

**EXECUTIVE SUMMARY - ENFORCEMENT MATTER**  
**DOCKET NO.: 2005-0702-PWS-E TCEQ ID NO.: RN101185320 CASE NO.: 25179**  
**RESPONDENT NAME: THE CITY OF COCKRELL HILL**

**ORDER TYPE:**

<input type="checkbox"/> 1660 AGREED ORDER	<input checked="" type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> AMENDED ORDER	<input type="checkbox"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
<input type="checkbox"/> SHUTDOWN ORDER	<input 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:** 4125 West Clarendon Drive, Cockrell Hill, Dallas County

**TYPE OF OPERATION:** Public water system

**SMALL BUSINESS:**  Yes  No

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

**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 March 26, 2007. No comments were received.

**CONTACTS AND MAILING LIST:**

**TCEQ Attorney:** Ms. Lena Roberts, Litigation Division, MC 175, (512) 239-0019; Ms. Jennifer Cook, Litigation Division, MC 175, (512) 239-1873  
**TCEQ SEP Coordinator:** Ms. Sharon Blue, Litigation Division, MC 175, (512) 239-2223  
**TCEQ Enforcement Coordinator:** Ms. Shontay Wilcher, Enforcement Division, MC 149, (512) 239-2136  
**TCEQ Regional Contact:** Mr. Sid Slocum, DFW Regional Office, MC R-4, (817) 588-5901  
**Respondent:** The Honorable Luis D. Carrera, Mayor of The City of Cockrell Hill, 4125 West Clarendon Drive, Cockrell Hill, Texas 75211  
**Respondent's Attorney:** Ms. Meredith Ladd, Attorney, Brown & Hofmeister, L.L.P., 740 East Campbell Road, Suite 800, Richardson, Texas 75081

**RESPONDENT'S NAME: CITY OF COCKRELL HILL  
DOCKET NO.: 2005-0702-PWS-E**

**VIOLATION SUMMARY CHART:**

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p><b>Type of Investigation:</b> <input type="checkbox"/> Complaint <input checked="" type="checkbox"/> Routine  <input type="checkbox"/> Enforcement Follow-up <input type="checkbox"/> Records Review</p> <p><b>Date of Complaints Relating to this Case:</b> None</p> <p><b>Date of Investigation Relating to this Case:</b> March 1, 2005</p> <p><b>Date(s) of NOV(s)/NOE(s) Relating to this Case:</b> August 14, 2003; August 26, 2004; October 1, 2004; November 2, 2004; December 2, 2004; December 8, 2004; December 23, 2004; December 28, 2004; and February 17, 2005 (NOVs); March 4, 2005 (NOE)</p> <p><b>Background Facts:</b></p> <p>The EDPRP was filed November 1, 2005. Settlement was achieved and a signed Agreed Order with a SEP proposal was received on October 11, 2006.</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) Exceeded the Maximum Contaminant Level (MCL) for total coliform bacteria during the months of August 2003, August through December 2004, and February 2004, and failed to provide public notice of the violations [30 TEX. ADMIN. CODE §§ 290.109(f)(3) and 290.122(b)(2)(A), and TEX. HEALTH &amp; SAFETY CODE § 341.031(a)].</p> <p>(2) Failed to submit the additional water samples required after a positive coliform bacteria sample for the months of October and November 2004, and failed to provide public notice of the violations for the above referenced months [30 TEX. ADMIN. CODE §§ 290.109(c)(3)(A)(i) and 290.122(c)(2)(A)].</p>	<p><b>Total Assessed:</b> \$6,525</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> \$6,525</p> <p><b>Total Due to General Revenue:</b> \$0</p> <p>The assessed penalty shall be conditionally offset by the completion of a Supplemental Environmental Project (SEP).</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 checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p><b>Applicable Penalty Policy:</b> September 2002</p> <p><b>Findings Order Justification:</b> The Respondent received nine Notices of Violation for the same violations within the past five years at this facility.</p>	<p><b>Ordering Provisions:</b></p> <p>The Respondent shall implement and complete a Supplemental Environmental Project ("SEP"). The Respondent's obligation to pay the conditionally offset portion of the administrative penalty assessed shall be discharged upon final completion of all provisions of the SEP agreement (See Attachment "A").</p> <p>The Executive Director acknowledges that the City has corrected the alleged violations and is now in compliance.</p>

