

EXECUTIVE SUMMARY - ENFORCEMENT MATTER Page 1 of 2
DOCKET NO.: 2008-1767-MWD-E **TCEQ ID:** RN102844461 **CASE NO.:** 36794
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 type="checkbox"/> PUBLIC WATER SUPPLY	<input type="checkbox"/> PETROLEUM STORAGE TANKS	<input type="checkbox"/> OCCUPATIONAL CERTIFICATION
<input checked="" 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, approximately 0.5 mile south of the intersection of State Highway 14 and Farm-to-Market Road 1246, on the southwest side of the city limits of Thornton, Limestone County</p> <p>TYPE OF OPERATION: Wastewater treatment facility</p> <p>SMALL BUSINESS: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>OTHER SIGNIFICANT MATTERS: There are no complaints. There are two additional pending enforcement actions regarding this facility location, Docket Nos. 2006-0571-MWD-E and 2009-0117-MWD-E.</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 6, 2009. No comments were received.</p> <p>CONTACTS AND MAILING LIST: TCEQ Attorney/SEP Coordinator: None TCEQ Enforcement Coordinator: Mr. Jorge Ibarra, P.E., Enforcement Division, Enforcement Team 3, MC R-4, (817) 588-5890; Ms. Cari-Michel La Caille, Enforcement Division, MC 219, (512) 239-1387 Respondent: The Honorable James Jackson, Jr., Mayor, City of Thornton, P.O. Box 396, Thornton, Texas 76687 The Honorable Joe W. Neason, Sr., Mayor Pro Tem, 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 14, 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 employ or contract a licensed individual to operate the facility [30 TEX. ADMIN. CODE §§ 30.350(d) and 305.125(1) and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0010824001, Other Requirements No. 1].</p>	<p>Total Assessed: \$3,475</p> <p>Total Deferred: \$695 <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: \$2,780</p> <p>Site Compliance History Classification <input type="checkbox"/> High <input checked="" 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, hire or contract a licensed individual who holds a "C" license or higher to operate the Facility; 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): WQ0010824001



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

DATES	Assigned	10-Nov-2008	Screening	12-Nov-2008	EPA Due	
	PCW	13-Nov-2008				

RESPONDENT/FACILITY INFORMATION	
Respondent	City of Thornton
Reg. Ent. Ref. No.	RN102844461
Facility/Site Region	9-Waco
Major/Minor Source	Minor

CASE INFORMATION			
Enf./Case ID No.	36794	No. of Violations	1
Docket No.	2008-1767-MWD-E	Order Type	1660
Media Program(s)	Water Quality	Government/Non-Profit	Yes
Multi-Media		Enf. Coordinator	Jorge Ibarra, P.E.
		EC's Team	Enforcement Team 3
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$10,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)	Subtotal 1	\$2,500
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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	39.0% Enhancement	Subtotals 2, 3, & 7	\$975
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Notes
The Respondent was issued one NOV with the same/similar type of violations, one NOV without the same/similar type of violations, and self reported 16 months of effluent violations.

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 \$17,116
Approx. Cost of Compliance \$50,000
*Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7	Final Subtotal	\$3,475
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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	\$3,475
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$3,475
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DEFERRAL	20.0% Reduction	Adjustment	-\$695
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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	\$2,780
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Screening Date 12-Nov-2008	Docket No. 2008-1767-MWD-E	PCW
Respondent City of Thornton	<i>Policy Revision 2 (September 2002)</i>	
Case ID No. 36794	<i>PCW Revision October 30, 2008</i>	
Reg. Ent. Reference No. RN102844461		
Media [Statute] Water Quality		
Enf. Coordinator Jorge Ibarra, P.E.		

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	17	34%
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) 39%

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

No

Adjustment Percentage (Subtotal 3) 0%

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

Average Performer

Adjustment Percentage (Subtotal 7) 0%

>> **Compliance History Summary**

Compliance History Notes

The Respondent was issued one NOV with the same/similar type of violations, one NOV without the same/similar type of violations, and self-reported 16 months of effluent violations.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 39%

Screening Date 12-Nov-2008 **Docket No.** 2008-1767-MWD-E **PCW**
Respondent City of Thornton *Policy Revision 2 (September 2002)*
Case ID No. 36794 *PCW Revision October 30, 2008*
Reg. Ent. Reference No. RN102844461
Media [Statute] Water Quality
Enf. Coordinator Jorge Ibarra, P.E.

