

EXECUTIVE SUMMARY - ENFORCEMENT MATTER

DOCKET NO.: 2007-1418-PWS-E **TCEQ ID:** RN102319415 **CASE NO.:** 34547

RESPONDENT NAME: Thurman Black dba Slo Pitch City

ORDER TYPE:		
<input type="checkbox"/> 1660 AGREED ORDER	<input checked="" type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING
<input 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 checked="" type="checkbox"/> PUBLIC WATER SUPPLY	<input type="checkbox"/> PETROLEUM STORAGE TANKS	<input 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: Slo Pitch City, 1826 Gault Road, Houston, Harris County</p> <p>TYPE OF OPERATION: Public drinking water system</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 January 28, 2008. No comments were received.</p> <p>CONTACTS AND MAILING LIST: TCEQ Attorney/SEP Coordinator: None TCEQ Enforcement Coordinator: Mr. Christopher Keffer, Enforcement Division, Enforcement Team 2, MC 169, (512) 239-5610; Mr. Bryan Sinclair, Enforcement Division, MC 219, (512) 239-2171 Respondent: Mr. Thurman Black, Owner, Slo Pitch City, 1826 Gault Road, Houston, Texas 77039 Ms. Debra D'Avion, Administrator, Slo Pitch City, 1826 Gault Road, Houston, Texas 77039 Respondent's Attorney: Not represented by counsel on this enforcement matter</p>		

VIOLATION SUMMARY CHART:

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p>Type of Investigation: <input type="checkbox"/> Complaint <input type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input checked="" type="checkbox"/> Records Review</p> <p>Date(s) of Complaints Relating to this Case: None</p> <p>Date of Investigation Relating to this Case: February 1, 2007</p> <p>Date of NOV/NOE Relating to this Case: July 10, 2007 (NOE)</p> <p>Background Facts: This was a routine record review. One violation was documented.</p> <p>WATER</p> <p>Failure to collect routine water samples for bacteriological analysis [30 TEX. ADMIN. CODE § 290.109(c)(A)(2)(i) and TEX. HEALTH & SAFETY CODE § 341.033(d)].</p>	<p>Total Assessed: \$1,370</p> <p>Total Deferred: \$0 <input checked="" type="checkbox"/> Expedited Settlement <input type="checkbox"/> Financial Inability to Pay</p> <p>SEP Conditional Offset: \$0</p> <p>Total Paid (Due) to General Revenue: \$116 (remaining \$1,254 due in 11 monthly payments of \$114 each)</p> <p>Site Compliance History Classification <input type="checkbox"/> High <input type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Person Compliance History Classification <input type="checkbox"/> High <input type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Major Source: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>Applicable Penalty Policy: September 2002</p> <p>Findings Orders Justification:</p> <p>Three repeated enforcement actions over the prior five year period for the same violations.</p>	<p>Ordering Provisions:</p> <p>The Order will require the Respondent to:</p> <p>a. Within 15 days after the effective date of this Agreed Order, the Respondent shall begin collecting water samples for bacteriological analysis; and</p> <p>b. Within 30 days after the effective date of this Agreed Order, submit written certification to demonstrate compliance with Ordering Provision a.</p>

Additional ID(s): PWS 1012647



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision June 26, 2007

DATES	Assigned	6-Aug-2007	Screening	28-Aug-2007	EPA Due	7-Nov-2007
	PCW	28-Aug-2007				

RESPONDENT/FACILITY INFORMATION			
Respondent	Thurman Black dba Slo Pitch City		
Reg. Ent. Ref. No.	RN102319415		
Facility/Site Region	12-Houston	Major/Minor Source	Minor

CASE INFORMATION			
Enf./Case ID No.	34547	No. of Violations	1
Docket No.	2007-1418-PWS-E	Order Type	Findings
Media Program(s)	Public Water Supply	Enf. Coordinator	Christopher Keffer
Multi-Media		EC's Team	EnforcementTeam 2
Admin. Penalty \$ Limit Minimum	\$50	Maximum	\$1,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties) **Subtotal 1**

