

EXECUTIVE SUMMARY - ENFORCEMENT MATTER

Page 1 of 2

DOCKET NO.: 2004-1738-OSS-E TCEQ ID NO: RN103423273 CASE NO.: 20905**RESPONDENT NAME: TIMOTHY ALLEN TOWNLEY**

| | | |
|---|---|--|
| ORDER TYPE: | | |
| <input type="checkbox"/> 1660 AGREED ORDER | <input type="checkbox"/> FINDINGS AGREED ORDER | <input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING |
| <input checked="" type="checkbox"/> FINDINGS DEFAULT ORDER | <input type="checkbox"/> SHUTDOWN ORDER | <input type="checkbox"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER |
| <input type="checkbox"/> AMENDED ORDER | <input type="checkbox"/> EMERGENCY ORDER | |
| CASE TYPE: | | |
| <input type="checkbox"/> AIR | <input type="checkbox"/> MULTI-MEDIA (check all that apply) | <input type="checkbox"/> INDUSTRIAL AND HAZARDOUS WASTE |
| <input type="checkbox"/> PUBLIC WATER SUPPLY | <input type="checkbox"/> PETROLEUM STORAGE TANKS | <input checked="" type="checkbox"/> OCCUPATIONAL CERTIFICATION |
| <input type="checkbox"/> WATER QUALITY | <input type="checkbox"/> SEWAGE SLUDGE | <input type="checkbox"/> UNDERGROUND INJECTION CONTROL |
| <input type="checkbox"/> MUNICIPAL SOLID WASTE | <input type="checkbox"/> RADIOACTIVE WASTE | <input type="checkbox"/> DRY CLEANER REGISTRATION |
| <p>SITE WHERE VIOLATION(S) OCCURRED: 987 County Road 810, Buna, Jasper County</p> <p>TYPE OF OPERATION: On-site sewage facility installation business</p> <p>SMALL BUSINESS: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>OTHER SIGNIFICANT MATTERS: There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.</p> <p>INTERESTED PARTIES: No one other than the ED and the Respondent has expressed an interest in this matter.</p> <p>COMMENTS RECEIVED: The <i>Texas Register</i> comment period expired on September 10, 2007. No comments were received.</p> <p>CONTACTS AND MAILING LIST: TCEQ Attorney: Ms. Rebecca M. Combs, Litigation Division, MC 175, (512) 239-6939 Ms. Jennifer Cook, Litigation Division, MC 175, (512) 239-1873 TCEQ Enforcement Coordinator: Ms. Catherine Albretch, Water Enforcement Section, MC R-12, (713) 767-3672 TCEQ Regional Contact: Mr. Ronald Hebert, Beaumont Regional Office, MC R-10, (409) 898-3838 Respondent: Mr. Timothy Allen Townley, Owner, 1240 Honeybee Street, Vidor, Texas 77662 Respondent's Attorney: Not represented by counsel.</p> | | |

VIOLATION SUMMARY CHART:

| VIOLATION INFORMATION | PENALTY CONSIDERATIONS | CORRECTIVE ACTIONS TAKEN/REQUIRED |
|--|--|---|
| <p>Type of Investigation:</p> <p><input type="checkbox"/> Complaint <input checked="" type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input type="checkbox"/> Records Review</p> <p>Date(s) of Complaints Relating to this Case: None</p> <p>Date of Investigation Relating to this Case: April 27, 2004 and September 22, 2004</p> <p>Date of NOV/NOE Relating to this Case: May 7, 2004 (NOV) and October 5, 2004 (NOE)</p> <p>Background Facts: The EDRP was filed on March 30, 2005. The EDFARP was filed on May 4, 2005. The Respondent received notice of the petitions. The Respondent verbally concurred with an Agreed Order which was sent on May 10, 2007. Despite repeated attempts to contact the Respondent, the Agreed Order was never returned, making this Default Order necessary.</p> <p>The Respondent in this case does not owe any other penalties according to the Administrative Penalty Database Report.</p> <p>OSS</p> <p>1) Failed to install a system with the required slope of one-eighth inch per foot on the sewer pipe from the house stub to the first tank at the Facility [30 TEX. ADMIN. CODE § 285.32(a)(3) and TEX. HEALTH & SAFETY CODE § 366.004].</p> <p>2) Failed to submit a re-inspection fee prior to the re-inspection of the system at the Facility [30 TEX. ADMIN. CODE § 285.3(d)].</p> | <p>Total Assessed: \$525</p> <p>Total Deferred: \$0</p> <p><input type="checkbox"/> Expedited Settlement <input type="checkbox"/> Financial Inability to Pay</p> <p>SEP Conditional Offset: \$0</p> <p>Total Due to General Revenue: \$525</p> <p>This is a Default Order. The Respondent has not actually paid any of the assessed penalty, but will be required to do so under the terms of this proposed Order.</p> <p>Site Compliance History Classification: <input type="checkbox"/> High <input type="checkbox"/> Avg. <input type="checkbox"/> Poor <input checked="" type="checkbox"/> N/A</p> <p>Person Compliance History Classifications: <input type="checkbox"/> High <input type="checkbox"/> Avg. <input type="checkbox"/> Poor <input checked="" type="checkbox"/> N/A</p> <p>Major Source: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>Applicable Penalty Policy: September 2002</p> | <p>Ordering Provisions:</p> <p>The Respondent shall undertake the following technical requirements:</p> <p>1) Immediately, re-schedule with TCEQ's Beaumont office, a re-inspection to determine if the Facility has come into compliance, and pay the re-inspection fee prior to this re-inspection.</p> <p>2) Within 30 days, bring the Facility into compliance.</p> <p>3) Submit correspondence, reports, and notarized documentation required by these Ordering Provisions.</p> |



Policy Revision 2 (September 2002)

Penalty Calculation Worksheet (PCW)

PCW Revision May 17, 2004

DATES

PCW 10-Feb-2005 Screening 14-Oct-2004 Priority Due 12-Jan-2005 EPA Due

RESPONDENT/FACILITY INFORMATION

Respondent Timothy Allen Townley
 Reg. Ent. Ref. No. RN103423273
 Additional ID No(s) On-Site Sewage Facility Installer No. OS0015434
 Facility/Site Region 10-Beaumont Major/Minor Source Minor Source

CASE INFORMATION

Enf./Case ID No. 20905 No. of Violations 2
 Docket No. 2004-1738-OSS-E Order Type 1660 without deferral
 Case Priority 3 Enf. Coordinator Catherine Albrecht
 Media Program(s) On-Site Sewage Disposal EC's Team Enforcement Team 4
 Multi-Media
 Admin. Penalty \$ Limit Minimum \$0 Maximum \$2,500

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties) Subtotal 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 5% Enhancement Subtotals 2, 3, & 7 \$25

Notes The respondent has 1 NOV for same or similar violations during the last 5 years at this site.

Culpability No 0% Enhancement Subtotal 4 \$0

Notes The respondent does not meet 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 has not yet achieved compliance.

Economic Benefit 0% Enhancement* Subtotal 6 \$0

| | | |
|----------------------------|-------|-----------------------------------|
| Total EB Amounts | \$525 | *Capped at the Total EB \$ Amount |
| Approx. Cost of Compliance | \$500 | |

SUM OF SUBTOTALS 1-7 Final Subtotal \$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 \$525

STATUTORY LIMIT ADJUSTMENT Final Assessed Penalty \$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 A previous NOV was issued on May 7, 2004 for same or similar violations at this site.

PAYABLE PENALTY \$525

Screening Date 14-Oct-2004

Docket No. 2004-1738-OSS-E

PCW

Respondent Timothy Allen Townley

Policy Revision 2 (September 2002)

Case ID No. 20905

PCW Revision May 17, 2004

Reg. Ent. Reference No. RN103423273

Additional ID No(s). On-Site Sewage Facility Installer No. OS0015434

Media [Statute] On-Site Sewage Disposal

Enf. Coordinator Catherine Albrecht

Site Address 1240 Honeybee Street, Vidor, Orange County

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

| Component | Number of... | Enter Number Here | Adjust. |
|-------------------------------|--|-------------------|---------|
| NOVs | Written NOVs with same or similar violations as those in the current enforcement action (<i>number of NOVs meeting criteria</i>) | 1 | 5% |
| | 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 judgements or consent decrees meeting criteria</i>) | 0 | 0% |
| | Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government | 0 | 0% |
| Convictions | Any criminal convictions of this state or the federal government (<i>number of counts</i>) | 0 | 0% |
| Emissions | Chronic excessive emissions events (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 (<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) 5%