Attachment A

Docket Number: 2005-0702-PWS-E

**SUPPLEMENTAL ENVIRONMENTAL PROJECT**

<b>Respondent:</b>	City of Cockrell Hill
<b>Penalty Amount:</b>	Six Thousand Five Hundred Twenty-Five Dollars (\$6,525)
<b>SEP Offset Amount:</b>	Six Thousand Five Hundred Twenty-Five Dollars (\$6,525)
<b>Type of SEP:</b>	Pre-Approved
<b>Location of SEP:</b>	Dallas County

The Texas Commission on Environmental Quality ("TCEQ") agrees to offset the administrative Penalty Amount assessed in this Agreed Order for 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

Respondent shall contribute the SEP Amount to the Third-Party Recipient pursuant to the agreement between the Third-Party Recipient and the TCEQ. Specifically, the contribution will be to the *Texas Association of Resource Conservation and Development Areas, Inc. ("RC&D")* for a Household Hazardous Waste Collection program, to be conducted within Dallas County. During the event, residents shall be allowed to bring household hazardous waste to the collection site for proper disposal. Specifically, SEP monies will pay for the labor and disposal costs associated with properly disposing of paint, thinners, pesticides, oil and gas, corrosive cleaners, fertilizers, and other wastes. Citizens will not be charged disposal fees. The project will be administered in accordance with TCEQ guidance on household hazardous waste and in compliance with federal, state, and local environmental laws and regulations.

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 debris and waste that can leach chemicals into the soil, water, and air, as well as help rid the community of the dangers and health threats associated with non-regulated dumping.

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.

City of Cockrell Hill  
Agreed Order - Attachment A Docket No. 2005-0702-PWS-E

**2. Performance Schedule**

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

Texas Association of Resource Conservation  
and Development Areas, Inc. (RC&D)  
Attention: Eddi Darilek  
1716 Briarcrest Drive Suite 510  
Bryan, Texas 77802-2700

**3. Records and Reporting**

Concurrent with the payment of the SEP Amount, 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. Respondent shall mail a copy of the check and transmittal letter to:

Litigation Division  
Attention: SEP Coordinator, MC 175  
Texas Commission on Environmental Quality  
P.O. Box 13087  
Austin, Texas 78711-3087

**4. Failure to Fully Perform**

If 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.

In the event of nonperformance, 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

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 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**

Respondent shall not include this SEP in any application made to TCEQ under the "Clean Texas" (or any successor) program(s). Similarly, 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 Respondent under any other Agreed Order negotiated with the TCEQ or any other agency of the state or federal government.



# Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision March 02, 2005

DATES	Assigned	04-Apr-2005	Screening	08-Apr-2005	Priority Due	03-Jun-2005	EPA Due	
	PCW	08-Apr-2005						

<b>RESPONDENT/FACILITY INFORMATION</b>	
Respondent	City of Cockrell Hill
Reg. Ent. Ref. No.	RN101185320
Additional ID No(s)	Public Water Supply ID No. 0570038
Facility/Site Region	4-Dallas/Fort Worth
Major/Minor Source	Major Source

<b>CASE INFORMATION</b>			
Enf./Case ID No.	25179	No. of Violations	2
Docket No.	2005-0702-PWS-E	Order Type	Findings
Case Priority	3	Enf. Coordinator	Shontay Wilcher
Media Program(s)	Public Water Supply	EC's Team	Enforcement Team 2
Multi-Media			
Admin. Penalty \$ Limit Minimum	\$50	Maximum	\$1,000

## Penalty Calculation Section

**TOTAL BASE PENALTY (Sum of violation base penalties)** Subtotal 1 **\$4,500**

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

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

**Compliance History** 45% Enhancement Subtotals 2, 3, & 7 **\$2,025**

Notes: The Respondent received nine same or similar Notices of Violation within the past five years at this facility location.

**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 EDRP/Settlement Offer
Extraordinary		
Ordinary		
N/A	X	(mark with a small x)

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

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

Total EB Amounts	\$44	*Capped at the Total EB \$ Amount
Approx. Cost of Compliance	\$1,000	

**SUM OF SUBTOTALS 1-7** Final Subtotal **\$6,525**

**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 **\$6,525****

**STATUTORY LIMIT ADJUSTMENT** Final Assessed Penalty **\$6,525**

**DEFERRAL** 0% Reduction Adjustment **\$0**

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

Notes: No deferral will be offered with a Findings Order.

