

EXECUTIVE SUMMARY - ENFORCEMENT MATTER
DOCKET NO.: 2008-1740-PWS-E **TCEQ ID:** RN101239580 **CASE NO.:** 36761
RESPONDENT NAME: City of Thornton

ORDER TYPE:		
<input checked="" type="checkbox"/> 1660 AGREED ORDER	<input 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: City of Thornton Water System, 250 East 11th Street, Thornton, Limestone County</p> <p>TYPE OF OPERATION: Public water supply</p> <p>SMALL BUSINESS: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>OTHER SIGNIFICANT MATTERS: There are no complaints. There are no 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 April 13, 2009. No comments were received.</p> <p>CONTACTS AND MAILING LIST: TCEQ Attorney/SEP Coordinator: None TCEQ Enforcement Coordinator: Ms. Andrea Linson-Mgbeoduru, Enforcement Division, Enforcement Team 2, MC 169, (512) 239-1482; Ms. Cari-Michel La Caille, Enforcement Division, MC 219, (512) 239-1387 Respondent: The Honorable James W. Jackson, Jr., Mayor, City of Thornton, P.O. Box 396, Thornton, Texas 76687 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: October 6, 2008</p> <p>Date of NOV/NOE Relating to this Case: October 15, 2008 (NOE)</p> <p>Background Facts: This was a record review.</p> <p>WATER</p> <p>Failure to operate the water system under the direct supervision of a water works operator who holds a Class "C" or higher license [30 TEX. ADMIN. CODE § 290.46(e)(4)(B) and TEX. HEALTH & SAFETY CODE § 341.033(a)].</p>	<p>Total Assessed: \$282</p> <p>Total Deferred: \$56 <input checked="" type="checkbox"/> Expedited Settlement <input type="checkbox"/> Financial Inability to Pay</p> <p>SEP Conditional Offset: \$0</p> <p>Total Paid to General Revenue: \$226</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 checked="" 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>Ordering Provisions:</p> <p>The Order will require the Respondent to:</p> <p>a. Within 30 days after the effective date of this Agreed Order, begin operating the Facility under the direct supervision of a Class "C" or higher certified water works operator; and</p> <p>b. Within 45 days after the effective date of this Agreed Order, submit written certification and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision a.</p>

Additional ID No(s): PWS ID No. 1470005



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

DATES	Assigned	20-Oct-2008	Screening	29-Oct-2008	EPA Due	
	PCW	29-Oct-2008				

RESPONDENT/FACILITY INFORMATION	
Respondent	City of Thornton
Reg. Ent. Ref. No.	RN101239580
Facility/Site Region	9-Waco
Major/Minor Source	Minor

CASE INFORMATION			
Enf./Case ID No.	36761	No. of Violations	1
Docket No.	2008-1740-PWS-E	Order Type	1660
Media Program(s)	Public Water Supply	Government/Non-Profit	Yes
Multi-Media		Enf. Coordinator	Andrea Linson-Mgbeodur
		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	\$250
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ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History	13.0% Enhancement	Subtotals 2, 3, & 7	\$32
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Notes Enhancement due to one prior Notice of Violation ("NOV") with same or similar violations as those in the current enforcement action, and four dissimilar NOV's.

Culpability	No	0.0% Enhancement	Subtotal 4	\$0
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Notes The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply Total Adjustments	Subtotal 5	\$0
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Economic Benefit	0.0% Enhancement*	Subtotal 6	\$0
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Total EB Amounts \$6,343
 Approx. Cost of Compliance \$20,800
 *Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7	Final Subtotal	\$282
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OTHER FACTORS AS JUSTICE MAY REQUIRE	0.0%	Adjustment	\$0
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes

Final Penalty Amount	\$282
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$282
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DEFERRAL	20.0% Reduction	Adjustment	-\$56
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Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes

Deferral offered for expedited settlement.

PAYABLE PENALTY	\$226
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Screening Date 29-Oct-2008	Docket No. 2008-1740-PWS-E	PCW
Respondent City of Thornton	<i>Policy Revision 2 (September 2002)</i>	
Case ID No. 36761	<i>PCW Revision October 30, 2008</i>	
Reg. Ent. Reference No. RN101239580		
Media [Statute] Public Water Supply		
Enf. Coordinator Andrea Linson-Mgbeoduru		

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	4	8%
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 <i>(number of events)</i>	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 <i>(number of audits for which notices were submitted)</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%

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) 13%

>> **Repeat Violator (Subtotal 3)**

N/A

Adjustment Percentage (Subtotal 3) 0%

>> **Compliance History Person Classification (Subtotal 7)**

N/A

Adjustment Percentage (Subtotal 7) 0%

>> **Compliance History Summary**

Compliance History Notes

Enhancement due to one prior Notice of Violation ("NOV") with same or similar violations as those in the current enforcement action, and four dissimilar NOV's.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 13%