>> 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 has 1 NOV for same or similar violations during the last 5 years at this site.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 5%

Screening Date 14-Oct-2004 **Docket No.** 2004-1738-OSS-E **PCW**
Respondent Timothy Allen Townley *Policy Revision 2 (September 2002)*
Case ID No. 20905 *PCW Revision May 17, 2004*
Reg. Ent. Reference No. RN103423273
Additional ID No(s). On-Site Sewage Facility Installer No. OS0015434
Media [Statute] On-Site Sewage Disposal
Enf. Coordinator Catherine Albrecht
Violation Number
Primary Rule Cite(s)
Secondary Rule Cite(s)
Violation Description

Base Penalty

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

| | | Harm | | | |
|---------|-----------|----------------------|---|----------------------|--|
| Release | | Major | Moderate | Minor | |
| OR | Actual | <input type="text"/> | <input type="text"/> | <input type="text"/> | Percent <input type="text" value="10%"/> |
| | Potential | <input type="text"/> | <input checked="" type="text" value="x"/> | <input type="text"/> | |

>> **Programmatic Matrix**

| Falsification | Major | Moderate | Minor | Percent |
|----------------------|----------------------|----------------------|----------------------|----------------------|
| <input type="text"/> |

Matrix Notes

Adjustment

Base Penalty Subtotal

Violation Events

Number of Violation Events

| | | |
|--|---------------------|---|
| <i>mark only one use a small x</i> | <i>daily</i> | <input type="text"/> |
| | <i>monthly</i> | <input type="text"/> |
| | <i>quarterly</i> | <input checked="" type="text" value="x"/> |
| | <i>semiannual</i> | <input type="text"/> |
| | <i>annual</i> | <input type="text"/> |
| | <i>single event</i> | <input type="text"/> |

Violation Base Penalty

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount

Violation Final Penalty Total

This violation Final Assessed Penalty (adjusted for limits)

Economic Benefit Worksheet

Respondent Timothy Allen Townley
 Case ID No. 20905
 Reg. Ent. Reference No. RN103423273
 Additional ID No(s). On-Site Sewage Facility Installer No. OS0015434
 Media [Statute] On-Site Sewage Disposal
 Violation No. 1

| | |
|------------------|-----------------------|
| Percent Interest | Years of Depreciation |
| 5.0 | 15 |

| Item Description | Item Cost | Date Required | Final Date | Yrs | Interest Saved | Onetime Costs | EB Amount |
|--------------------------|-----------|---------------|------------|-----|----------------|---------------|-----------|
| Delayed Costs | | | | | | | |
| Equipment | | | | 0.0 | \$0 | \$0 | \$0 |
| Buildings | | | | 0.0 | \$0 | \$0 | \$0 |
| Other (as needed) | | | | 0.0 | \$0 | \$0 | \$0 |
| Engineering/construction | | | | 0.0 | \$0 | \$0 | \$0 |
| Land | | | | 0.0 | \$0 | n/a | \$0 |
| Record Keeping System | | | | 0.0 | \$0 | n/a | \$0 |
| Training/Sampling | | | | 0.0 | \$0 | n/a | \$0 |
| Remediation/Disposal | | | | 0.0 | \$0 | n/a | \$0 |
| Permit Costs | | | | 0.0 | \$0 | n/a | \$0 |
| Other (as needed) | | | | 0.0 | \$0 | n/a | \$0 |

Notes for DELAYED costs

| 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] | \$500 | 27-Apr-2004 | 22-Sep-2004 | 1.0 | \$25 | \$500 | \$525 |
| Other (as needed) | | | | 0.0 | \$0 | \$0 | \$0 |

Notes for AVOIDED costs
 Estimated costs of resetting the 41 foot sewer pipe with the required slope based on 8 man-hours at \$25 per hour and for a second reinspection of the system after corrections are completed based on \$100 fee. Date required is the first inspection date. Final date is the reinspection date.

