN103105557  
 Media [Statute] 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
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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	\$240	01-Jul-2005	05-Oct-2006	1.3	\$15	\$303	\$318
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 cost of routine sampling and to provide public notice. Date required is the first violation month. Final date is the estimated date of compliance.

Approx. Cost of Compliance **\$240** TOTAL **\$318**

Screening Date

09-May-2006

Docket No.

2006-0505-PWS-E

PCW

Respondent

Carolyn Hilgen dba Carolyns Country Café

Policy Revision 2 (September 2002)

Case ID No.

29352

PCW Revision May 19, 2005

Reg. Ent. Reference No.

RN103105557

Media [Statute]

Public Water Supply

Enf. Coordinator

Rebecca Clausewitz

Violation Number

2

Primary Rule Cite(s)

30 Tex. Admin. Code § 290.51(a)(3)

Secondary Rule Cite(s)

Tex. Water Code § 5.702

Violation Description

Failure to pay past due public health service fees for Account No. 92370083.

Base Penalty

\$1,000

>> Environmental, Property and Human Health Matrix

		Harm			Percent
Release		Major	Moderate	Minor	
OR	Actual				
	Potential				

>> Programmatic Matrix

		Falsification	Major	Moderate	Minor	Percent

Matrix Notes

Adjustment

-\$1,000

Base Penalty Subtotal

\$0

Violation Events

Number of Violation Events

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

Violation Base Penalty

\$0

No penalty is recommended because penalty and interest will be assessed at the next billing period.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount

\$0

Violation Final Penalty Total

\$0

This violation Final Assessed Penalty (adjusted for limits)

\$0

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**Economic Benefit Worksheet**

Respondent Carolyn Hilgen dba Carolyns Country Café  
 Case ID No. 29352  
 Reg. Ent. Reference No. RN103105557  
 Media [Statute] Public Water Supply  
 Violation No. 2

Percent Interest	Years of Depreciation
5.0	15

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

No economic benefit will be calculated for 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				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

TOTAL

## Compliance History

Customer/Respondent/Owner-Operator:	CN602707945 HILGEN, CAROLYN	Classification:	Rating:
Regulated Entity:	RN103105557 CAROLYNS COUNTRY CAFE	Classification:	Site Rating:
ID Number(s):	PUBLIC WATER SYSTEM/SUPPLY	REGISTRATION	2370083
Location:	37470 FM 529 RD, BROOKSHIRE, TX, 77423		
TCEQ Region:	REGION 12 - HOUSTON		
Date Compliance History Prepared:	May 05, 2006		
Agency Decision Requiring Compliance History:	Enforcement		
Compliance Period:	May 05, 2001 to May 05, 2006		

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

Name: Kent Heath Phone: (512) 239-4575

### Site Compliance History Components

- |  |     |
|--|-----|
| 1. Has the site been in existence and/or operation for the full five year compliance period? | No  |
| 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  | 10/03/2005 | (462310) |
| 2  | 10/14/2004 | (335577) |
| 3  | 10/31/2005 | (462328) |
| 4  | 01/25/2006 | (462518) |
| 5  | 12/21/2005 | (462351) |
| 6  | 10/24/2005 | (460052) |
| 7  | 02/23/2006 | (462523) |
| 8  | 04/28/2006 | (463923) |
| 9  | 12/01/2005 | (462345) |
| 10 | 03/22/2006 | (462613) |

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

- |                  |  |                          |
|------------------|--|--------------------------|
| Date: 03/22/2006 | (462613)   |                          |
| Self Report? NO  |  | Classification: Moderate |
| Citation:        | 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(i)                               |                          |
| Description:     | Failure to collect any routine monitoring samples in 02/2006.                      |                          |
| Self Report? NO  |  | Classification: Moderate |
| Citation:        | 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(B)                                  |                          |
| Description:     | Failure to post a PN for not collecting any routine monitoring samples in 02/2006. |                          |
| Date: 10/03/2005 | (462310)   |                          |
| Self Report? NO  |  | Classification: Moderate |
| Citation:        | 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(i)                               |                          |
| Description:     | Failure to collect any routine monitoring samples in 08/2005.                      |                          |

Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(B)  
Description: Failure to post a PN for not collecting any routine monitoring samples in 08/2005.

