

EXECUTIVE SUMMARY - ENFORCEMENT MATTER
DOCKET NO. 2008-0680-PWS-E TCEQ ID NO. RN101458057 CASE NO. 35781
RESPONDENT NAME: CITY INT'L., LTD. DBA SNAPPY MART 3

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 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

SITE WHERE VIOLATIONS OCCURRED: 10214 Garth Road, Baytown, Harris County

TYPE OF OPERATION: public water supply system

SMALL BUSINESS: Yes No

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

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

COMMENTS RECEIVED: The *Texas Register* comment period expired February 15, 2010. No comments were received.

CONTACTS AND MAILING LIST:
TCEQ Attorney: Mr. Gary K. Shiu, Litigation Division, MC 175, (713) 422-8916
Ms. Lena Roberts, Litigation Division, MC 175, (512) 239-3400
TCEQ Enforcement Coordinator: Mr. Stephen Thompson, Water Enforcement Section, MC 169, (512) 239-2558
TCEQ Regional Contact: Mr. Stephen Smith, Houston Regional Office, MC R-12, (713) 767-3581
Respondent: Mr. Nizar Khanji, President, City Int'l., Ltd., 2929 McKinney Street #A, Houston, Texas 77003
Respondent's Attorney: Not represented by counsel on this enforcement matter.

VIOLATION SUMMARY CHART:		
VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p>Type of Investigation:</p> <p><input type="checkbox"/> Complaint <input checked="" type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input type="checkbox"/> Records Review</p> <p>Date of Complaint Relating to this Case: None</p> <p>Date of Investigation Relating to this Case: August 31, 2007</p> <p>Date of NOE Relating to this Case: April 1, 2008</p> <p>Background Facts: The EDP RP was filed on September 19, 2008, and re-filed for service on January 23, 2009. The Respondent filed an answer and the case was referred to SOAH. The preliminary hearing was waived and the parties engaged in discovery. Settlement was achieved and the agreed order was signed on December 3, 2009.</p> <p>Current Compliance Status: The Respondent has not yet submitted documentation to certify compliance with the technical requirements.</p> <p>PWS:</p> <ol style="list-style-type: none"> Failed to obtain a sanitary control easement to cover all land within 150 feet of a well [30 TEX. ADMIN. CODE § 290.41(c)(1)(F)]. Failed to submit well completion data before placing a well into service [30 TEX. ADMIN. CODE § 290.41(c)(3)(A)]. Failed to cease operations on the receipt of a written notification from the Executive Director [30 TEX. ADMIN. CODE § 290.40(a)]. 	<p>Total Assessed: \$520</p> <p>Total Deferred: \$0</p> <p><input type="checkbox"/> Expedited Order <input type="checkbox"/> Financial Inability to Pay <input type="checkbox"/> SEP Conditional Offset</p> <p>Total Paid to General Revenue: \$520</p> <p>The Respondent paid the administrative penalty in full.</p> <p>*Site Compliance History Classification: <input checked="" 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>*The Compliance History contains CN and RN ratings because the Facility also has a UST system.</p> <p>Major Source: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>Applicable Penalty Policy: September 2002</p>	<p>Ordering Provisions:</p> <p>The Respondent shall undertake the following technical requirements:</p> <ol style="list-style-type: none"> Immediately cease providing water to consumers from the existing water well and temporarily provide water to consumers from a TCEQ-approved source until Respondent complies with Ordering Provisions 2.a. through 3.c. Within 60 days, submit planning materials for review and obtain written approval from TCEQ to either: <ol style="list-style-type: none"> Plug and abandon the existing well and construct a new well that meets all construction and completion requirements for public water supplies, including requirements for sanitary control easements, well completion data submittals, and setback distances; Plug and abandon the existing well and construct new piping and interconnection facilities to connect to a nearby TCEQ-approved public water system; or Provide treatment and monitoring for the existing well in compliance with TCEQ rules governing surface water systems including facilities for pretreatment disinfection, taste and odor control, continuous coagulation, sedimentation, filtration, covered storage, and terminal disinfection of the water with chlorine or suitable chlorine compounds. Within 120 days, complete construction to either: <ol style="list-style-type: none"> Construct a new well that meets all construction and completion requirements for public water supplies, including requirements for sanitary control easements, well completion data submittals, and setback distances; Construct new piping and inter-connection facilities used to connect to a nearby TCEQ-approved public water system; or Provide treatment and monitoring for the existing well in compliance with TCEQ rules governing surface water

