EXECUTIVE SUMMARY - ENFORCEMENT MATTER

DOCKET NO.: 2008-1680-EAQ-E **TCEQ ID:** RN102842143 **CASE NO.:** 36701

RESPONDENT NAME: H. E. Butt Grocery Company

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
__PUBLIC WATER SUPPLY	__PETROLEUM STORAGE TANKS	__OCCUPATIONAL CERTIFICATION
__WATER QUALITY	__SEWAGE SLUDGE	__UNDERGROUND INJECTION CONTROL
__MUNICIPAL SOLID WASTE	__RADIOACTIVE WASTE	X EDWARDS AQUIFER

SITE WHERE VIOLATION(S) OCCURRED: HEB WH200, 15103 Huebner Road, San Antonio, Bexar County

TYPE OF OPERATION: Commercial project site

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 March 16, 2009. No comments were received.

CONTACTS AND MAILING LIST:

TCEQ Attorney/SEP Coordinator: None

TCEQ Enforcement Coordinator: Mr. Samuel Short, Enforcement Division, Enforcement Team 3, MC 149, (512) 239-5363; Ms. Cari-Michel La Caille, Enforcement Division, MC 219, (512) 239-1387

Respondent: Ms. Cimber Mabe, Environmental Affairs Program Leader; H. E. Butt Grocery Company, 646 South Main Avenue, San Antonio, Texas 78204

Mr. William A. Reynolds, Group VP-Facility Alliance; H. E. Butt Grocery Company, 646 South Main Avenue, San Antonio, Texas 78204

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 _X_ Routine ___ Enforcement Follow-up ___ Records Review **Date(s) of Complaints Relating to this Case:** None **Date of Investigation Relating to this Case:** September 17, 2008 **Date of NOV/NOE Relating to this Case:** October 8, 2008 (NOE) **Background Facts:** This was a routine investigation. **WATER** Failure to obtain approval of an Aboveground Storage Tank ("AST") Facility Plan prior to beginning a regulated activity over the Edwards Aquifer Recharge Zone [30 TEX. ADMIN. CODE §§ 213.4(a)(1) and 213.5(a)(4)].	**Total Assessed:** $2,000 **Total Deferred:** $400 _X_Expedited Settlement __Financial Inability to Pay **SEP Conditional Offset:** $0 **Total Paid to General Revenue:** $1,600 **Site Compliance History Classification** _X_ **High** ___ **Average** ___ **Poor** **Person Compliance History Classification** ___ **High** _X_ **Average** ___ **Poor** **Major Source:** ___ Yes _X_ No **Applicable Penalty Policy:** September 2002	**Ordering Provisions:** The Order will require the Respondent to: a. Within 30 days after the effective date of this Agreed Order, submit an administratively complete application for approval of an AST Facility Plan and associated application fees; b. Respond completely and adequately to all TCEQ requests for additional information within 30 days of such requests, or by any other deadline specified in writing; and c. Within 45 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 a.

Additional ID No(s).: Edwards Aquifer Registration No. 13-01052301

Attachment A
Docket Number: 2008-1669-PWS-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent:	**Coke County Water Supply Corporation**
Payable Penalty Amount:	**Two Thousand One Hundred Sixty Dollars ($2,160)**
SEP Amount:	**Two Thousand One Hundred Sixty Dollars ($2,160)**
Type of SEP:	**Pre-approved**
Third-Party Recipient:	**Texas Association of Resource Conservation and Development Areas, Inc. ("RC&D")- Unauthorized Trash Dump Clean-Up**
Location of SEP:	**Coke 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 coordinate with city and/or county governmental officials regarding the clean up of sites where trash has been disposed of illegally. Eligible sites will be limited to those where a responsible party can not be identified and where there is no pre-existing obligation to clean up the site by the owner or the government. Additionally, reasonable efforts must have already been taken to prevent the dumping. SEP monies will be used to pay for the direct cost of collection and disposal of debris. 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 helping rid communities of the dangers and health threats associated with non-regulated trash dumps which contaminate air and water, and harbor disease carrying animals and insects.

