EXECUTIVE SUMMARY - ENFORCEMENT MATTER

DOCKET NO.: 2010-0982-PWS-E **TCEQ ID:** RN101185320 **CASE NO.:** 39878

RESPONDENT NAME: City of Cockrell Hill

ORDER TYPE:		
__1660 AGREED ORDER	X FINDINGS AGREED ORDER	__FINDINGS ORDER FOLLOWING SOAH HEARING
__FINDINGS DEFAULT ORDER	__SHUTDOWN ORDER	__IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
__AMENDED ORDER	__EMERGENCY ORDER	
CASE TYPE:		
__AIR	__MULTI-MEDIA (check all that apply)	__INDUSTRIAL AND HAZARDOUS WASTE
X PUBLIC WATER SUPPLY	__PETROLEUM STORAGE TANKS	__OCCUPATIONAL CERTIFICATION
__WATER QUALITY	__SEWAGE SLUDGE	__UNDERGROUND INJECTION CONTROL
__MUNICIPAL SOLID WASTE	__RADIOACTIVE WASTE	__DRY CLEANER REGISTRATION

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

TYPE OF OPERATION: Public water supply

SMALL BUSINESS: ___ Yes _X_ No

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

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

COMMENTS RECEIVED: The *Texas Register* comment period expired on December 20, 2010. No comments were received.

CONTACTS AND MAILING LIST:

TCEQ Attorney/SEP Coordinator: Mr. Phillip Hampsten, SEP Coordinator, Enforcement Division, MC 219, (512) 239-6732

TCEQ Enforcement Coordinator: Ms. Katy Schumann, Enforcement Division, Enforcement Team 2, MC 169, (512) 239-2602; Ms. Laurie Eaves, Enforcement Division, MC 219, (512) 239-4495

Respondent: The Honorable Luis D. Carrera, Mayor, City of Cockrell Hill, 4125 West Clarendon Drive, Dallas, Texas 75211

Respondent's Attorney: Ms. Meredith Ladd, Brown & Hofmeister, L.L.P., 740 East Campbell Road, # 800, Richardson, Texas 75081-6757

VIOLATION SUMMARY CHART:

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
Type of Investigation: __ Complaint __ Routine __ Enforcement Follow-up X Records Review **Date(s) of Complaints Relating to this Case:** None **Date of Investigation Relating to this Case:** April 20, 2010 **Date of NOV/NOE Relating to this Case:** May 11, 2010 (NOE) **Background Facts:** This was a records review. **WATER** Failed to comply with the Maximum Contaminant Level ("MCL") for total coliform and failed to provide a public notice for exceeding the MCL for total coliform [30 TEX. ADMIN. CODE §§ 290.109(f)(3) and 290.122(b)(2)(A) and TEX. HEALTH AND SAFETY CODE § 341.031(a)].	**Total Assessed:** $2,430 **Total Deferred:** $0 __Expedited Settlement __Financial Inability to Pay **SEP Conditional Offset:** $2,430 **Total Paid to General Revenue:** $0 **Compliance History Classifications:** Person/CN - Average Site/RN – N/A **Major Source:** X Yes __ No **Applicable Penalty Policy:** September 2002 **Findings Orders Justification:** The Respondent has four previous Notice of Violations and two previous Enforcement Orders in the last five years.	**Corrective Actions Taken:** The Executive Director recognizes that the Respondent implemented procedures to correct the coliform exceedances, as of May 1, 2010. **Ordering Provisions:** The Order will require the Respondent to implement and complete a Supplemental Environmental Project (SEP). (See SEP Attachment A)

Additional ID No(s).: PWS ID 0570038

Attachment A
Docket Number: 2010-0982-PWS-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent:	**City of Cockrell Hill**
Payable Penalty Amount:	**Two Thousand Four Hundred Thirty Dollars ($2,430)**
SEP Amount:	**Two Thousand Four Hundred Thirty Dollars ($2,430)**
Type of SEP:	**Pre-approved**
Third-Party Recipient:	**Keep Texas Beautiful – Stop Trashing Texas Program**
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 the Respondent to contribute to a Supplemental Environmental Project ("SEP"). The offset is equal to the SEP offset 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 the SEP offset amount to the Third-Party Recipient named above. The contribution will be to ***Keep Texas Beautiful*** for the ***Stop Trashing Texas*** project as set forth in an agreement between the Third-Party Recipient and the TCEQ. Specifically, SEP funds will pay for the labor and disposal costs associated with cleanup of unauthorized trash dumps by supplying project coordination, labor, supplies, and materials for clean up events statewide. SEP funds used for this purpose shall be limited to the actual direct costs for the specific purpose necessary to meet the requirements of the SEP and no potion of the SEP funds will be spent on administrative costs related to this portion of the SEP. Trash dump cleanups may be coordinated with waste collection facilities and/or local governments to employ heavy machinery for the removal of large waste items. To the maximum extent possible, cleanups shall be accomplished with the use of volunteers from community groups, private companies, schools, and youth organizations. SEP funds may be used for activities. This project will be administered in accordance with 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 removing unauthorized trash dumps and providing for the proper disposal of debris and waste, reducing the potential health threats associated with illegally dumped wastes, helping rid communities of hazardous contaminants that may leach into the soil and water.