Screening Date 29-Oct-2008 **Docket No.** 2008-1740-PWS-E **PCW**
Respondent City of Thornton *Policy Revision 2 (September 2002)*
Case ID No. 36761 *PCW Revision October 30, 2008*
Reg. Ent. Reference No. RN101239580
Media [Statute] Public Water Supply
Enf. Coordinator Andrea Linson-Mgbeoduru

Violation Number
Rule Cite(s)
Violation Description
Base Penalty

>> Environmental, Property and Human Health Matrix

Release	Harm			Percent
	Major	Moderate	Minor	
Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text" value="25%"/>
Potential	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text" value="0%"/>

Matrix Notes
Adjustment

Violation Events

Number of Violation Events **Number of violation days**
mark only one with an x

daily	<input type="text"/>
weekly	<input type="text"/>
monthly	<input checked="" type="checkbox"/>
quarterly	<input type="text"/>
semiannual	<input type="text"/>
annual	<input type="text"/>
single event	<input type="text"/>

Violation Base Penalty

Good Faith Efforts to Comply **\$0**

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

Notes
Violation Subtotal

Economic Benefit (EB) for this violation **Statutory Limit Test**
Violation Final Penalty Total
This violation Final Assessed Penalty (adjusted for limits)

Economic Benefit Worksheet

Respondent City of Thornton
Case ID No. 36761
Reg. Ent. Reference No. RN101239580
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
<small>No commas or \$</small>							

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel	\$20,800	15-Jul-2008	29-Oct-2008	0.29	*\$302	\$6,041	\$6,343
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]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

The avoided cost includes the salary (estimated at \$10/hr) the Respondent would have to pay a Class C water works operator. The date required is the investigation date originally documenting the violation. The final date is the screening date.

Approx. Cost of Compliance

\$20,800

TOTAL

\$6,343

Compliance History Report

Customer/Respondent/Owner-Operator:	CN600677306 City of Thornton	Classification: AVERAGE	Rating: 1.95
Regulated Entity:	RN101239580 CITY OF THORNTON WATER SYSTEM	Classification:	Site Rating:
ID Number(s):	PUBLIC WATER SYSTEM/SUPPLY WATER LICENSING	REGISTRATION LICENSE	1470005 1470005
Location:	250 EAST 11 TH STREET, THORNTON, LIMESTONE COUNTY, TX		
TCEQ Region:	REGION 09 - WACO		
Date Compliance History Prepared:	October 20, 2008		
Agency Decision Requiring Compliance History:	Enforcement		
Compliance Period:	October 20, 2003 to October 20, 2008		

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

Name: Andrea Linson-Mgbeoduru Phone: 512-239-1482

Site Compliance History Components

- | | |
|--|-----|
| 1. Has the site been in existence and/or operation for the full five year compliance period? | Yes |
| 2. Has there been a (known) change in ownership of the site during the compliance period? | No |
| 3. If Yes, who is the current owner? | N/A |
| 4. If Yes, who was/were the prior owner(s)? | N/A |
| 5. When did the change(s) in ownership occur? | N/A |

Components (Multimedia) for the Site :

A. Final Enforcement Orders, court judgements, and consent decrees of the state of Texas and the federal government.

N/A

B. Any criminal convictions of the state of Texas and the federal government.

N/A

C. Chronic excessive emissions events.

N/A

D. The approval dates of investigations. (CCEDS Inv. Track. No.)

- | | | |
|----|------------|----------|
| 1 | 11/04/2004 | (339011) |
| 2 | 02/22/2006 | (393196) |
| 3 | 01/25/2008 | (609629) |
| 4 | 04/03/2008 | (641221) |
| 5 | 06/04/2008 | (681969) |
| 6 | 07/22/2008 | (686340) |
| 7 | 07/23/2008 | (684231) |
| 8 | 08/11/2008 | (689204) |
| 9 | 09/18/2008 | (701852) |
| 10 | 10/15/2008 | (704544) |

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

Date: 09/21/2004 (283042)

Self Report? NO Classification: Minor

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

Description: Failure to provide water system records that needed to be reviewed at the time of the investigation.

Self Report? NO Classification: Minor

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

Description: Failure to provide an up-to-date distribution map.

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.

Self Report? NO Classification: Minor
 Citation: 30 TAC Chapter 290, SubChapter D 290.41(c)(3)(L)
 Description: Failure to properly install the well blow-off line.

Self Report? NO Classification: Minor
 Citation: 30 TAC Chapter 290, SubChapter D 290.41(c)(3)(B)
 Description: Failure to provide a well casing eighteen inches above the ground surface.