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History 25% Enhancement **Subtotals 2, 3, & 7**

Notes

Culpability No **Subtotal 4**

Notes

Good Faith Effort to Comply 0% Reduction **Subtotal 5**

	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary	<input type="text"/>	<input type="text"/>
Ordinary	<input type="text"/>	<input type="text"/>
N/A	X	(mark with x)

Notes

Total EB Amounts 0% Enhancement* **Subtotal 6**
 Approx. Cost of Compliance *Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7 **Final Subtotal**

OTHER FACTORS AS JUSTICE MAY REQUIRE **Adjustment**

Reduces or enhances the Final Subtotal by the indicated percentage. (Enter number only; e.g. -30 for -30%.)

Notes

Final Penalty Amount

STATUTORY LIMIT ADJUSTMENT **Final Assessed Penalty**

DEFERRAL Reduction **Adjustment**

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

Notes

PAYABLE PENALTY

Screening Date 28-Aug-2007

Docket No. 2007-1418-PWS-E

PCW

Respondent Thurman Black dba Slo Pitch City

Policy Revision 2 (September 2002)

Case ID No. 34547

PCW Revision June 26, 2007

Reg. Ent. Reference No. RN102319415

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)	5	25%
	Other written NOVs	0	0%
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%
<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) 25%

>> **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 penalty is enhanced due to five same or similar NOVs.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 25%

Screening Date 28-Aug-2007	Docket No. 2007-1418-PWS-E	PCW			
Respondent Thurman Black dba Slo Pitch City		<i>Policy Revision 2 (September 2002)</i>			
Case ID No. 34547		<i>PCW Revision June 26, 2007</i>			
Reg. Ent. Reference No. RN102319415					
Media [Statute] Public Water Supply					
Enf. Coordinator Christopher Keffer					
Violation Number <input type="text" value="1"/>					
Rule Cite(s)	<input type="text" value="30 Tex. Admin. Code § 290.109(c)(A)(2)(i) and Tex. Health & Safety Code § 341.033(d)"/>				
Violation Description	<input type="text" value="Failed to collect water samples for bacteriological analysis of the public drinking water supply for the months of May 2006, July 2006, September 2006, and January 2007."/>				
	Base Penalty	<input type="text" value="\$1,000"/>			
>> Environmental, Property and Human Health Matrix					
OR	Release	Harm			
		Major Moderate Minor			
	Actual	<input type="text"/>	<input type="text"/>		
	Potential	<input type="text" value="x"/>	<input type="text"/>	Percent <input type="text" value="25%"/>	
>> Programmatic Matrix					
	Falsification	Major	Moderate	Minor	
	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	Percent <input type="text" value="0%"/>
Matrix Notes	<input type="text" value="Failure to perform routine bacteriological sampling of the public water supply could result in the public being exposed to significant amounts of bacteriological contamination in the drinking water which could exceed levels that are protective of human health."/>				
	Adjustment	<input type="text" value="\$750"/>			
				<input type="text" value="\$250"/>	
Violation Events					
	Number of Violation Events	<input type="text" value="4"/>	Number of violation days	<input type="text" value="123"/>	
<i>mark only one with an x</i>	daily	<input type="text"/>			
	monthly	<input type="text" value="x"/>			
	quarterly	<input type="text"/>			
	semiannual	<input type="text"/>			
	annual	<input type="text"/>			
	single event	<input type="text"/>			
	Violation Base Penalty	<input type="text" value="\$1,000"/>			
<input type="text" value="Four monthly events are recommended."/>					
Economic Benefit (EB) for this violation			Statutory Limit Test		
Estimated EB Amount	<input type="text" value="\$85"/>		Violation Final Penalty Total	<input type="text" value="\$1,370"/>	
	This violation Final Assessed Penalty (adjusted for limits)			<input type="text" value="\$1,370"/>	

Economic Benefit Worksheet

Respondent Thurman Black dba Slo Pitch City

Case ID No. 34547

Reg. Ent. Reference No. RN102319415

Media Public Water Supply

Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

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

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs

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	\$120	1-May-2006	1-Jan-2007	0.7	\$4	\$81	\$85
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Estimated avoided cost to conduct bacteriological sampling for the noncompliant months of May 2006, July 2006, September 2006, and January 2007.