C. Minimum Expenditure

The Respondent shall contribute at least the SEP offset 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 offset amount to the Third-Party Recipient. The Respondent shall mail a copy of the Agreed Order with the contribution to:

Keep Texas Beautiful
Attention: Anne Cunic, Affiliate Services Manager
8850 Business Park Dr., Ste. 200
Austin, TX 78759

3. Records and Reporting

Concurrent with the payment of the SEP offset amount, the Respondent shall provide the Enforcement Division SEP Coordinator with a copy of the check and transmittal letter indicating full payment of the SEP offset 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 offset 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 offset amount. In the event of incomplete performance, the Respondent shall submit a check for any remaining amount due made payable to "Texas Commission on Environmental Quality" with the notation "SEP Refund" and the docket number of the case, and shall send it to:

Texas Commission on Environmental Quality
Office of Legal Services
Attention: SEP Coordinator, MC 175
P.O. Box 13088
Austin, Texas 78711-3088

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 a 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 October 30, 2008*

TCEQ

DATES					
Assigned	17-May-2010				
PCW	21-Jul-2010	Screening	14-Jun-2010	EPA Due	31-Aug-2010

RESPONDENT/FACILITY INFORMATION

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

CASE INFORMATION

Enf./Case ID No.	39878	No. of Violations	1
Docket No.	2010-0982-PWS-E	Order Type	Findings
Media Program(s)	Public Water Supply	Government/Non-Profit	Yes
Multi-Media		Enf. Coordinator	Katy Schumann
		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 62.0% Enhancement *Subtotals 2, 3, & 7* $930

Notes: Enhancement for three Notices of Violation (NOV) for the same/similar violations as those in the current enforcement action, one NOV for dissimilar violation, one agreed final enforcement order without a denial of liability and one agreed final enforcement order with a denial of liability.

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 $677
Approx. Cost of Compliance $620
**Capped at the Total EB $ Amount*

SUM OF SUBTOTALS 1-7 *Final Subtotal* $2,430

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

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

Final Penalty Amount $2,430

STATUTORY LIMIT ADJUSTMENT *Final Assessed Penalty* $2,430

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 $2,430

Screening Date 14-Jun-2010 **Docket No.** 2010-0982-PWS-E **PCW**

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

Case ID No. 39878 *PCW Revision October 30, 2008*

Reg. Ent. Reference No. RN101185320

Media [Statute] Public Water Supply

Enf. Coordinator Katy Schumann

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*)	3	15%
	Other written NOVs	1	2%
Orders	Any agreed final enforcement orders containing a denial of liability (*number of orders meeting criteria*)	1	20%
	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	1	25%
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) 62%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Average Performer

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance History Notes

Enhancement for three Notices of Violation (NOV) for the same/similar violations as those in the current enforcement action, one NOV for dissimilar violation, one agreed final enforcement order without a denial of liability and one agreed final enforcement order with a denial of liability.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 62%

Screening Date 14-Jun-2010 **Docket No.** 2010-0982-PWS-E **PCW**

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

Case ID No. 39878 *PCW Revision October 30, 2008*

Reg. Ent. Reference No. RN101185320

Media [Statute] Public Water Supply

Enf. Coordinator Katy Schumann

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code §§ 290.109(f)(3) and 290.122(b)(2)(A) and Tex. Health and Safety Code § 341.031(a)

Violation Description Failed to comply with the Maximum Contaminant Level ("MCL") for total coliform during the months of November 2008, September 2009 and October 2009, and did not provide public notice for exceeding the MCL for total coliform for those three months.

Base Penalty $1,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm: Major	Moderate	Minor
Actual		x	
Potential			

Percent 50%

>>Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0%

Matrix Notes: The presence of coliform bacteria is an indication that the water supply is contaminated with a significant amount of contaminants which do not exceed levels protective of human health.