Date: 12/01/2005 (462345)  
Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(i)  
Description: Failure to collect any routine monitoring samples in 10/2005.

Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(B)  
Description: Failure to post a PN for not collecting any routine monitoring samples in 10/2005.

Date: 02/23/2006 (462523)  
Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(i)  
Description: Failure to collect any routine monitoring samples in 01/2006.

Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(B)  
Description: Failure to post a PN for not collecting any routine monitoring samples in 01/2006.

Date: 12/21/2005 (462351)  
Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(i)  
Description: Failure to collect any routine monitoring samples in 11/2005.

Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(B)  
Description: Failure to post a PN for not collecting any routine monitoring samples in 11/2005.

Date: 01/25/2006 (462518)  
Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(i)  
Description: Failure to collect any routine monitoring samples in 12/2005.

Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(B)  
Description: Failure to post a PN for not collecting any routine monitoring samples in 12/2005.

Date: 10/31/2005 (462328)  
Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(i)  
Description: Failure to collect any routine monitoring samples in 09/2005.

Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(B)  
Description: Failure to post a PN for not collecting any routine monitoring samples in 09/2005.

Date: 10/14/2004 (335577)  
Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter D 290.46(n)(2)  
Description: Failure to provide at the time of the investigation a distribution map.

Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter D 290.46(s)[G]  
30 TAC Chapter 290, SubChapter F 290.110(d)(3)[G]  
Description: Failure to possess a DPD test kit as per agency regulations.

Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter F 290.110(c)(5)(A)  
Description: Failure to provide documentation of weekly chlorine residual logs at the time of the investigation.

Date: 10/24/2005 (460052)  
Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(i)

Description: Failure to collect any routine monitoring samples in 07/2005.  
Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(B)  
Description: Failure to post a PN for not collecting any routine monitoring samples in 07/2005.

- F. Environmental audits.  
N/A
- G. Type of environmental management systems (EMSs).  
N/A
- H. Voluntary on-site compliance assessment dates.  
N/A
- I. Participation in a voluntary pollution reduction program.  
N/A
- J. Early compliance.  
N/A

Sites Outside of Texas  
N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



IN THE MATTER OF AN  
ENFORCEMENT ACTION  
CONCERNING  
CAROLYN HILGEN DBA  
CAROLYNS COUNTRY CAFÉ,  
RN103105557

§  
§  
§  
§  
§  
§

BEFORE THE  
  
TEXAS COMMISSION ON  
  
ENVIRONMENTAL QUALITY

**DEFAULT ORDER**  
**DOCKET NO. 2006-0505-PWS-E**

At its \_\_\_\_\_ agenda, the Texas Commission on Environmental Quality, ("Commission" or "TCEQ") considered the Executive Director's Preliminary Report and Petition filed pursuant to TEX. WATER CODE ch. 5, TEX. HEALTH & SAFETY CODE ch. 341, and the rules of the TCEQ, which requests appropriate relief, including the imposition of an administrative penalty and corrective action of the respondent. The respondent made the subject of this Order is Carolyn Hilgen dba Carolyns Country Café ("Ms. Hilgen").

The Commission makes the following Findings of Fact and Conclusions of Law:

**FINDINGS OF FACT**

1. Ms. Hilgen owns and operates a restaurant with a public water supply located at 37470 Farm-to-Market Road 529, Brookshire, Waller County, Texas (the "Facility").
2. The Facility has one service connection and serves at least 25 people per day for at least 60 days per year.
3. During a record review on March 30, 2006, TCEQ staff documented that Ms. Hilgen:
  - a. failed to conduct routine bacteriological monitoring of the public water supply and failed to provide public notification of the failure to perform bacteriological monitoring of the public water supply during the months of July through December 2005 and January and February 2006; and
  - b. failed to pay past due public health service fees for Account No. 92370083.
4. Ms. Hilgen received notice of the violations on or about April 6, 2006