**PAYABLE PENALTY **\$6,525****

<b>Screening Date</b> 08-Apr-2005	<b>Docket No.</b> 2005-0702-PWS-E	<b>PCW</b>
<b>Respondent</b> City of Cockrell Hill	<i>Policy Revision 2 (September 2002)</i>	
<b>Case ID No.</b> 25179	<i>PCW Revision March 02, 2005</i>	
<b>Reg. Ent. Reference No.</b> RN101185320		
<b>Additional ID No(s)</b> Public Water Supply ID No. 0570038		
<b>Media [Statute]</b> Public Water Supply		
<b>Enf. Coordinator</b> Shontay Wilcher		
<b>Site Address</b>	4125 West Clarendon Drive, Cockrell Hill, Dallas County	

### Compliance History Worksheet

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

Component	Number of...	<i>Enter Number Here</i>	<b>Adjust.</b>
NOVs	Written NOVs with same or similar violations as those in the current enforcement action <i>(number of NOVs meeting criteria)</i>	9	45%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability <i>(number of orders meeting criteria)</i>	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government <i>(number of judgments or consent decrees meeting criteria)</i>	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government <i>(number of counts)</i>	0	0%
Emissions	Chronic excessive emissions events <i>(number of events)</i>	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 <i>(number of audits for which notices were)</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)** 45%

**>> 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 Respondent received nine same or similar Notices of Violation within the past five years at this facility location.

**Total Adjustment Percentage (Subtotals 2, 3, & 7)** 45%

<b>Screening Date</b>	08-Apr-2005	<b>Docket No.</b>	2005-0702-PWS-E	<b>PCW</b>
<b>Respondent</b>	City of Cockrell Hill	<i>Policy Revision 2 (September 2002)</i>		
<b>Case ID No.</b>	25179	<i>PCW Revision March 02, 2005</i>		
<b>Reg. Ent. Reference No.</b>	RN101185320			
<b>Additional ID No(s)</b>	Public Water Supply ID No. 0570038			
<b>Media [Statute]</b>	Public Water Supply			
<b>Enf. Coordinator</b>	Shontay Wilcher			
<b>Violation Number</b>	1			
<b>Primary Rule Cite(s)</b>	30 Tex. Admin. Code §§ 290.109(f)(3) and 290.122(b)(2)(A)			
<b>Secondary Rule Cite(s)</b>	Tex. Health & Safety Code § 341.031(a)			
<b>Violation Description</b>	Exceeded the Maximum Contaminant Level (MCL) for total coliform bacteria during the months of August 2003, August through December 2004 and February 2005. In addition the Respondent failed to provide public notice of the violations for the above referenced months.			
<b>Base Penalty</b>				\$1,000

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

OR	<b>Harm</b>				
	<b>Release</b>	<b>Major</b>	<b>Moderate</b>	<b>Minor</b>	
	Actual		X		
Potential				<b>Percent</b> 50%	

>> **Programmatic Matrix**

	<b>Falsification</b>	<b>Major</b>	<b>Moderate</b>	<b>Minor</b>	
					<b>Percent</b>

**Matrix Notes**

Human health or the environment has been exposed to a significant amount of pollutants which do not exceed levels that are protective of human health or environmental receptors as a result of the violation.

**Adjustment** -\$500

**Base Penalty Subtotal** \$500

**Violation Events**

Number of Violation Events

	<i>daily</i>	
	<i>monthly</i>	X
	<i>quarterly</i>	
<i>mark only one use a small x</i>	<i>semiannual</i>	
	<i>annual</i>	
	<i>single event</i>	

**Violation Base Penalty** \$3,500

Seven monthly events are recommended based on the exceedance of MCLs for total coliform in August 2003, August through December 2004 and February 2005, as documented during a record review conducted on March 1, 2005.

<b>Economic Benefit (EB) for this violation</b>	<b>Statutory Limit Test</b>
Estimated EB Amount <input style="width: 50px;" type="text" value="\$40"/>	Violation Final Penalty Total <input style="width: 50px;" type="text" value="\$5,075"/>
<b>This violation Final Assessed Penalty (adjusted for limits)</b> <input style="width: 50px;" type="text" value="\$5,075"/>	

### Economic Benefit Worksheet

<b>Respondent:</b> City of Cockrell Hill	
<b>Case ID No.</b>	25179
<b>Reg. Ent. Reference No.</b>	RN101185320
<b>Additional ID No(s).</b>	Public Water Supply ID No. 0570038
<b>Media [Statute]</b>	Public Water Supply
<b>Violation No.</b>	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
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	\$500	01-Aug-2003	28-Feb-2005	1.6	\$40	n/a	\$40
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 conduct additional water sampling. Date required is the first violation date and final date is the last date of 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 \$500