Adjustment $500

$500

Violation Events

Number of Violation Events 3 | 546 Number of violation days

mark only one with an x

daily	
weekly	
monthly	x
quarterly	
semiannual	
annual	
single event	

Violation Base Penalty $1,500

Three monthly events are recommeded for the months of exceedance.

Good Faith Efforts to Comply

0.0% Reduction $0

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

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

Violation Subtotal $1,500

Economic Benefit (EB) for this violation

Estimated EB Amount $704

Statutory Limit Test

Violation Final Penalty Total $2,430

This violation Final Assessed Penalty (adjusted for limits) $2,430

Economic Benefit Worksheet

Respondent City of Cockrell Hill
Case ID No. 39878
Reg. Ent. Reference No. RN101185320
Media Public Water Supply
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Description (No commas or $)	Item Cost	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
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]	$570	24-Nov-2008	28-Oct-2009	1.84	$53	$570	$623
Other (as needed)	$75	30-Dec-2008	30-Nov-2009	1.84	$7	$75	$82

Notes for DELAYED costs

Notes for AVOIDED costs

The avoided costs include the estimated amount to investigate and identify the source of contamination and implement procedures to increase chlorination and flushing of the water system, calculated from the date of the first sample collected indicating an exceedance to the date of the last sample collected indicating an exceedance. Estimated cost ($25 per notice) to provide public notice, calculated for the 30 day period a notice was required.

Approx. Cost of Compliance $645

TOTAL $704

Compliance History Report

Customer/Respondent/Owner-Operator:	CN600740047	City of Cockrell Hill	Classification: AVERAGE	Rating: 3.01
Regulated Entity:	RN101185320	CITY OF COCKRELL HILL WATER SYSTEM	Classification:	Site Rating:

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

Location: 4125 W CLARENDON DRIVE, DALLAS COUNTY, TX

TCEQ Region: REGION 04 - DFW METROPLEX

Date Compliance History Prepared: July 27, 2010

Agency Decision Requiring Compliance History: Enforcement

Compliance Period: June 07, 2005 to June 07, 2010

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

Name: Katy Schumann Phone: (512) 239 - 2602

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/operator of the site during the compliance period?	NO
3. If Yes, who is the current owner/operator?	N/A
4. If Yes, who was/were the prior owner(s)/operator(s)?	N/A
5. When did the change(s) in owner or operator occur?	N/A

Components (Multimedia) for the Site :

A. Final Enforcement Orders, court judgments, and consent decrees of the State of Texas and the federal government.

Effective Date: 07/13/2007 ADMINORDER 2005-0702-PWS-E

Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.109(f)(3)
30 TAC Chapter 290, SubChapter F 290.122(b)(2)(A)
5A THC Chapter 341, SubChapter A 341.031(a)

Description: Exceeded Maximum Contaminant Level (MCL) Violation in 08/2003.

Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.109(f)(3)
30 TAC Chapter 290, SubChapter F 290.122(b)(2)(A)
5A THC Chapter 341, SubChapter A 341.031(a)

Description: Exceeded Maximum Contaminant Level (MCL) violation in 08/2004.

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.

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.

Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.109(f)(3)
30 TAC Chapter 290, SubChapter F 290.122(b)(2)(A)
5A THC Chapter 341, SubChapter A 341.031(a)

Description: Exceeded a maximum contaminant level (MCL) violation in 09/2004.

Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.109(f)(3)
30 TAC Chapter 290, SubChapter F 290.122(b)(2)(A)
5A THC Chapter 341, SubChapter A 341.031(a)

Description: Exceeded a maximum contaminant level (MCL) violation in 10/2004.

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.

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.

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.

Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.109(f)(3)
30 TAC Chapter 290, SubChapter F 290.122(b)(2)(A)
5A THC Chapter 341, SubChapter A 341.031(a)

Description: Exceeded a maximum contaminant level (MCL) violation in 11/2004.

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.

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.

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.

Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.109(f)(3)
30 TAC Chapter 290, SubChapter F 290.122(b)(2)(A)
5A THC Chapter 341, SubChapter A 341.031(a)

Description: Exceeded a maximum contaminant level (MCL) violation in 12/2004.

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 12/2004.

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

Description: Exceeded a maximum contaminant level (MCL) violation in 02/2005.

Effective Date: 12/20/2007 ADMINORDER 2006-1771-PWS-E

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

Description: Failure to provide a customer service inspection certification prior to providing continuous water service to new construction.

Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter D 290.44(h)(4)
5A THC Chapter 341, SubChapter A 341.0315(c)

Description: Failure to have backflow prevention assemblies tested.