Approx. Cost of Compliance \$500

TOTAL \$525

Screening Date 14-Oct-2004

Docket No. 2004-1738-OSS-E

PCW

Respondent Timothy Allen Townley

Policy Revision 2 (September 2002)

Case ID No. 20905

PCW Revision May 17, 2004

Reg. Ent. Reference No. RN103423273

Additional ID No(s). On-Site Sewage Facility Installer No. OS0015434

Media [Statute] On-Site Sewage Disposal

Enf. Coordinator Catherine Albrecht

Violation Number 2

Primary Rule Cite(s) 30 Tex. Admin. Code § 285.3(d)(6)

Secondary Rule Cite(s)

Violation Description Failure to submit the reinspection fee before the reinspection of the system.

Base Penalty \$2,500

>> Environmental, Property and Human Health Matrix

| Release | Harm | | | Percent |
|-----------|-------|----------|-------|---------|
| | Major | Moderate | Minor | |
| Actual | | | | |
| Potential | | | | |

>> Programmatic Matrix

| Falsification | Major | Moderate | Minor | Percent |
|---------------|-------|----------|-------|---------|
| | | | | |

Matrix Notes

Adjustment -\$2,500

Base Penalty Subtotal \$0

Violation Events

Number of Violation Events

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

Violation Base Penalty \$0

No administrative penalty was calculated for this violation as penalty and interest may be assessed in the billing cycle.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$0

Violation Final Penalty Total \$0

This violation Final Assessed Penalty (adjusted for limits) \$0

Economic Benefit Worksheet

Respondent Timothy Allen Townley
 Case ID No. 20905
 Reg. Ent. Reference No. RN103423273
 Additional ID No(s). On-Site Sewage Facility Installer No. OS0015434
 Media [Statute] On-Site Sewage Disposal
 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 |
|--------------------------|-----------|---------------|------------|-----|----------------|---------------|-----------|
| Delayed Costs | | | | | | | |
| Equipment | | | | 0.0 | \$0 | \$0 | \$0 |
| Buildings | | | | 0.0 | \$0 | \$0 | \$0 |
| Other (as needed) | | | | 0.0 | \$0 | \$0 | \$0 |
| Engineering/construction | | | | 0.0 | \$0 | \$0 | \$0 |
| Land | | | | 0.0 | \$0 | n/a | \$0 |
| Record Keeping System | | | | 0.0 | \$0 | n/a | \$0 |
| Training/Sampling | | | | 0.0 | \$0 | n/a | \$0 |
| Remediation/Disposal | | | | 0.0 | \$0 | n/a | \$0 |
| Permit Costs | | | | 0.0 | \$0 | n/a | \$0 |
| Other (as needed) | | | | 0.0 | \$0 | n/a | \$0 |
| Notes for DELAYED costs | N/A | | | | | | |

| Item Description | Item Cost | Date Required | Final Date | Yrs | Interest Saved | Onetime Costs | EB Amount |
|--|-----------|---------------|------------|-----|----------------|---------------|-----------|
| 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 | N/A | | | | | | |

Approx. Cost of Compliance \$0 TOTAL \$0

COMPLIANCE HISTORY

For Penalty Purposes Only

Customer/Respondent/Owner-Operator: CN601943236 TOWNLEY, TIMOTHY ALLEN Classification: Rating: N/A
Regulated Entity: RN103423273 TOWNLEY, TIMOTHY ALLEN Classification: Site Rating: N/A
ID Number(s): OS0015434
Location (including city or nearest city, and county): 1240 Honeybee St., Vidor, Orange County, Texas Repeat Violator: N/A
77662
TCEQ Region No. Region 10
Date Compliance History Prepared: October 12, 2004

Agency Decision Requiring Compliance History (mark one):

- | | |
|-------------------------------------|---|
| <input type="checkbox"/> | the issuance, renewal, amendment, modification, denial, suspension, or revocation of a permit |
| <input checked="" type="checkbox"/> | enforcement |
| <input type="checkbox"/> | the use of announced investigations (Field Ops) |
| <input type="checkbox"/> | participation in innovative programs |