Violation Number 1
Rule Cite(s) Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0010824001, Other Requirements No. 1 and 30 Tex. Admin. Code §§ 30.350(d) and 305.125(1)
Violation Description Failed to employ or contract a licensed individual holding the appropriate level of license to operate the Facility. Specifically, the Respondent does not have a wastewater operator with a "C" or higher license.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

Release	Harm			Percent
	Major	Moderate	Minor	
Actual				25%
Potential	x			

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
				0%

Matrix Notes Failure to employ or contract a licensed individual to operate the Facility could result in poor operation of the Facility, which in turn could result in the exposure of significant amounts of pollutants which would exceed levels that are protective of human health or the environment as a result of this violation.

Adjustment \$7,500

\$2,500

Violation Events

Number of Violation Events: 1 Number of violation days: 29

mark only one with an x

daily	
weekly	
monthly	x
quarterly	
semiannual	
annual	
single event	

Violation Base Penalty \$2,500

One monthly event is recommended. The penalty was calculated from the investigation date of October 14, 2008 to the screening date of November 12, 2008.

Good Faith Efforts to Comply 0.0% Reduction \$0

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

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

Violation Subtotal \$2,500

Economic Benefit (EB) for this violation **Statutory Limit Test**

Estimated EB Amount: \$17,116 Violation Final Penalty Total: \$3,475

This violation Final Assessed Penalty (adjusted for limits) \$3,475

Economic Benefit Worksheet

Respondent: City of Thornton
Case ID No.: 36794
Reg. Ent. Reference No.: RN102844461
Media: Water Quality
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
No commas or \$							

Delayed Costs

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

Notes for DELAYED costs

Avoided Costs

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

Disposal				0.00	\$0	\$0	\$0
Personnel	\$50,000	16-Jul-2008	12-Nov-2008	0.33	\$815	\$16,301	\$17,116
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

Annual salary for a license "C" wastewater operator. Date Required is the date that the violation was first documented. Final Date is the screening date.

Approx. Cost of Compliance

\$50,000

TOTAL

\$17,116

Compliance History Report

Customer/Respondent/Owner-Operator: CN600677306 City of Thornton Classification: AVERAGE Rating: 1.95
Regulated Entity: RN102844461 CITY OF THORNTON Classification: AVERAGE Site Rating: 0.89
ID Number(s): WASTEWATER PERMIT WQ0010824001
WASTEWATER PERMIT TPDES0075639
SLUDGE REGISTRATION 22853
WASTEWATER LICENSING LICENSE WQ0010824001
Location: approximately 0.5 mile south of the intersection of State Highway 14 and Farm-to-Market Road 1246, on the southwest side of the city limits in Limestone County, Texas
TCEQ Region: REGION 09 - WACO
Date Compliance History Prepared: December 08, 2008
Agency Decision Requiring Compliance History: Enforcement
Compliance Period: December 08, 2003 to December 08, 2008
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History
Name: Jorge Ibarra, P.E. Phone: (817) 588-5890

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
6. Rating Date: 9/1/2008 Repeat Violator: NO

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 12/29/2003 (313744)
 - 2 01/26/2004 (313745)
 - 3 02/20/2004 (313733)
 - 4 03/23/2004 (313734)
 - 5 04/22/2004 (313735)
 - 6 05/27/2004 (359633)
 - 7 06/23/2004 (313738)
 - 8 07/21/2004 (359634)
 - 9 08/31/2004 (359635)
 - 10 10/01/2004 (359636)
 - 11 10/29/2004 (386092)
 - 12 12/06/2004 (386093)
 - 13 12/27/2004 (386094)
 - 14 01/24/2005 (386095)