Classification: Minor
Citation: 30 TAC Chapter 290, SubChapter F 290.121(a)

Description: Failure to provide an adequate monitoring plan.

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 03/06/2006 (453090)
2 05/09/2006 (463776)
3 05/25/2006 (465291)
4 09/19/2006 (512662)
5 12/28/2007 (613085)
6 07/18/2008 (686988)
7 06/04/2009 (737401)
8 04/02/2010 (793398)
9 04/22/2010 (796249)
10 04/26/2010 (800141)

11 05/03/2010 (800149)
12 05/14/2010 (801922)

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

Date: 03/03/2006 (453090) CN600740047

Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 290, SubChapter D 290.46(f)(3)(E)(iv)
Description: Failure to provide a customer service inspection certification prior to providing continuous water service to new construction.

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter D 290.44(h)(4)
5A THC Chapter 341, SubChapter A 341.0315(c)
Description: Failure to have backflow prevention assemblies tested.

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter D 290.46(e)(3)(C)
Description: Failure by the regulated entity, which serves 1,000 connections or more and only uses purchased treated water, to be at all times under the direct supervision of two competent operators holding a valid Class "C" or higher operator's license as issued under the direction of the Texas Commission on Environmental Quality.

Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 290, SubChapter D 290.42(l)
Description: Failure to provide a plant operations manual.

Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 290, SubChapter D 290.46(n)(2)
Description: Failure to prepare and maintain a map of the distribution system so that valves and mains may be easily located during emergencies.

Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 288, SubChapter B 288.20
Description: Failure to provide a drought contingency plan.

Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 290, SubChapter F 290.121(a)
Description: Failure to provide an adequate monitoring plan.

Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 290, SubChapter D 290.45(f)(2)
Description: Failure to state in the contract, the authorization to purchase enough water to meet the monthly or annual needs for the City of Cockrell Hill.

Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 290, SubChapter D 290.46(f)(2)
Description: Failure to provide records (monthly operating reports) at time of inspection.

Date: 12/02/2008 (796249) CN600740047

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.109(f)(3)
Description: TCR MCL Violation 11/2008 - System exceeded a Maximum Contaminant Level Violation.

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.122(b)(2)(A)
Description: TCR PN MCL Violation 11/2008 - Failure to post a public notice for exceeding a Maximum Contaminant Level Violation.

Date: 10/02/2009 (800141) CN600740047

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.109(f)(3)
Description: TCR MCL Violation 09/2009 - System exceeded a Maximum Contaminant Level Violation.

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.122(b)(2)(A)
Description: TCR PN MCL Violation 09/2009 - Failure to post a public notice for exceeding a Maximum Contaminant Level Violation.

Date: 11/03/2009 (800149) CN600740047

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.109(f)(3)

Description: TCR MCL Violation 10/2009 - System exceeded a Maximum Contaminant Level Violation.

Self Report? NO Classification: Moderate

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

Description: TCR PN MCL Violation 10/2009 - Failure to post a public notice for exceeding a Maximum Contaminant Level Violation.

F. Environmental audits.

N/A

G. Type of environmental management systems (EMSs).

N/A

H. Voluntary on-site compliance assessment dates.

N/A

I. Participation in a voluntary pollution reduction program.

N/A

J. Early compliance.

N/A

Sites Outside of Texas

N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

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

AGREED ORDER
DOCKET NO. 2010-0982-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 the City of Cockrell Hill ("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, represented by Meredith Ladd of the law firm of Brown & Hofmeister, L.L.P., 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 4125 West Clarendon Drive in Dallas County, Texas (the "Facility") that has approximately 1,254 service connections and serves at least 25 people per day for at least 60 days per year.

2. During a record review conducted on April 20, 2010, TCEQ staff documented that the Respondent did not comply with the Maximum Contaminant Level ("MCL") for total coliform during the months of November 2008, September 2009 and October 2009, and

did not provide public notice for exceeding the MCL for total coliform for those three months.

3. The Respondent received notice of the violations on May 16, 2010.

4. The Executive Director recognizes that the Respondent implemented procedures to correct the coliform exceedances, as of May 1, 2010.

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 comply with the MCL for total coliform and failed to provide a public notice for exceeding the MCL for total coliform, in violation of 30 TEX. ADMIN. CODE §§ 290.109(f)(3) and 290.122(b)(2)(A) and TEX. HEALTH AND SAFETY CODE § 341.031(a).

3. 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.