5. The Executive Director filed the "Executive Director's Preliminary Report and Petition Recommending that the Texas Commission on Environmental Quality Enter an Enforcement Order Assessing an Administrative Penalty Against and Requiring Certain Actions of Carolyn Hilgen dba Carolyns Country Café" (the "EDPRP") in the TCEQ Chief Clerk's office on September 8, 2006.
6. By letter dated September 8, 2006, sent via certified mail, return receipt requested, and via first class mail, postage prepaid, the Executive Director served Ms. Hilgen with notice of the EDPRP. According to the return receipt "green card", Ms. Hilgen received notice of the EDPRP on September 9, 2006, as evidenced by the signature on the card.
7. More than 20 days have elapsed since Ms. Hilgen received notice of the EDPRP, provided by the Executive Director. Ms. Hilgen failed to file an answer to the EDPRP, failed to request a hearing, and failed to schedule a settlement conference.

#### CONCLUSIONS OF LAW

1. As evidenced by Finding of Fact Nos. 1 and 2, Ms. Hilgen is subject to the jurisdiction of the TCEQ pursuant to TEX. WATER CODE ch. 5, TEX. HEALTH & SAFETY CODE ch. 341, and the rules of the Commission.
2. As evidenced by Finding of Fact No. 3.a., Ms. Hilgen failed to conduct routine bacteriological monitoring of the public water supply and failed to provide public notification of the failure to perform bacteriological monitoring of the public water supply during the months of July through December 2005 and January and February 2006, in violation of 30 TEX. ADMIN. CODE §§ 290.109(c)(2)(A)(i) and 290.122(c)(2)(B) and TEX. HEALTH & SAFETY CODE § 341.033(d).
3. As evidenced by Finding of Fact No. 3.b., Ms. Hilgen failed to pay past due public health service fees for Account No. 92370083, in violation of 30 TEX. ADMIN. CODE § 290.51(a)(3) and TEX. WATER CODE § 5.702.
4. As evidenced by Finding of Fact Nos. 5 and 6, the Executive Director has timely served Ms. Hilgen with proper notice of the EDPRP, as required by TEX. WATER CODE § 7.055 and 30 TEX. ADMIN. CODE § 70.104(a).
5. As evidenced by Finding of Fact No. 7, Ms. Hilgen has failed to file a timely answer to the EDPRP, as required by TEX. HEALTH & SAFETY CODE § 341.049 and 30 TEX. ADMIN. CODE § 70.105. Pursuant to TEX. HEALTH & SAFETY CODE § 341.049 and 30 TEX. ADMIN. CODE §

70.106, the Commission may enter a Default Order against Ms. Hilgen and assess the penalty recommended by the Executive Director.

6. Pursuant to TEX. HEALTH & SAFETY CODE § 341.049, the Commission has the authority to assess an administrative penalty against Ms. Hilgen for violations of the Texas Water Code and the Texas Health and Safety Code within the Commission's jurisdiction; for violations of rules adopted under such statutes; or for violations of orders or permits issued under such statutes.
7. An administrative penalty in the amount of two thousand eight hundred forty dollars (\$2,840.00) is justified by the facts recited in this Order, and considered in light of the factors set forth in TEX. HEALTH & SAFETY CODE § 341.049(b).
8. TEX. WATER CODE §§ 5.102 and 7.002 authorize the Commission to issue orders and make determinations necessary to effectuate the purposes of the statutes within its jurisdiction.

### ORDERING PROVISIONS

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

1. Ms. Hilgen is assessed an administrative penalty in the amount of two thousand eight hundred forty dollars (\$2,840.00) for violations of TEX. WATER CODE ch. 5, TEX. HEALTH & SAFETY CODE ch. 341, and rules of the TCEQ. The payment of this administrative penalty and Ms. Hilgen's compliance with all the terms and conditions set forth in this Order completely resolve the matters set forth by this Order in this action. The Commission shall not be constrained in any manner from requiring corrective actions or penalties for other violations which are not raised here. All checks submitted to pay the penalty imposed by this Order shall be made out to the "Texas Commission on Environmental Quality". The administrative penalty assessed by this Order shall be paid within 30 days after the effective date of this Order and shall be sent with the notation "Re: Carolyn Hilgen dba Carolyns Country Café; Docket No. 2006-0505-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. Ms. Hilgen shall undertake the following technical requirements:
  - a. Within 30 days after the effective date of this Order, Ms. Hilgen shall:
    - i. Begin collecting monthly samples which are representative of the Facility's water system, according to the Facility's written Sample Siting Plan, as required by 30 TEX. ADMIN. CODE § 290.109; and
    - ii. Submit payment for all outstanding public health service fees, including any associated penalties and interest with the notation "Carolyn Hilgen dba Carolyns Country Café, TCEQ Account No. 92370083" 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
  - b. Within 45 days after the effective date of this Order, Ms. Hilgen shall submit written certification of compliance with Ordering Provisions 2.a.i. and 2.a.ii., as described below, and include detailed supporting documentation including receipts, and/or other records to demonstrate compliance with these Ordering Provisions.