Approx. Cost of Compliance \$120

TOTAL \$85

Compliance History

Customer/Respondent/Owner-Operator:	CN601225477 BLACK, THURMAN	Classification:	Rating:
Regulated Entity:	RN102319415 SLO PITCH CITY	Classification:	Site Rating:
ID Number(s):	PUBLIC WATER SYSTEM/SUPPLY	REGISTRATION	1012647
Location:	1826 GAULT RD, HOUSTON, TX, 77039		
TCEQ Region:	REGION 12 - HOUSTON		
Date Compliance History Prepared:	August 22, 2007		
Agency Decision Requiring Compliance History:	Enforcement		
Compliance Period:	August 22, 2002 to August 22, 2007		
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? | <u>N/A</u> |
| 4. If Yes, who was/were the prior owner(s)? | <u>N/A</u> |
| 5. When did the change(s) in ownership occur? | <u>N/A</u> |

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	04/30/2003	(34006)
2	06/27/2006	(567844)
3	08/25/2006	(569799)
4	10/25/2006	(569813)
5	01/11/2007	(535829)
6	02/21/2007	(569816)
7	07/31/2007	(570581)

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

Date:	04/28/2003 (34006)		
Self Report?	NO	Classification:	Moderate
Citation:	30 TAC Chapter 290, SubChapter F 290.110(d)(3)(C)(ii)		
Description:	Failure to possess a chlorine test kit which uses the DPD method to determine the free chlorine residual.		
Self Report?	NO	Classification:	Moderate
Citation:	30 TAC Chapter 290, SubChapter F 290.110(c)(5)(A)		
Description:	Failure to perform at least once every seven days, free chlorine residual tests.		
Self Report?	NO	Classification:	Minor
Citation:	30 TAC Chapter 290, SubChapter D 290.46(v)		
Description:	Failure to install all water system electrical wiring in a securely mounted conduit as per agency regulations.		
Self Report?	NO	Classification:	Minor
Citation:	30 TAC Chapter 290, SubChapter D 290.46(m)		
Description:	Failure to maintain the regulated entities by not replacing the cover to the electrical box located at the well.		
Date:	06/27/2006 (567844)		
Self Report?	NO	Classification:	Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(i)
Description: 05/2006-Failure to collect any routine monitoring sample(s) for 05/2006.
Date: 08/25/2006 (569799)
Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(i)
Description: 07/2006 - Failure to collect any routine monitoring sample(s) for 07/2006.
Date: 10/25/2006 (569813)
Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(i)
Description: 09/2006 - Failure to collect any routine monitoring sample(s) for 09/2006.
Date: 02/21/2007 (569816)
Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(i)
Description: 01/2007 - Failure to collect any routine monitoring sample(s) for 01/2007.

F. Environmental audits.

N/A

G. Type of environmental management systems (EMSs).

N/A

H. Voluntary on-site compliance assessment dates.

N/A

I. Participation in a voluntary pollution reduction program.

N/A

J. Early compliance.

N/A

Sites Outside of Texas

N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
THURMAN BLACK DBA
SLO PITCH CITY
RN102319415

§ BEFORE THE
§ TEXAS COMMISSION ON
§ ENVIRONMENTAL QUALITY

AGREED ORDER
DOCKET NO. 2007-1418-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 Thurman Black dba Slo Pitch City (“Mr. Black”) under the authority of TEX. HEALTH & SAFETY CODE ch. 341. The Executive Director of the TCEQ, through the Enforcement Division, and Mr. Black presented this agreement to the Commission.

Mr. Black understands he 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, Mr. Black 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 Mr. Black.