Self Report? NO Classification: Minor
 Citation: 30 TAC Chapter 290, SubChapter D 290.41(c)(3)(J)
 Description: Failure to provide a concrete sealing block that extends at least 3 feet from the exterior well casing in all directions.

Self Report? NO Classification: Minor
 Citation: 30 TAC Chapter 290, SubChapter D 290.46(m)
 Description: Failure to initiate a maintenance program to ensure the reliability and general appearance of all regulated facilities and reduce costly repairs due to a lack of proper maintenance.

Self Report? NO Classification: Minor
 Citation: 30 TAC Chapter 290, SubChapter D 290.41(c)(3)(O)
 Description: Failure to provide an intruder-resistant fence in order to protect the well.

Self Report? NO Classification: Minor
 Citation: 30 TAC Chapter 290, SubChapter D 290.41(c)(3)(K)
 Description: Failure to properly screen the well casing vent.

Self Report? NO Classification: Minor
 Citation: 30 TAC Chapter 290, SubChapter D 290.43(c)(3)
 Description: Failure to provide an overflow pipe flap valve assembly on the elevated storage tank with a good mechanical seal when closed.

Self Report? NO Classification: Minor
 Citation: 30 TAC Chapter 290, SubChapter D 290.46(t)
 Description: Failure to post an emergency sign at the water plant.

Self Report? NO Classification: Minor
 Citation: 30 TAC Chapter 290, SubChapter D 290.43(c)(2)
 Description: Failure to keep the storage tank roof hatch locked.

Self Report? NO Classification: Minor
 Citation: 30 TAC Chapter 290, SubChapter D 290.43(c)(1)
 Description: Failure to screen the roof vent on the ground storage tank.

Self Report? NO Classification: Minor
 Citation: 30 TAC Chapter 290, SubChapter F 290.118(a)
 Description: Failure to meet the secondary constituent level for manganese.
 Date: 11/05/2004 (339011)

Self Report? NO Classification: Minor
 Citation: 30 TAC Chapter 290, SubChapter D 290.46(f)(2)
 Description: Failure to provide water system records that needed to be reviewed at the time of the investigation.

Self Report? NO Classification: Minor
 Citation: 30 TAC Chapter 290, SubChapter D 290.46(n)(2)
 Description: Failure to provide an up-to-date distribution map.

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.

Self Report? NO Classification: Minor
 Citation: 30 TAC Chapter 290, SubChapter D 290.41(c)(3)(L)
 Description: Failure to properly install the well blow-off line.

Self Report? NO Classification: Minor
 Citation: 30 TAC Chapter 290, SubChapter D 290.41(c)(3)(B)
 Description: Failure to provide a well casing eighteen inches above the ground surface.

Self Report? NO Classification: Minor
 Citation: 30 TAC Chapter 290, SubChapter D 290.41(c)(3)(J)
 Description: Failure to provide a concrete sealing block that extends at least 3 feet from the exterior well casing in all directions.

Self Report? NO Classification: Minor
 Citation: 30 TAC Chapter 290, SubChapter D 290.46(m)
 Description: Failure to initiate a maintenance program to ensure the reliability and general appearance of all regulated facilities and reduce costly repairs due to a lack of proper maintenance.

Self Report? NO Classification: Minor
 Citation: 30 TAC Chapter 290, SubChapter D 290.41(c)(3)(O)
 Description: Failure to provide an intruder-resistant fence in order to protect the well.

Self Report? NO Classification: Minor
 Citation: 30 TAC Chapter 290, SubChapter D 290.41(c)(3)(K)

Description: Failure to properly screen the well casing vent.
 Self Report? NO Classification: Minor
 Citation: 30 TAC Chapter 290, SubChapter D 290.43(c)(3)

Description: Failure to provide an overflow pipe flap valve assembly on the elevated storage tank with a good mechanical seal when closed.
 Self Report? NO Classification: Minor
 Citation: 30 TAC Chapter 290, SubChapter D 290.46(t)

Description: Failure to post an emergency sign at the water plant.
 Self Report? NO Classification: Minor
 Citation: 30 TAC Chapter 290, SubChapter D 290.43(c)(2)

Description: Failure to keep the storage tank roof hatch locked.
 Self Report? NO Classification: Minor
 Citation: 30 TAC Chapter 290, SubChapter D 290.43(c)(1)

Description: Failure to screen the roof vent on the ground storage tank.
 Self Report? NO Classification: Minor
 Citation: 30 TAC Chapter 290, SubChapter F 290.118(a)

Description: Failure to meet the secondary constituent level for manganese.
 Date: 08/15/2005 (398909)
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter F 290.118(a)