4. An administrative penalty in the amount of Two Thousand Four Hundred Thirty Dollars ($2,430) 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 Four Hundred Thirty Dollars ($2,430) 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. The Respondent is assessed an administrative penalty in the amount of Two Thousand Four Hundred Thirty Dollars ($2,430) as set forth in Section II, Paragraph 4 above, for violations of TCEQ rules and state statutes. 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: City of Cockrell Hill, Docket No. 2010-0982-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 implement and complete a SEP in accordance with TEX. WATER CODE § 7.067. As set forth in Section II, Paragraph 4 above, Two Thousand Four Hundred Thirty Dollars ($2,430) 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.

3. 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.

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 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

5. 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.

6. 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.

7. 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.

8. This Agreed Order may be executed in separate and multiple counterparts, which together shall constitute a single instrument. Any page of this Agreed Order may be copied, scanned, digitized, converted to electronic portable document format ("pdf"), or otherwise reproduced and may be transmitted by digital or electronic transmission, including but not limited to facsimile transmission and electronic mail. Any signature affixed to this Agreed Order shall constitute an original signature for all purposes and may be used, filed, substituted, or issued for any purpose for which an original signature could be used. The term "signature" shall include manual signatures and true and accurate reproductions of manual signatures created, executed, endorsed, adopted, or

authorized by the person or persons to whom the signatures are attributable. Signatures may be copied or reproduced digitally, electronically, by photocopying, engraving, imprinting, lithographing, electronic mail, facsimile transmission, stamping, or any other means or process which the Executive Director deems acceptable. In this paragraph exclusively, the terms "electronic transmission", "owner", "person", "writing", and "written" shall have the meanings assigned to them under TEX. BUS. ORG. CODE § 1.002.

9. 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

_____ 12/16/2010
For the Executive Director Date

I, the undersigned, have read and understand the attached Agreed Order in the matter of the City of Cockrell Hill. I am authorized to agree to the attached Agreed Order on behalf of the City of Cockrell Hill, 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, the City of Cockrell Hill 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.

_____ 12/8/2010
Signature Date

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

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

Attachment A
Docket Number: 2010-0982-PWS-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent:	**City of Cockrell Hill**
Payable Penalty Amount:	**Two Thousand Four Hundred Thirty Dollars ($2,430)**
SEP Amount:	**Two Thousand Four Hundred Thirty Dollars ($2,430)**
Type of SEP:	**Pre-approved**
Third-Party Recipient:	**Keep Texas Beautiful – Stop Trashing Texas Program**
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 the Respondent to contribute to a Supplemental Environmental Project ("SEP"). The offset is equal to the SEP offset 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 the SEP offset amount to the Third-Party Recipient named above. The contribution will be to ***Keep Texas Beautiful*** for the ***Stop Trashing Texas*** project as set forth in an agreement between the Third-Party Recipient and the TCEQ. Specifically, SEP funds will pay for the labor and disposal costs associated with cleanup of unauthorized trash dumps by supplying project coordination, labor, supplies, and materials for clean up events statewide. SEP funds used for this purpose shall be limited to the actual direct costs for the specific purpose necessary to meet the requirements of the SEP and no potion of the SEP funds will be spent on administrative costs related to this portion of the SEP. Trash dump cleanups may be coordinated with waste collection facilities and/or local governments to employ heavy machinery for the removal of large waste items. To the maximum extent possible, cleanups shall be accomplished with the use of volunteers from community groups, private companies, schools, and youth organizations. SEP funds may be used for activities. This project will be administered in accordance with 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 removing unauthorized trash dumps and providing for the proper disposal of debris and waste, reducing the potential health threats associated with illegally dumped wastes, helping rid communities of hazardous contaminants that may leach into the soil and water.

C. Minimum Expenditure

The Respondent shall contribute at least the SEP offset 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 offset amount to the Third-Party Recipient. The Respondent shall mail a copy of the Agreed Order with the contribution to:

Keep Texas Beautiful
Attention: Anne Cunic, Affiliate Services Manager
8850 Business Park Dr., Ste. 200
Austin, TX 78759

3. Records and Reporting

Concurrent with the payment of the SEP offset amount, the Respondent shall provide the Enforcement Division SEP Coordinator with a copy of the check and transmittal letter indicating full payment of the SEP offset 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 offset 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 offset amount. In the event of incomplete performance, the Respondent shall submit a check for any remaining amount due made payable to "Texas Commission on Environmental Quality" with the notation "SEP Refund" and the docket number of the case, and shall send it to:

Texas Commission on Environmental Quality
Office of Legal Services
Attention: SEP Coordinator, MC 175
P.O. Box 13088
Austin, Texas 78711-3088

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 a SEP for the Respondent under any other Agreed Order negotiated with the TCEQ or any other agency of the state or federal government.