C. Minimum Expenditure

The 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, Suite 510
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:

Office of Legal Services
Attention: SEP Coordinator, MC 175
Texas Commission on Environmental Quality
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)

Policy Revision 2 (September 2002) — *PCW Revision June 12, 2008*

TCEQ

DATES					
Assigned	22-Sep-2008				
PCW	20-Oct-2008	Screening	20-Oct-2008	EPA Due	1-Dec-2008

RESPONDENT/FACILITY INFORMATION

Respondent	Coke County Water Supply Corporation		
Reg. Ent. Ref. No.	RN101220820		
Facility/Site Region	8-San Angelo	Major/Minor Source	Minor

CASE INFORMATION

Enf./Case ID No.	36685	No. of Violations	3
Docket No.	2008-1669-PWS-E	Order Type	Findings
Media Program(s)	Public Water Supply	Government/Non-Profit	Yes
Multi-Media		Enf. Coordinator	Christopher Keffer
		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* $1,500

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History 44.0% Enhancement — *Subtotals 2, 3, & 7* $660

Notes: Enhancement is due to six NOVs with the same or similar violations and seven NOVs with dissimilar violations as those in the current enforcement action.

Culpability No 0.0% Enhancement — *Subtotal 4* $0

Notes: The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply Total Adjustments — *Subtotal 5* $0

Economic Benefit 0.0% Enhancement* — *Subtotal 6* $0

Total EB Amounts $334
Approx. Cost of Compliance $525

**Capped at the Total EB $ Amount*

SUM OF SUBTOTALS 1-7 — *Final Subtotal* $2,160

OTHER FACTORS AS JUSTICE MAY REQUIRE 0.0% — *Adjustment* $0

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

Final Penalty Amount $2,160

STATUTORY LIMIT ADJUSTMENT — *Final Assessed Penalty* $2,160

DEFERRAL 0.0% Reduction — *Adjustment* $0

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

Notes: No deferral is recommended for Findings Orders.

PAYABLE PENALTY $2,160

Screening Date 20-Oct-2008 **Docket No.** 2008-1669-PWS-E **PCW**

Respondent Coke County Water Supply Corporation *Policy Revision 2 (September 2002)*

Case ID No. 36685 *PCW Revision June 12, 2008*

Reg. Ent. Reference No. RN101220820

Media [Statute] Public Water Supply

Enf. Coordinator Christopher Keffer

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*)	6	30%
	Other written NOVs	7	14%
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 submitted)*	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (*number of audits for which violations were disclosed*)	0	0%
		Please Enter Yes or No	
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 44%

>> Repeat Violator (Subtotal 3)

N/A

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

N/A

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance History Notes

Enhancement is due to six NOVs with the same or similar violations and seven NOVs with dissimilar violations as those in the current enforcement action.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 44%

Screening Date 20-Oct-2008 **Docket No.** 2008-1669-PWS-E **PCW**

Respondent Coke County Water Supply Corporation *Policy Revision 2 (September 2002)*

Case ID No. 36685 *PCW Revision June 12, 2008*

Reg. Ent. Reference No. RN101220820

Media [Statute] Public Water Supply

Enf. Coordinator Christopher Keffer

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code § 290.109(c)(2)(A)(ii) and Tex. Health & Safety Code § 341.033(d)

Violation Description Failed to collect routine distribution coliform samples at active service connections which are representative of water quality throughout the distribution system for the months of December 2007 through March 2008.

Base Penalty $1,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm: Major	Moderate	Minor
Actual			
Potential	x		

Percent 25%

>>Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0%

Matrix Notes: Failure to perform routine bacteriological sampling could result in the public being exposed to significant amounts of undetected contaminants in the drinking water which could exeed levels that are protective of human health.

Adjustment $750

$250

Violation Events

Number of Violation Events 4 | 121 Number of violation days

mark only one with an x

daily	
monthly	x
quarterly	
semiannual	
annual	
single event	

Violation Base Penalty $1,000

Four monthly events are recommended.