**TOTAL** \$40

<b>Screening Date</b>	08-Apr-2005	<b>Docket No.</b>	2005-0702-PWS-E	<b>PCW</b>
<b>Respondent</b>	City of Cockrell Hill		Policy Revision 2 (September 2002)	
<b>Case ID No.</b>	25179	PCW Revision March 02, 2005		
<b>Reg. Ent. Reference No.</b>	RN101185320			
<b>Additional ID No(s).</b>	Public Water Supply ID No. 0570038			
<b>Media [Statute]</b>	Public Water Supply			
<b>Enf. Coordinator</b>	Shontay Wilcher			
<b>Violation Number</b>	2			
<b>Primary Rule Cite(s)</b>	30 Tex. Admin. Code §§ 290.109(c)(3)(A)(i) and 290.122(c)(2)(A)			
<b>Secondary Rule Cite(s)</b>				
<b>Violation Description</b>	Failed to collect and submit the additional water samples required after a positive coliform bacteria sample for the months of October and November 2004. In addition the Respondent failed to provide public notice of the violations for the above referenced months.			
<b>Base Penalty</b>	\$1,000			

<b>&gt;&gt; Environmental, Property and Human Health Matrix</b>				
OR	<b>Harm</b>			
	<b>Release</b>	Major	Moderate	Minor
	Actual			
Potential	X			<b>Percent</b> 50%
<b>&gt;&gt; Programmatic Matrix</b>				
	Falsification	Major	Moderate	Minor
<b>Matrix Notes</b>	Failure to submit additional water samples could allow undetected contaminated water to be distributed to the Public and result in human illness.			
	<b>Adjustment</b>	-\$500		
<b>Base Penalty Subtotal</b>				\$500

<b>Violation Events</b>				
<b>Number of Violation Events</b>	2			
mark only one use a small x	daily			
	monthly	X		
	quarterly			
	semiannual			
	annual			
	single event			
<b>Violation Base Penalty</b>	\$1,000			
Two monthly events are recommended for the months of October and November 2004, as documented during a record review conducted on March 1, 2005.				

<b>Economic Benefit (EB) for this violation</b>	<b>Statutory Limit Test</b>
<b>Estimated EB Amount</b> \$4	<b>Violation Final Penalty Total</b> \$1,450
<b>This violation Final Assessed Penalty (adjusted for limits)</b> \$1,450	

### Economic Benefit Worksheet

Respondent: City of Cockrell Hill  
 Case ID No: 25179  
 Reg. Ent. Reference No: RN101185320  
 Additional ID No(s): Public Water Supply ID No. 0570038  
 Media [Statute]: Public Water Supply  
 Violation No: 2

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	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	\$500	01-Oct-2004	30-Nov-2004	0.2	\$4	n/a	\$4
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 conduct additional water sampling and provide public notice. Date required is the first violation month. Final date is the last violation month.

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** \$4

## Compliance History (For Penalty Calculation Only)

Customer/Respondent/Owner-Operator: CN600740047 City of Cockrell Hill Classification: \_\_\_\_\_ Rating: 0.000

Regulated Entity: RN101185320 CITY OF COCKRELL HILL WATER SYSTEM Classification: \_\_\_\_\_ Site Rating: 0.00

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ID Number(s):  
WATER LICENSING LICENSE 0570038  
PUBLIC WATER SYSTEM/SUPPLY REGISTRATION 0570038

Location: 4125 W CLARENDON DR, COCKRELL HILL, TX, 75211

TCEQ Region: REGION 04 - DFW METROPLEX

Date Compliance History Prepared: April 06, 2005

Agency Decision Requiring Compliance History: Enforcement

Compliance Period: April 06, 2000 to April 06, 2005

TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History  
 Name: Shontay Wilcher Phone: (512) 239-02136

### 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> |
| 6. Comments:   |            |

### 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.)

2 08/14/2003 (372750)  
 4 12/23/2004 (373743)  
 6 12/02/2004 (373710)  
 8 08/26/2004 (373452)  
 10 02/17/2005 (373744)  
 12 10/01/2004 (373453)  
 14 03/30/2005 (373979)  
 16 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: 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  
ENFORCEMENT ACTION  
CONCERNING  
THE CITY OF COCKRELL HILL;  
RN101185320**