15	03/02/2005	(423993)
16	06/14/2005	(423994)
17	06/24/2005	(423995)
18	07/22/2005	(444786)
19	08/30/2005	(379392)
20	08/31/2005	(444787)
21	09/23/2005	(444788)
22	10/20/2005	(475635)
23	11/22/2005	(475636)
24	12/30/2005	(475637)
25	01/27/2006	(475638)
26	02/22/2006	(475633)
27	03/22/2006	(475634)
28	04/18/2006	(456255)
29	04/24/2006	(503018)
30	05/22/2006	(503019)
31	06/22/2006	(503020)
32	07/20/2006	(525355)
33	07/21/2006	(525356)
34	07/27/2006	(525354)
35	08/24/2006	(525357)
36	10/20/2006	(550076)
37	11/21/2006	(550077)
38	12/21/2006	(550078)
39	01/24/2007	(585020)
40	02/22/2007	(585015)
41	03/21/2007	(585016)
42	04/20/2007	(585017)
43	04/27/2007	(556172)
44	05/23/2007	(585018)
45	06/26/2007	(585019)
46	07/26/2007	(604429)
47	08/22/2007	(604430)
48	09/21/2007	(604431)
49	10/22/2007	(623481)
50	11/26/2007	(623482)
51	01/02/2008	(674783)
52	01/28/2008	(674784)
53	03/14/2008	(693110)
54	03/19/2008	(674782)
55	07/22/2008	(686499)
56	07/23/2008	(686554)
57	08/26/2008	(700170)
58	09/19/2008	(702138)
59	10/29/2008	(705339)
60	11/07/2008	(705885)

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

Date:	12/31/2003 (313745)		
Self	YES	Classificatio	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a) Description: Failure to meet the limit for one or more permit parameter		
Date:	01/31/04 (313733)		
Self	YES	Classificatio	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a) Description: Failure to meet the limit for one or more permit parameter		

Date:	02/29/04 (313734)		
Self Report?	YES	Classificatio	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a) Description: Failure to meet the limit for one or more permit parameter		
Date:	04/30/2004 (359633)		
Self Report?	YES	Classificatio	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a) Description: Failure to meet the limit for one or more permit parameter		
Date:	05/31/2004 (313738)		
Self Report?	YES	Classificatio	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a) Description: Failure to meet the limit for one or more permit parameter		
Date:	06/30/2004 (359634)		
Self Report?	YES	Classificatio	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a) Description: Failure to meet the limit for one or more permit parameter		
Date:	09/30/2004 (386092)		
Self Report?	YES	Classificatio	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a) Description: Failure to meet the limit for one or more permit parameter		
Date:	10/31/2004 (386093)		
Self Report?	YES	Classificatio	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a) Description: Failure to meet the limit for one or more permit parameter		
Date:	11/30/2004 (386094)		
Self Report?	YES	Classificatio	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a) Description: Failure to meet the limit for one or more permit parameter		
Date:	12/31/2004 (386095)		
Self Report?	YES	Classificatio	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a) Description: Failure to meet the limit for one or more permit parameter		
Date:	01/31/2005 (423993)		
Self Report?	YES	Classificatio	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a) Description: Failure to meet the limit for one or more permit parameter		
Date:	02/28/2005 (525354)		
Self Report?	YES	Classificatio	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a) Description: Failure to meet the limit for one or more permit parameter		
Date:	03/31/2005 (525355)		
Self Report?	YES	Classificatio	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a) Description: Failure to meet the limit for one or more permit parameter		
Date:	07/31/2005 (444787)		
Self Report?	YES	Classificatio	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)		