Good Faith Efforts to Comply

0.0% Reduction $0

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

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

Violation Subtotal $1,000

Economic Benefit (EB) for this violation

Estimated EB Amount $104

Statutory Limit Test

Violation Final Penalty Total $1,440

This violation Final Assessed Penalty (adjusted for limits) $1,440

Economic Benefit Worksheet

Respondent Coke County Water Supply Corporation
Case ID No. 36685
Reg. Ent. Reference No. RN101220820
Media 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				0.00	$0	$0	$0
Buildings				0.00	$0	$0	$0
Other (as needed)				0.00	$0	$0	$0
Engineering/construction				0.00	$0	$0	$0
Land				0.00	$0	n/a	$0
Record Keeping System				0.00	$0	n/a	$0
Training/Sampling				0.00	$0	n/a	$0
Remediation/Disposal				0.00	$0	n/a	$0
Permit Costs				0.00	$0	n/a	$0
Other (as needed)				0.00	$0	n/a	$0
Notes for DELAYED costs							
Avoided Costs	ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)						
Disposal				0.00	$0	$0	$0
Personnel				0.00	$0	$0	$0
Inspection/Reporting/Sampling	$300	1-Dec-2007	31-Mar-2008	0.33	$5	$99	$104
Supplies/equipment				0.00	$0	$0	$0
Financial Assurance [2]				0.00	$0	$0	$0
ONE-TIME avoided costs [3]				0.00	$0	$0	$0
Other (as needed)				0.00	$0	$0	$0
Notes for AVOIDED costs	The avoided costs include the amount to conduct monthly bacteriological sampling, calculated for the months in which no monitoring was performed.						

Approx. Cost of Compliance: $300

TOTAL: $104

PCW

Policy Revision 2 (September 2002)
PCW Revision June 12, 2008

Screening Date 20-Oct-2008 **Docket No.** 2008-1669-PWS-E
Respondent Coke County Water Supply Corporation
Case ID No. 36685
Reg. Ent. Reference No. RN101220820
Media [Statute] Public Water Supply
Enf. Coordinator Christopher Keffer
Violation Number 2
Rule Cite(s) 30 Tex. Admin. Code § 290.109(c)(3)(A)(ii)

Violation Description Failed to collect a set of repeat distribution coliform samples within 24 hours of being notified of a total coliform-positive result on a routine sample collected in May 2008.

Base Penalty $1,000

>> Environmental, Property and Human Health Matrix

Release	Harm: Major	Moderate	Minor
Actual			
Potential	x		

OR

Percent 25%

>>Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0%

Matrix Notes: Failure to take all required samples may expose the public to a significant amount of undetected contaminants that exceed levels protective of human health.

Adjustment $750

$250

Violation Events

Number of Violation Events 1 | 31 Number of violation days

mark only one with an x

daily	
monthly	x
quarterly	
semiannual	
annual	
single event	

Violation Base Penalty $250

One monthly event is recommended.

Good Faith Efforts to Comply

0.0% Reduction — $0

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

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

Violation Subtotal $250

Economic Benefit (EB) for this violation

Estimated EB Amount $105

Statutory Limit Test

Violation Final Penalty Total $360

This violation Final Assessed Penalty (adjusted for limits) $360

Economic Benefit Worksheet

Respondent Coke County Water Supply Corporation
Case ID No. 36685
Reg. Ent. Reference No. RN101220820
Media 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
	No commas or $						
Delayed Costs							
Equipment				0.00	$0	$0	$0
Buildings				0.00	$0	$0	$0
Other (as needed)				0.00	$0	$0	$0
Engineering/construction				0.00	$0	$0	$0
Land				0.00	$0	n/a	$0
Record Keeping System				0.00	$0	n/a	$0
Training/Sampling				0.00	$0	n/a	$0
Remediation/Disposal				0.00	$0	n/a	$0
Permit Costs				0.00	$0	n/a	$0
Other (as needed)				0.00	$0	n/a	$0
Notes for DELAYED costs							
Avoided Costs	ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)						
Disposal				0.00	$0	$0	$0
Personnel				0.00	$0	$0	$0
Inspection/Reporting/Sampling				0.00	$0	$0	$0
Supplies/equipment				0.00	$0	$0	$0
Financial Assurance [2]				0.00	$0	$0	$0
ONE-TIME avoided costs [3]	$100	1-May-2008	31-May-2008	1.00	$5	$100	$105
Other (as needed)				0.00	$0	$0	$0
Notes for AVOIDED costs	The avoided costs include the amount to collect four repeat samples for the month when the violation occurred.						

Approx. Cost of Compliance $100

TOTAL $105

Screening Date 20-Oct-2008 **Docket No.** 2008-1669-PWS-E **PCW**

Respondent Coke County Water Supply Corporation *Policy Revision 2 (September 2002)*

Case ID No. 36685 *PCW Revision June 12, 2008*

Reg. Ent. Reference No. RN101220820

Media [Statute] Public Water Supply

Enf. Coordinator Christopher Keffer

Violation Number 3

Rule Cite(s) 30 Tex. Admin. Code § 290.109(c)(2)(F)

Violation Description Failed to collect at least five distribution coliform samples during the month (June 2008) following a total coliform positive sample result.