§  
§  
§  
§  
§

**BEFORE THE  
TEXAS COMMISSION ON  
ENVIRONMENTAL QUALITY**

**AGREED ORDER  
DOCKET NO. 2005-0702-PWS-E**

At its \_\_\_\_\_ agenda, the Texas Commission on Environmental Quality ("Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding the City of Cockrell Hill (the "City") under the authority of TEX. HEALTH & SAFETY CODE ch. 341. The Executive Director of the TCEQ, represented by the Litigation Division, and the City, represented by Meredith Ladd of the law firm of Brown & Hofmeister, L.L.P., presented this agreement to the Commission.

The City understands that it has certain procedural rights at certain points in the enforcement process, including, but not limited to, the right to formal notice of violations, notice of an evidentiary hearing, the right to an evidentiary hearing, and a right to appeal. By entering into this Agreed Order, the City agrees to waive all notice and procedural rights.

It is further understood and agreed that this Agreed Order represents the complete and fully-integrated agreement of the parties. 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. The duties and responsibilities imposed by this Agreed Order are binding upon the City.

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

**FINDINGS OF FACT**

1. The City owns and operates a public water system which has approximately one thousand two hundred three (1,203) service connections and serves at least 25 individuals for at least 60 days per year. The public water system at issue is located at 4125 West Clarendon Drive, Cockrell Hill, Dallas County, Texas (the "Facility").

The City of Cockrell Hill  
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2. During a record review conducted on March 1, 2005, a TCEQ Central Office investigator documented that the City:
  - a. Exceeded the Maximum Contaminant Level ("MCL") for total coliform bacteria during the months of August 2003, August through December 2004, and February 2005, and failed to provide public notice of the August 2003, and August through December 2004 violations within the statutorily required time-frame.
  - b. Failed to collect additional water samples as required after a positive coliform bacteria sample in October and November 2004, and failed to provide public notice of those violations within the statutorily required time-frame.
3. The City received notice of the violations on or about August 19, 2003; August 31, October 6, November 7, December 7, December 13, and December 28, 2004; January 2, and February 22, 2005.
4. The Executive Director acknowledges that the City has corrected the alleged violations and is now in compliance.

#### CONCLUSIONS OF LAW

1. As evidenced by Finding of Fact No. 1, the City is subject to the jurisdiction of the TCEQ pursuant to TEX. HEALTH & SAFETY CODE ch. 341.
2. As evidenced by Finding of Fact No. 2.a., the City exceeded the MCL for total coliform bacteria during the months of August 2003, August through December 2004, and February 2005, and failed to provide public notice of the August 2003, and August through December 2004 violations within the statutorily required time-frame, in violation of 30 TEX. ADMIN. CODE §§ 290.109(f)(3), and 290.122(b)(2)(A), and TEX. HEALTH & SAFETY CODE § 341.031(a).
3. As evidenced by Finding of Fact No. 2.b., the City failed to collect additional water samples as required after a positive coliform bacteria sample in October and November 2004, and failed to provide public notice of those violations within the statutorily required time-frame, in violation of 30 TEX. ADMIN. CODE §§ 290.109(c)(3)(A)(i) and 290.122(c)(2)(A).
4. Pursuant to TEX. HEALTH & SAFETY CODE § 341.049, the Commission has the authority to assess an administrative penalty against the City for violations of the TEX. HEALTH & SAFETY CODE, TCEQ rules, and orders adopted under the Code.

The City of Cockrell Hill  
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5. An administrative penalty in the amount of six thousand five hundred twenty-five dollars (\$6,525.00) is justified by the facts recited in this Agreed Order, and considered in light of the factors set forth in TEX. HEALTH & SAFETY CODE § 341.049(b). Six thousand five hundred twenty-five dollars (\$6,525.00) of the administrative penalty shall be conditionally offset by the City's completion of a Supplemental Environmental Project (SEP) as defined in Attachment A, incorporated herein by reference. The City's obligation to pay the conditionally offset portion of the administrative penalty assessed shall be discharged upon final completion of all provisions of the SEP agreement.