Compliance Period: October 12, 1999 to October 12, 2004

TCEQ staff person to contact for additional information regarding this compliance history:

Name: Catherine Albrecht Phone: (713) 767-3672

Site Compliance History Components

1. Has the site been in existence and/or operation for the full five year compliance period? Yes No Unk
2. Has there been a (known) change in ownership of the site during the compliance period? Yes No Unk
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 during the portion of the five-year compliance history the site was owned by the person who is the subject of this compliance history:

- A. Final enforcement orders, court judgments, and consent decrees of the state of Texas and the federal government
1. Effective Date: N/A Type of Action: N/A
Violation Citation 1: N/A Classification: N/A
Violation Description: N/A
- B. Any criminal convictions of the state of Texas and the federal government.
- Conviction Date: N/A
Count 1: N/A
- C. Chronic excessive emissions events: N/A

D. The dates of investigations.

1. 04/27/2004

E. Written notices of violation (NOV)

| | | | | | | |
|----|------------------------|--|-----------------|------------------------------|--|----------|
| 1. | Date: | 05/07/2004 | Self-reported? | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No | |
| | Violation Citation 1: | 30 TEX. ADMIN. CODE § 285.32(a)(3) | Classification: | | | MODERATE |
| | Violation Description: | Failure to install a system with the required amount of slope. | | | | |
| | Violation Citation 2: | 30 TEX. ADMIN. CODE § 285.33(d)(2)(E) | Classification: | | | MODERATE |
| | Violation Description: | Failure to meet the minimum required surface application area. | | | | |

F. Environmental audits.

| | | | | | | |
|----|------------------------|-----|-----------------|-----|--|--|
| 1. | Notice of Intent Date: | N/A | | | | |
| | Disclosure Date: | N/A | | | | |
| | Violation Citation 1: | N/A | Classification: | N/A | | |
| | Violation Description: | 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

State: N/A

Site Name: N/A

Location: N/A

Type of Action: N/A

Effective Date: N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
TIMOTHY ALLEN TOWNLEY
RN103423273

§
§
§
§
§

BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

DEFAULT ORDER
DOCKET NO. 2004-1738-OSS-E

At its _____ agenda, the Texas Commission on Environmental Quality, ("Commission" or "TCEQ") considered the Executive Director's Preliminary Report and Petition filed pursuant to TEX. WATER CODE ch. 7 and TEX. HEALTH & SAFETY CODE ch. 366 and TEX. ADMIN. CODE chs. 70 and 285, and the rules of the TCEQ, which requests appropriate relief, including the imposition of an administrative penalty and corrective action of the respondent. The respondent made the subject of this Order is Timothy Allen Townley ("Townley").

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

FINDINGS OF FACT

1. Townley owned and operated an on-site sewage facility ("OSSF") installation business with its principle office located at 1240 Honeybee Street in Vidor, Orange County, Texas. Townley installed an OSSF on the property located at 987 County Road 810, Buna, Jasper County, Texas (the "Facility"). Townley held and maintained OSSF Installer License Certificate No. OS0015434 issued by the TCEQ which authorized OSSF installers to construct, install, alter, and /or repair OSSF's as defined in TEX. HEALTH & SAFETY CODE § 366.002.
2. During inspections on April 27, 2004 and September 22, 2004, a TCEQ Beaumont Regional Office investigator documented that Townley:
 - a. failed to install a system with the required slope of one-eighth ("1/8") inch per foot on the sewer pipe from the house stub to the first tank at the Facility; and
 - b. failed to submit a reinspection fee prior to the reinspection of the system at the Facility.