Base Penalty $1,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm: Major	Moderate	Minor
Actual			
Potential	x		

Percent 25%

>>Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0%

Matrix Notes: Failure to take all required samples may expose the public to a significant amount of undetected contaminants that exceed levels protective of human health.

Adjustment $750

$250

Violation Events

Number of Violation Events 1 30 Number of violation days

mark only one with an x

daily	
monthly	x
quarterly	
semiannual	
annual	
single event	

Violation Base Penalty $250

One monthly event is recommended.

Good Faith Efforts to Comply

0.0% Reduction $0

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

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

Violation Subtotal $250

Economic Benefit (EB) for this violation

Estimated EB Amount $125

Statutory Limit Test

Violation Final Penalty Total $360

This violation Final Assessed Penalty (adjusted for limits) $360

Economic Benefit Worksheet

Respondent Coke County Water Supply Corporation
Case ID No. 36685
Reg. Ent. Reference No. RN101220820
Media Public Water Supply
Violation No. 3

Percent Interest	Years of Depreciation
5.0	15

	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Item Description	No commas or $						
Delayed Costs							
Equipment				0.00	$0	$0	$0
Buildings				0.00	$0	$0	$0
Other (as needed)				0.00	$0	$0	$0
Engineering/construction				0.00	$0	$0	$0
Land				0.00	$0	n/a	$0
Record Keeping System				0.00	$0	n/a	$0
Training/Sampling				0.00	$0	n/a	$0
Remediation/Disposal				0.00	$0	n/a	$0
Permit Costs				0.00	$0	n/a	$0
Other (as needed)				0.00	$0	n/a	$0
Notes for DELAYED costs							
Avoided Costs	ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)						
Disposal				0.00	$0	$0	$0
Personnel				0.00	$0	$0	$0
Inspection/Reporting/Sampling				0.00	$0	$0	$0
Supplies/equipment				0.00	$0	$0	$0
Financial Assurance [2]				0.00	$0	$0	$0
ONE-TIME avoided costs [3]	$125	1-Jun-2008	30-Jun-2008	0.00	$0	$125	$125
Other (as needed)				0.00	$0	$0	$0
Notes for AVOIDED costs	The avoided costs include the amount to collect at least five water samples the month following a total-coliform positive sample result.						

Approx. Cost of Compliance $125

TOTAL $125

Compliance History Report

Customer/Respondent/Owner-Operator:	CN600662332	Coke County Water Supply Corporation	Classification:	Rating:
Regulated Entity:	RN101220820	COKE COUNTY WSC	Classification:	Site Rating:
ID Number(s):	PUBLIC WATER SYSTEM/SUPPLY	REGISTRATION	0410017	
	WATER LICENSING	LICENSE	0410017	
Location:	10390 W STATE HIGHWAY 158, COKE COUNTY, TEXAS			
TCEQ Region:	REGION 08 - SAN ANGELO			
Date Compliance History Prepared:	October 22, 2008			
Agency Decision Requiring Compliance History:	Enforcement			
Compliance Period:	September 22, 2003 to October 22, 2008			

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

Name: Christopher Keffer Phone: (512) 239-5610

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	11/07/2003	(254020)
2	01/31/2005	(348590)
3	03/02/2005	(347536)
4	01/27/2006	(450878)
5	03/30/2007	(554270)
6	04/19/2007	(557391)
7	04/19/2007	(652227)
8	05/18/2007	(652304)
9	08/08/2007	(652570)
10	08/10/2007	(652686)
11	11/15/2007	(653055)
12	09/17/2008	(703027)
13	09/17/2008	(703083)
14	09/17/2008	(703085)
15	09/17/2008	(703086)
16	09/17/2008	(703087)
17	09/17/2008	(703089)
18	09/18/2008	(703171)

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

Date: 03/30/2007 (554270)

N/A Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 290, SubChapter D 290.44(h)(1)(B)(ii)

Description: Failure to provide documentation of Backflow Prevention Assembly Test (BPAT) reports for the Marina.