Description: Failure to meet the secondary constituent maximum contamination level for manganese and iron.
 Date: 02/08/2008 (609629)
 Self Report? NO Classification: Minor
 Citation: 30 TAC Chapter 290, SubChapter D 290.38(25)
 30 TAC Chapter 290, SubChapter D 290.43(e)

Description: Failure to provide an intruder resistant fence around the ground storage tanks.
 Self Report? NO Classification: Minor
 Citation: 30 TAC Chapter 290, SubChapter D 290.46(f)(2)

Description: Failure to provide water system records that needed to be reviewed at the time of the investigation.
 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(m)(1)

Description: Failure to conduct an annual tank inspection for the elevated storage tank.
 Self Report? NO Classification: Minor
 Citation: 30 TAC Chapter 290, SubChapter D 290.43(c)(4)

Description: Failure to provide a liquid level indicator for the below ground storage tank.
 Date: 07/24/2008 (686340)
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter D 290.46(e)(4)(B)

Description: Failure by the City to employ an adequately licensed individual to operate the city public water supply.

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
CITY OF THORNTON
RN101239580

§
§
§
§
§

BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

AGREED ORDER
DOCKET NO. 2008-1740-PWS-E

I. JURISDICTION AND STIPULATIONS

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 Thornton ("the City") under the authority of TEX. HEALTH & SAFETY CODE ch. 341. The Executive Director of the TCEQ, through the Enforcement Division, and the City appear before the Commission and together stipulate that:

1. The City owns and operates a public water supply at 250 East 11th Street in Thornton, Limestone County, Texas (the "Facility") that has approximately 301 service connections and serves at least 25 people per day for at least 60 days per year.
2. The Commission and the City agree that the Commission has jurisdiction to enter this Agreed Order, and that the City is subject to the Commission's jurisdiction.
3. The City received notice of the violations alleged in Section II ("Allegations") on or about October 20, 2008.
4. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by the City of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
5. An administrative penalty in the amount of Two Hundred Eighty-Two Dollars (\$282) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The City has paid Two Hundred Twenty-Six Dollars (\$226) of the administrative penalty and Fifty-Six Dollars (\$56) is deferred contingent upon the City's timely and satisfactory compliance with all the terms of this Agreed Order. The deferred amount will be waived upon full compliance with the terms of this Agreed Order. If the City fails to timely and satisfactorily comply with all

- requirements of this Agreed Order, the Executive Director may require the City to pay all or part of the deferred penalty.
6. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.
 7. The Executive Director of the TCEQ and the City have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
 8. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that the City has not complied with one or more of the terms or conditions in this Agreed Order.
 9. 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.
 10. 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.

II. ALLEGATIONS

As owner and operator of the Facility, the City is alleged to have failed to operate the water system under the direct supervision of a water works operator who holds a Class "C" or higher license, in violation of 30 TEX. ADMIN. CODE § 290.46(e)(4)(B) and TEX. HEALTH & SAFETY CODE § 341.033(a), as documented during a record review conducted on October 6, 2008.

III. DENIALS

The City generally denies each allegation in Section II ("Allegations").

IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that the City pay an administrative penalty as set forth in Section I, Paragraph 5 above. The payment of this administrative penalty and the City's compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective action or penalties for violations which are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: City of Thornton, Docket No. 2008-1740-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. It is further ordered that the City shall undertake the following technical requirements:
- a. Within 30 days after the effective date of this Agreed Order, begin operating the Facility under the direct supervision of a Class "C" or higher certified water works operator, as required by 30 TEX. ADMIN. CODE § 290.46.
 - b. Within 45 days after the effective date of this Agreed Order, submit written certification as described below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision No. 2.a. The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

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

The certification shall be submitted to:

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

with a copy to:

Water Section Manager
Waco Regional Office
Texas Commission on Environmental Quality
6801 Sanger Avenue, Suite 2500
Waco, Texas 76710-7826

3. The provisions of this Agreed Order shall apply to and be binding upon the City. The City is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
4. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by the City shall be made in writing to the Executive Director. Extensions are not effective until the City receives written

approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.

5. This Agreed Order, issued by the Commission, shall not be admissible against the City in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
 6. 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.
 7. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to the City, or three days after the date on which the Commission mails notice of the Order to the City, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.
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SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission



For the Executive Director

3/13/2009
Date

I, the undersigned, have read and understand the attached Agreed Order. I am authorized to agree to the attached Agreed Order on behalf of the entity indicated below my signature, and I do agree to the terms and conditions specified therein. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I also understand that 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

1-29-09
Date

James W Jackson Jr
Name (Printed or typed)
Authorized Representative of
City of Thornton

Mayor
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.