#### ORDERING PROVISIONS

1. The City is assessed an administrative penalty in the amount of six thousand five hundred twenty-five dollars (\$6,525.00) as set forth in Conclusion of Law No. 5 for violations of TEX. HEALTH & SAFETY CODE ch. 341. The payment of this administrative penalty and the City's compliance with all the terms and conditions set forth in this Agreed Order completely resolve the violations set forth by this Agreed Order in this action. However, the Commission shall not be constrained in any manner from requiring corrective actions or penalties for other violations that are not raised here. Administrative penalty payments shall be made payable to "Texas Commission on Environmental Quality" and shall be sent with the notation "re: City of Cockrell Hill, Docket No. 2005-0702-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 an SEP in accordance with TEX. WATER CODE § 7.067. Six thousand five hundred twenty-five dollars (\$6,525.00) 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 portion of the administrative penalty assessed shall be discharged upon final completion of all provisions of the SEP agreement.
3. 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.

The City of Cockrell Hill  
DOCKET NO. 2005-0702-PWS-E  
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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 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.
5. 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.
6. This Agreed Order shall terminate five years from its effective date or upon compliance with all terms and conditions set forth in this Agreed Order, whichever is later.
7. 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.
8. 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.
9. Under 30 TEX. ADMIN. CODE § 70.10(b) and TEX. GOV'T CODE § 2001.142, the effective date of this Agreed Order 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.

The City of Cockrell Hill  
DOCKET NO. 2005-0702-PWS-E  
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**SIGNATURE PAGE**

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

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

*[Handwritten Signature]*  
\_\_\_\_\_  
For the Executive Director

*3/26/07*  
\_\_\_\_\_  
Date

I, the undersigned, have read and understand the attached Agreed Order. I represent that I am authorized to agree to the attached Agreed Order on behalf of the entity 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 in this order and/or my failure to timely pay the penalty amount, may result in:

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

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

*[Handwritten Signature]*  
\_\_\_\_\_  
Signature

*10/11/06*  
\_\_\_\_\_  
Date

*Luis D. Carrera*  
\_\_\_\_\_  
Name (Printed or typed)

*Mayor*  
\_\_\_\_\_  
Title

Authorized representative of The City of Cockrell Hill

Attachment A  
Docket Number: 2005-0702-PWS-E

**SUPPLEMENTAL ENVIRONMENTAL PROJECT**

**Respondent:** City of Cockrell Hill  
**Penalty Amount:** Six Thousand Five Hundred Twenty-Five Dollars (\$6,525)  
**SEP Offset Amount:** Six Thousand Five Hundred Twenty-Five Dollars (\$6,525)  
**Type of SEP:** Pre-Approved  
**Location of SEP:** Dallas County

The Texas Commission on Environmental Quality ("TCEQ") agrees to offset the administrative Penalty Amount assessed in this Agreed Order for 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

Respondent shall contribute the SEP Amount to the Third-Party Recipient pursuant to the agreement between the Third-Party Recipient and the TCEQ. Specifically, the contribution will be to the *Texas Association of Resource Conservation and Development Areas, Inc. ("RC&D")* for a Household Hazardous Waste Collection program, to be conducted within Dallas County. During the event, residents shall be allowed to bring household hazardous waste to the collection site for proper disposal. Specifically, SEP monies will pay for the labor and disposal costs associated with properly disposing of paint, thinners, pesticides, oil and gas, corrosive cleaners, fertilizers, and other wastes. Citizens will not be charged disposal fees. The project will be administered in accordance with TCEQ guidance on household hazardous waste and in compliance with federal, state, and local environmental laws and regulations.

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 debris and waste that can leach chemicals into the soil, water, and air, as well as help rid the community of the dangers and health threats associated with non-regulated dumping.

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.

City of Cockrell Hill  
Agreed Order – Attachment A Docket No. 2005-0702-PWS-E

**2. Performance Schedule**

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

Texas Association of Resource Conservation  
and Development Areas, Inc. (RC&D)  
Attention: Eddi Darilek  
1716 Briarcrest Drive Suite 510  
Bryan, Texas 77802-2700

**3. Records and Reporting**

Concurrent with the payment of the SEP Amount, 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. Respondent shall mail a copy of the check and transmittal letter to:

Litigation Division  
Attention: SEP Coordinator, MC 175  
Texas Commission on Environmental Quality  
P.O. Box 13087  
Austin, Texas 78711-3087

**4. Failure to Fully Perform**

If 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.

In the event of nonperformance, 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

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 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**

Respondent shall not include this SEP in any application made to TCEQ under the "Clean Texas" (or any successor) program(s). Similarly, 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 Respondent under any other Agreed Order negotiated with the TCEQ or any other agency of the state or federal government.