3. Townley received notices of the violations on or about May 12, 2004 and October 10, 2004.
4. The Executive Director filed the "Executive Director's Preliminary Report and Petition Recommending that the Texas Commission on Environmental Quality Enter an Enforcement Order Assessing an Administrative Penalty Against and Requiring Certain Actions of Timothy Allen Townley" (the "EDPRP") in the TCEQ Chief Clerk's office on March 30, 2005.
5. By letter dated March 30, 2005, sent via certified mail, return receipt requested, and via first class mail, postage prepaid, the Executive Director served Townley with notice of the EDPRP. The United States Postal Service returned the wrapper sent by certified mail as "unclaimed". The first class mail has not been returned, indicating that Townley received notice of the EDPRP.
6. More than 20 days have elapsed since Townley received notice of the EDPRP, provided by the Executive Director. Townley failed to file an answer to the EDPRP, failed to request a hearing, and failed to schedule a settlement conference.
7. The Executive Director filed the "Executive Director's First Amended Report and Petition Recommending that the Texas Commission on Environmental Quality Enter an Enforcement Order Assessing an Administrative Penalty Against and Requiring Certain Actions of Timothy Allen Townley" (the "EDFARP") in the TCEQ Chief Clerk's office on May 4, 2005.
8. By letter dated May 4, 2005, sent via certified mail, return receipt requested, and via first class mail, postage prepaid, the Executive Director served Townley with notice of the EDFARP. According to the return receipt "green card", Townley received notice of the EDFARP on May 19, 2005, as evidenced by the signature on the card.
9. More than 20 days have elapsed since Townley received notice of the EDFARP, provided by the Executive Director. Townley failed to file an answer to the EDFARP, failed to request a hearing, and failed to schedule a settlement conference.

CONCLUSIONS OF LAW

1. As evidenced by Finding of Fact Nos. 1, Townley is subject to the jurisdiction of the TCEQ pursuant to TEX. HEALTH & SAFETY CODE § 366.002 and the rules of the Commission.
2. As evidenced by Finding of Fact No. 2.a., Townley failed to install a system with the required slope of one-eighth ("1/8") inch per foot on the sewer pipe from the house stub to the first

tank at the Facility, in violation of 30 TEX. ADMIN. CODE § 285.32(a)(3) and Tex. Health & Safety Code § 366.004.

3. As evidenced by Finding of Fact No. 2.b., Townley failed to submit a reinspection fee prior to the reinspection of the system at the Facility, in violation of 30 TEX. ADMIN. CODE § 285.3(d).
4. As evidenced by Finding of Fact Nos. 4 and 5, the Executive Director has timely served Townley with proper notice of the EDPRP, as required by TEX. WATER CODE § 7.055 and 30 TEX. ADMIN. CODE § 70.104(c).
5. As evidenced by Finding of Fact No. 6, Townley has failed to file a timely answer to the EDPRP, as required by TEX. WATER CODE § 7.056 and 30 TEX. ADMIN. CODE § 70.105. Pursuant to TEX. WATER CODE § 7.057 and 30 TEX. ADMIN. CODE § 70.106, the Commission may enter a Default Order against Townley and assess the penalty recommended by the Executive Director.
6. As evidenced by Finding of Fact Nos. 7 and 8, the Executive Director has timely served Townley with proper notice of the EDFARP, as required by TEX. WATER CODE § 7.055 and 30 TEX. ADMIN. CODE § 70.104(a).
7. As evidenced by Finding of Fact No. 9, Townley has failed to file a timely answer to the EDFARP, as required by TEX. WATER CODE § 7.056 and 30 TEX. ADMIN. CODE § 70.105. Pursuant to TEX. WATER CODE § 7.057 and 30 TEX. ADMIN. CODE § 70.106, the Commission may enter a Default Order against Townley and assess the penalty recommended by the Executive Director.
8. Pursuant to TEX. WATER CODE § 7.051, the Commission has the authority to assess an administrative penalty against Townley 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.
9. An administrative penalty in the amount of five hundred twenty-five dollars (\$525.00) is justified by the facts recited in this Order, and considered in light of the factors set forth in TEX. WATER CODE § 7.053.
10. TEX. WATER CODE §§ 5.102 and 7.002 authorize the Commission to issue orders and make determinations necessary to effectuate the purposes of the statutes within its jurisdiction.