Self Report? NO Classification: Moderate

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

Description: Failure to maintain at least 0.5 mg/L chloramine residual throughout the distribution.

Date: 04/19/2007 (652227)

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.113(f)(5)

Description: HAA5

Date: 05/18/2007 (652304)

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.113(f)(4)

Description: TOTAL TRIHALOMETHANES

Date: 08/08/2007 (652570)

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.113(f)(5)

Description: HAA5

Date: 08/10/2007 (652686)

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.113(f)(4)

Description: TOTAL TRIHALOMETHANES

Date: 11/15/2007 (653055)

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.113(f)(4)

Description: TOTAL TRIHALOMETHANES

Date: 02/21/2008 (703027)

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(ii)

Description: TCR Monitoring Violation 12/2007 - Failure to collect any routine monitoring sample(s).

Date: 03/11/2008 (703083)

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(ii)

Description: TCR Routine Monitoring Violation 01/2008 - Failure to collect any routine monitoring sample(s).

Date: 04/16/2008 (703085)

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(ii)

Description: TCR Routine Monitoring Violation 02/2008 - Failure to collect any routine monitoring sample(s).

Date: 04/29/2008 (703086)

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(ii)

Description: TCR Routine Monitoring Violation 03/2008 - Failure to collect any routine monitoring sample(s).

Date: 06/27/2008 (703087)

Self Report? NO Classification: Moderate

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

Description: TCR Repeat Monitoring Violation 05/2008 - Failure to collect any repeat samples following a coliform found result.

Date: 07/31/2008 (703089)

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(F)

Description: TCR Increase Monitoring Violation 06/2008 - Failure to collect all the distribution samples following a coliform found month.

Date: 09/10/2008 (688205)

Self Report? NO Classification: Major

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

Description: Failure to maintain a disinfectant concentration of at least 0.5 mg/L chloramine residual in the distribution.

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**
COKE COUNTY WATER SUPPLY	§	
CORPORATION	§	
RN101220820	§	**ENVIRONMENTAL QUALITY**

AGREED ORDER
DOCKET NO. 2008-1669-PWS-E

At its _____ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding Coke County Water Supply Corporation ("the Respondent") under the authority of TEX. HEALTH & SAFETY CODE ch. 341. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent presented this agreement to the Commission.

The Respondent 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 Respondent agrees to waive all notice and procedural rights.

It is further understood and agreed that this Order represents the complete and fully-integrated settlement 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 Respondent.

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

I. FINDINGS OF FACT

1. The Respondent owns and operates a public water supply at 10390 West State Highway 158 in Coke County, Texas (the "Facility") that has approximately 227 service connections and serves at least 25 people per day for at least 60 days per year.

2. During a record review conducted on July 1, 2008, TCEQ staff documented that the Respondent did not collect routine distribution coliform samples at active service connections which are representative of water quality throughout the distribution system for the months of December 2007 through March 2008.

3. During a record review conducted on July 1, 2008, TCEQ staff documented that the Respondent did not collect a set of repeat distribution coliform samples within 24 hours of being notified of a total coliform-positive result on a routine sample collected in May 2008.

4. During a record review conducted on July 1, 2008, TCEQ staff documented that the Respondent did not collect at least five distribution coliform samples during the month (June 2008) following a total coliform positive sample result.

5. The Respondent received notice of the violations on September 23, 2008.

II. CONCLUSIONS OF LAW

1. The Respondent is subject to the jurisdiction of the TCEQ pursuant to TEX. HEALTH & SAFETY CODE ch. 341 and the rules of the Commission.

2. As evidenced by Findings of Fact No. 2, the Respondent failed to collect routine distribution coliform samples at active service connections which are representative of water quality throughout the distribution system, in violation of 30 TEX. ADMIN. CODE § 290.109(c)(2)(A)(ii) and TEX. HEALTH & SAFETY CODE § 341.033(d).

3. As evidenced by Findings of Fact No. 3, the Respondent failed to collect a set of repeat distribution coliform samples within 24 hours of being notified of a total coliform-positive result, in violation of 30 TEX. ADMIN. CODE § 290.109(c)(3)(A)(ii).

4. As evidenced by Findings of Fact No. 4, the Respondent failed to collect at least five routine distribution coliform samples during the month (June 2008) following a total coliform positive sample result, in violation of 30 TEX. ADMIN. CODE § 290.109(c)(2)(F).