Description:	Failure to meet the limit for one or more permit parameter		
Date:	08/31/2005 (444788)		
Self Report?	YES	Classificatio	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)		
Description:	Failure to meet the limit for one or more permit parameter		
Date:	02/29/2008 (674782)		
Self Report?	YES	Classificatio	Moderate
Citation:	2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)		
Description:	Failure to meet the limit for one or more permit parameter		
Date:	07/24/2008 (686554)		
Self Report?	NO	Classificatio	Moderate
Citation:	30 TAC Chapter 30, SubChapter J 30.350(d) 30 TAC Chapter 305, SubChapter F 305.125(1) Other Requirements, No. 1 Pg. 26 PERMIT		
Description:	Failure by the permittee to employ or contract with a licensed individual to operate the wastewater treatment plant.		
Date:	11/07/2008 (705885)		
Self Report?	NO	Classificatio	Minor
Citation:	30 TAC Chapter 305, SubChapter F 305.125(5) 30 TAC Chapter 317 317.4(g)(4)(B) Operational Requirements PERMIT		
Description:	Failure by the permittee to ensure that all systems of collection, treatment, and disposal are properly operated and maintained.		
Self Report?	NO	Classificatio	Minor
Citation:	30 TAC Chapter 305, SubChapter F 305.125(5) Operational Requirements PERMIT		
Description:	Failure by the permittee to ensure that all systems of collection, treatment, and disposal are properly operated and maintained.		
Self Report?	NO	Classificatio	Minor
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) Operational Requirements PERMIT		
Description:	Failure by the permittee to ensure that all systems of collection, treatment, and disposal are properly operated and maintained.		
Self Report?	NO	Classificatio	Minor
Citation:	30 TAC Chapter 319, SubChapter A 319.7(c) Monitoring and Reporting Requirements PERMIT		
Description:	Failure by the permittee to maintain required records for review for a period of at least three years.		
Self Report?	NO	Classificatio	Minor
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) Monitoring and Reporting Requirements PERMIT		
Description:	Failure by the permittee to maintain completed operations and maintenance records.		
Self Report?	NO	Classificatio	Minor
Citation:	30 TAC Chapter 319, SubChapter A 319.11(c) Monitoring and Reporting Requirements PERMIT		
Description:	Failure by the permittee to comply with test procedures specified in 319.11 - 319.12.		
Self Report?	NO	Classificatio	Minor
Citation:	30 TAC Chapter 317 317.7(e)		
Description:	Failure by the permittee to provide hazard signs at the plant stating "Danger--Open Tanks--No Trespassing".		
Self Report?	NO	Classificatio	Minor
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) Effluent Limitations and Monitoring Req PERMIT		
Description:	Failure by the permittee to discharge effluent in compliance with permitted effluent limitations.		

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
RN102844461

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§
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BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

AGREED ORDER
DOCKET NO. 2008-1767-MWD-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 City of Thornton ("the City") under the authority of TEX. WATER CODE chs. 7 and 26. 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 wastewater treatment facility located approximately 0.5 mile south of the intersection of State Highway 14 and Farm-to-Market Road 1246, on the southwest side of the city limits in Limestone County, Texas (the "Facility").
2. The City has discharged sewage into or adjacent to any water in the state under TEX. WATER CODE ch. 26.
3. 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.
4. The City received notice of the violations alleged in Section II ("Allegations") on or about October 20, 2008.
5. 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.
6. An administrative penalty in the amount of Three Thousand Four Hundred Seventy-Five Dollars (\$3,475) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The City has paid Two Thousand Seven Hundred Eighty Dollars (\$2,780) of the administrative penalty and Six Hundred Ninety-Five Dollars (\$695) 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.

7. 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.
8. The Executive Director of the TCEQ and the City has agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
9. 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.
10. 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.
11. 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 employ or contract a licensed individual to operate the Facility, in violation of Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0010824001, Other Requirements No. 1 and 30 TEX. ADMIN. CODE §§ 30.350(d) and 305.125(1), as documented during an investigation conducted on October 14, 2008. Specifically, the City does not have a wastewater operator with a "C" or higher license.

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 6 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. 2008-1767-MWD-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, hire or contract a licensed individual who holds a "C" license or higher to operate the Facility; and
 - 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 this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, 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. If the City fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other

catastrophe, the City's failure to comply is not a violation of this Agreed Order. The City shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The City shall notify the Executive Director within seven days after the City becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.

5. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by the 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.
6. 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.
7. 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.
8. 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.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

John Srdien
For the Executive Director

2/27/2009
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.

Joe W. Pearson Sr.
Signature

2-3-09
Date

JOE W. PEARSON SR
Name (Printed or typed)
Authorized Representative of
City of Thornton

MAYOR PRO TEM
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.