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

I. FINDINGS OF FACT

1. Mr. Black owns and operates a public drinking water system at 1826 Gault Road in Houston, Harris County, Texas (the "Facility") that has approximately three service connections and serves at least 25 people per day for at least 60 days per year.
2. During a record review on February 1, 2007, TCEQ staff documented that Mr. Black did not collect water samples for bacteriological analysis for the months of May 2006, July 2006, September 2006, and January 2007.
3. Mr. Black received notice of the violations on July 15, 2007.

II. CONCLUSIONS OF LAW

1. Mr. Black 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, Mr. Black failed to collect routine water samples for bacteriological analysis, in violation of 30 TEX. ADMIN. CODE § 290.109(c)(A)(2)(i) and TEX. HEALTH & SAFETY CODE § 341.033(d).
3. Pursuant to TEX. HEALTH & SAFETY CODE § 341.049, the Commission has the authority to assess an administrative penalty against Mr. Black for violations of the Texas Water Code and the Texas Health & 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 One Thousand Three Hundred Seventy Dollars (\$1,370) 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). Mr. Black has paid One Hundred Sixteen Dollars (\$116) of the administrative penalty. The remaining amount of One Thousand Two Hundred Fifty-Four Dollars (\$1,254) of the administrative penalty shall be payable in 11 monthly payments of One Hundred Fourteen Dollars (\$114) each. The next monthly payment shall be paid within 30 days after the effective date of this Agreed Order. The subsequent payments shall each be paid not later than 30 days following the due date of the previous payment until paid in full. If Mr. Black fails to timely and satisfactorily comply with the payment requirements of this Agreed Order, the Executive Director may, at the Executive Director's option, accelerate the maturity of the remaining installments, in which event the unpaid balance shall become immediately due and payable without demand or notice. In addition, the failure of Mr. Black to meet the payment schedule of this Agreed Order constitutes the failure by Mr. Black to timely and satisfactorily comply with all the terms of this Agreed Order.

III. ORDERING PROVISIONS

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

1. Mr. Black is assessed an administrative penalty in the amount of One Thousand Three Hundred Seventy Dollars (\$1,370) as set forth in Section II, Paragraph 4 above, for violations of TCEQ rules and state statutes. The payment of this administrative penalty and Mr. Black'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: Thurman Black dba Slo Pitch City, Docket No. 2007-1418-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. Mr. Black shall undertake the following technical requirements:
 - a. Within 15 days after the effective date of this Agreed Order, Mr. Black shall begin collecting water samples for bacteriological analysis, in accordance with 30 TEX. ADMIN CODE § 290.109; and
 - b. Within 30 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:

DBP Compliance Coordinator
Water Supply Division/ PDWS, MC 155
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

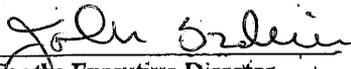
3. The provisions of this Agreed Order shall apply to and be binding upon Mr. Black. Mr. Black is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
4. The Executive Director may grant an extension of any 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 Mr. Black shall be made in writing to the Executive Director. Extensions are not effective until Mr. Black 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 Mr. Black if the Executive Director determines that Mr. Black 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 Mr. Black in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
8. This agreement may be executed in multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreement may be transmitted by facsimile transmission to the other parties, which shall constitute an original signature for all purposes.
9. 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.

Thurman Black dba Slo Pitch City
DOCKET NO. 2007-1418-PWS-E
Page 5.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission


For the Executive Director

11/21/2008
Date

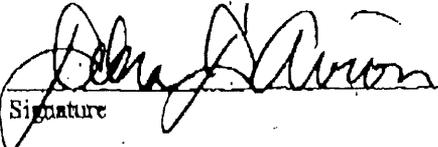
I, the undersigned, have read and understand the attached Agreed Order in the matter of Thurman Black dba Slo Pitch City. I am authorized to agree to the attached Agreed Order on behalf of Thurman Black dba Slo Pitch City, and do agree to the specified terms and conditions. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I understand that by entering into this Agreed Order, Thurman Black dba Slo Pitch City 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.


Signature

11/29/07
Date

Debra D'Avion
Name (Printed or typed)
Authorized Representative of
Thurman Black dba Slo Pitch City

Administrator
Title

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

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Ninth section of very faint text, continuing the document's content.

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