ORDERING PROVISIONS

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

1. Townley is assessed an administrative penalty in the amount of five hundred twenty-five dollars (\$525.00) for violations of TEX. WATER CODE ch. 7, TEX. HEALTH & SAFETY CODE ch. 366, Tex. Admin. Code chs. 70 and 285 and rules of the TCEQ. The payment of this administrative penalty and Townley's compliance with all the terms and conditions set forth in this Order completely resolve the matters set forth by this Order in this action. The Commission shall not be constrained in any manner from requiring corrective actions or penalties for other violations which are not raised here. All checks submitted to pay the penalty imposed by this Order shall be made out to the "Texas Commission on Environmental Quality". The administrative penalty assessed by this Order shall be paid within 30 days after the effective date of this Order and shall be sent with the notation "Re: Timothy Allen Townley; Docket No. 2004-1738-OSS-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. Townley shall undertake the following technical requirements:
 - a. Immediately upon the effective date of this Order, Townley shall re-schedule with TCEQ's Beaumont office, a re-inspection to determine if the facility has come into compliance. Townley shall pay the re-inspection fee prior to this re-inspection.
 - b. Within 30 days after the effective date of this Order, if necessary, Townley shall bring the Facility into compliance.
 - c. Townley shall submit all correspondence, reports, and documentation required by these Ordering Provisions to:

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

and

Ronald Hebert, Manager
Texas Commission on Environmental Quality
Beaumont Regional Office
3870 Eastex Fwy.
Beaumont, Texas 77703-1830

The documents that demonstrate compliance with Ordering Provision 2. 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.”

3. All relief not expressly granted in this Order is denied.
4. The provisions of this Order shall apply to and be binding upon Townley. Townley is ordered to give notice of this Order to personnel who maintain day-to-day control over the Facility operations referenced in this Order.
5. The Executive Director may grant an extension of any deadline in this Order or in any plan, report, or other document submitted pursuant to this Order, upon a written and substantiated showing of good cause. All requests for extensions by Townley shall be made in writing to the Executive Director. Extensions are not effective until Townley 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 Townley if the Executive Director determines that Townley has not complied with one or more of the terms or conditions in this Order.
7. This Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Order, whichever is later.

8. The Chief Clerk shall provide a copy of this Order to each of the parties. By law, the effective date of this Order shall be the date the Order is final, as provided by 30 TEX. ADMIN. CODE § 70.106(d) and TEX. GOV'T CODE § 2001.144.

TIMOTHY ALLEN TOWNLEY
DOCKET NO. 2004-1738-OSS-E
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SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

AFFIDAVIT OF REBECCA M. COMBS

STATE OF TEXAS §
 §
COUNTY OF TRAVIS §

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

On behalf of the Executive Director of the Texas Commission on Environmental Quality, the ‘Executive Director’s Preliminary Report and Petition Recommending that the Texas Commission on Environmental Quality Enter an Enforcement Order Assessing an Administrative Penalty Against and Requiring Certain Actions of Timothy Allen Townley’ (the “EDPRP”) was filed with the Office of the Chief Clerk on March 30, 2005.

The EDPRP was sent to Townley at his last known address on March 30, 2005 via certified mail, return receipt requested, and via first class mail, postage prepaid. The United States Postal Service returned the wrapper sent by certified mail as ‘unclaimed’. The first class mail has not been returned, indicating that Townley received notice of the EDPRP.

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

On behalf of the Executive Director of the Texas Commission on Environmental Quality, the ‘Executive Director’s First Amended Report and Petition Recommending that the Texas Commission on Environmental Quality Enter an Enforcement Order Assessing an Administrative Penalty Against and Requiring Certain Actions of Timothy Allen Townley’ (the “EDFARP”) was filed with the Office of the Chief Clerk on May 4, 2005.

The EDFARP was sent to Townley at his last known address on May 4, 2005 via certified mail, return receipt requested, and via first class mail, postage prepaid. According to the return receipt ‘green card’, Townley received notice of the EDFARP on May 19, 2005, as evidenced by the signature on the card.

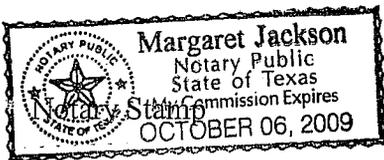
More than 20 days have elapsed since Townley received notice of the EDPRP. Townley failed to file an answer to the EDPRP, failed to request a hearing, and failed to schedule a settlement conference.”

Rebecca M. Combs

Rebecca M. Combs
Attorney
Texas Commission on Environmental Quality

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

Given under my hand and seal of office this 1 day of August 2007.



Margaret Jackson
Notary Signature