5. Pursuant to TEX. HEALTH & SAFETY CODE § 341.049, the Commission has the authority to assess an administrative penalty against the Respondent 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.

6. An administrative penalty in the amount of Two Thousand One Hundred Sixty Dollars ($2,160) 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). Two Thousand One Hundred Sixty Dollars ($2,160) shall be conditionally offset by the Respondent's completion of a Supplemental Environmental Project ("SEP").

III. ORDERING PROVISIONS

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

1. It is, therefore, ordered by the TCEQ that pay an administrative penalty as set forth in Section II, Paragraph 6 above. The payment of this administrative penalty and the Respondent'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 "TCEQ" and shall be sent with the notation "Re: Coke County Water Supply Corporation, Docket No. 2008-1669-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 Respondent shall undertake the following technical requirements:

   a. Within 180 days after the effective date of this Agreed Order, comply with the coliform monitoring requirements and provide water that meets the provisions regarding microbial contaminants, in accordance with TEX. ADMIN. CODE § 290.109; and

   b. Within 195 days after the effective date of this Agreed Order, submit written certification as described below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision No. 2.a. The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

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

      The certification shall be submitted to:

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

with a copy to:

Water Section Manager
San Angelo Regional Office
Texas Commission on Environmental Quality
622 South Oakes, Suite K
San Angelo, Texas 76903-7013

3. The Respondent shall implement and complete a SEP in accordance with TEX. WATER CODE § 7.067. As set forth in Section II, Paragraph 6, Two Thousand One Hundred Sixty Dollars ($2,160) of the assessed administrative penalty shall be offset with the condition that the Respondent implement the SEP defined in Attachment A, incorporated herein by reference. 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.

4. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent 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 Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.

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 the Respondent if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.

7. 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.

8. This Agreed Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this 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.

9. 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.

10. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties. By law, the effective date of this Agreed Order is the third day after the mailing date, as provided by 30 TEX. ADMIN. CODE § 70.10(b) and TEX. GOV'T CODE § 2001.142.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

_____
For the Commission

_____ 2/16/2009
For the Executive Director Date

I, the undersigned, have read and understand the attached Agreed Order in the matter of Coke County Water Supply Corporation. I am authorized to agree to the attached Agreed Order on behalf of Coke County Water Supply Corporation, and do agree to the specified terms and conditions. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I understand that by entering into this Agreed Order, Coke County Water Supply Corporation waives certain procedural rights, including, but not limited to, the right to formal notice of violations addressed by this Agreed Order, notice of an evidentiary hearing, the right to an evidentiary hearing, and the right to appeal. I agree to the terms of the Agreed Order in lieu of an evidentiary hearing. This Agreed Order constitutes full and final adjudication by the Commission of the violations set forth in this Agreed Order.

I also understand that failure to comply with the Ordering Provisions, if any, in this order and/or failure to timely pay the penalty amount, may result in:

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

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

_____ 12.29.08
Signature Date

ROY BLAIR PRESIDENT
Name (Printed or typed) Title
Authorized Representative of
Coke County Water Supply Corporation

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

Attachment A
Docket Number: 2008-1669-PWS-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent:	**Coke County Water Supply Corporation**
Payable Penalty Amount:	**Two Thousand One Hundred Sixty Dollars ($2,160)**
SEP Amount:	**Two Thousand One Hundred Sixty Dollars ($2,160)**
Type of SEP:	**Pre-approved**
Third-Party Recipient:	**Texas Association of Resource Conservation and Development Areas, Inc. ("RC&D")- Unauthorized Trash Dump Clean-Up**
Location of SEP:	**Coke 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 coordinate with city and/or county governmental officials regarding the clean up of sites where trash has been disposed of illegally. Eligible sites will be limited to those where a responsible party can not be identified and where there is no pre-existing obligation to clean up the site by the owner or the government. Additionally, reasonable efforts must have already been taken to prevent the dumping. SEP monies will be used to pay for the direct cost of collection and disposal of debris. 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 helping rid communities of the dangers and health threats associated with non-regulated trash dumps which contaminate air and water, and harbor disease carrying animals and insects.

C. Minimum Expenditure

The 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, Suite 510
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:

Office of Legal Services
Attention: SEP Coordinator, MC 175
Texas Commission on Environmental Quality
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.