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 and supporting documents 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:

Stephen Smith, Water Section Manager  
Texas Commission on Environmental Quality  
Houston Regional Office  
5425 Polk St., Suite H  
Houston, Texas 77023-1452

3. All relief not expressly granted in this Order is denied.
4. The provisions of this Order shall apply to and be binding upon Ms. Hilgen. Ms. Hilgen is ordered to give notice of this Order to personnel who maintain day-to-day control over the Facility operations referenced in this Order.
5. The Executive Director may grant an extension of any deadline in this Order or in any plan, report, or other document submitted pursuant to this Order, upon a written and substantiated showing of good cause. All requests for extensions by Ms. Hilgen shall be made in writing to the Executive Director. Extensions are not effective until Ms. Hilgen receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
6. The Executive Director may refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings without notice to Ms. Hilgen if the Executive Director determines that Ms. Hilgen has not complied with one or more of the terms or conditions in this Order.
7. This Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Order, whichever is later.
8. The Chief Clerk shall provide a copy of this Order to each of the parties. By law, the effective date of this Order shall be the date the Order is final, as provided by 30 TEX. ADMIN. CODE § 70.106(d) and TEX. GOV'T CODE § 2001.144.

Carolyn Hilgen dba Carolyns Country Café  
DOCKET NO. 2006-0505-PWS-E

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**SIGNATURE PAGE**

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

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For the Commission

**AFFIDAVIT OF DEANNA SIGMAN**

STATE OF TEXAS           §  
  §  
COUNTY OF TRAVIS       §

“My name is Deanna Sigman. I am of sound mind, capable of making this affidavit, and the facts stated in this affidavit are within my personal knowledge and are true and correct.

On behalf of the Executive Director of the Texas Commission on Environmental Quality, I filed the “Executive Director’s Preliminary Report and Petition Recommending that the Texas Commission on Environmental Quality Enter an Enforcement Order Assessing an Administrative Penalty Against and Requiring Certain Actions of Carolyn Hilgen dba Carolyns Country Café” (the “EDPRP”) with the Office of the Chief Clerk on September 8, 2006.

I sent the EDPRP to Ms. Hilgen at her last known address on September 8, 2006 via certified mail, return receipt requested, and via first class mail, postage prepaid. According to the return receipt “green card”, Ms. Hilgen received notice of the EDPRP on September 9, 2006, as evidenced by the signature on the card.

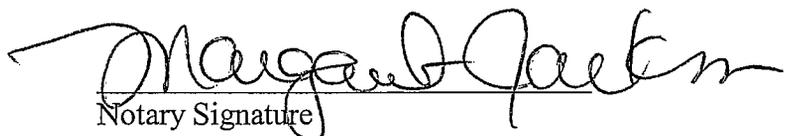
More than 20 days have elapsed since Ms. Hilgen received notice of the EDPRP. Ms. Hilgen failed to file an answer to the EDPRP, failed to request a hearing, and failed to schedule a settlement conference”.

  
\_\_\_\_\_  
Deanna Sigman  
Attorney  
Texas Commission on Environmental Quality

Before me, the undersigned authority, on this day personally appeared Deanna Sigman, known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that she executed the same for the purposes and consideration herein expressed.

Given under my hand and seal of office this 10 day of November A.D., 2006.



  
\_\_\_\_\_  
Notary Signature