VIOLATION SUMMARY CHART:		
VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
		<p>systems including facilities for pretreatment disinfection, taste and odor control, continuous coagulation, sedimentation, filtration, covered clearwell storage, and terminal disinfection of the water with chlorine or suitable chlorine compounds.</p> <p>4. Within 135 days, submit written certification demonstrating compliance.</p>



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision March 8, 2008

TCEQ

DATES	Assigned	7-Apr-2008	Screening	22-Apr-2008	EPA Due	
	PCW	28-Apr-2008				

RESPONDENT/FACILITY INFORMATION			
Respondent	City Int'l., Ltd. dba Snappy Mart 3		
Reg. Ent. Ref. No.	RN101458057		
Facility/Site Region	12-Houston	Major/Minor Source	Minor

CASE INFORMATION			
Enf./Case ID No.	35781	No. of Violations	3
Docket No.	2008-0680-PWS-E	Order Type	1660
Media Program(s)	Public Water Supply	Enf. Coordinator	Stephen Thompson
Multi-Media		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	\$400
---	-------------------	--------------

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History	5% Enhancement	Subtotals 2, 3, & 7	\$20
---------------------------	-----------------------	--------------------------------	-------------

Notes: Enhancement is due to one prior Notice of Violation that contains violations that are the same or similar to the violations contained in the current enforcement action.

Culpability	Yes	25% Enhancement	Subtotal 4	\$100
--------------------	------------	------------------------	-------------------	--------------

Notes: The Respondent was sent a letter on May 17, 2004 stating that bottled water should be provided to consumers and the well should be plugged and abandoned at the first feasible opportunity.

Good Faith Effort to Comply	0% Reduction	Subtotal 5	\$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.

	0% Enhancement*	Subtotal 6	\$0
--	------------------------	-------------------	------------

Total EB Amounts	\$173	*Capped at the Total EB \$ Amount
Approx. Cost of Compliance	\$1,000	

SUM OF SUBTOTALS 1-7	Final Subtotal	\$520
-----------------------------	-----------------------	--------------

OTHER FACTORS AS JUSTICE MAY REQUIRE	0%	Adjustment	\$0
---	-----------	-------------------	------------

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

Final Penalty Amount	\$520
-----------------------------	--------------

STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$520
-----------------------------------	-------------------------------	--------------

DEFERRAL	0%	Reduction	Adjustment	\$0
-----------------	-----------	------------------	-------------------	------------

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

Notes: No deferral due to culpability.

PAYABLE PENALTY	\$520
------------------------	--------------

Screening Date 22-Apr-2008

Docket No. 2008-0680-PWS-E

PCW

Respondent City Int'l., Ltd. dba Snappy Mart 3

Policy Revision 2 (September 2002)

Case ID No. 35781

PCW Revision March 8, 2008

Reg. Ent. Reference No. RN101458057

Media [Statute] Public Water Supply

Enf. Coordinator Stephen Thompson

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)	1	5%
	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) 5%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Average Performer

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance History Notes

Enhancement is due to one prior Notice of Violation that contains violations that are the same or similar to the violations contained in the current enforcement action.

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

Screening Date 22-Apr-2008

Docket No. 2008-0680-PWS-E

PCW

Respondent City Int'l., Ltd. dba Snappy Mart 3

Policy Revision 2 (September 2002)

Case ID No. 35781

PCW Revision March 8, 2008

Reg. Ent. Reference No. RN101458057

Media [Statute] Public Water Supply

Enf. Coordinator Stephen Thompson

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code § 290.41(c)(1)F

Violation Description Failed to obtain a sanitary control easement to cover all land within 150 feet of the well. Specifically, at the time of the investigation, it was documented that a request for an exception to have a properly recorded sanitary control easement was denied by the TCEQ in a letter dated May 17, 2004.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual				5%
	Potential			x	

>>Programmatic Matrix

Matrix Notes	Falsification	Major	Moderate	Minor	Percent
Failure to secure a sanitary control easement could expose customers of the water supply to insignificant amounts of contaminants which would not exceed levels protective of human health.					

Adjustment \$950

\$50

Violation Events

Number of Violation Events 1 235 Number of violation days

mark only one with an x	daily	
	monthly	
	quarterly	
	semiannual	
	annual	
	single event	x

Violation Base Penalty \$50

One single event is recommended.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$0

Violation Final Penalty Total \$65

This violation Final Assessed Penalty (adjusted for limits) \$65

Economic Benefit Worksheet

Respondent City Int'l., Ltd. dba Snappy Mart 3

Case ID No. 35781

Reg. Ent. Reference No. RN101458057

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
------------------	-----------	---------------	------------	-----	----------------	---------------	-----------

No commas or \$

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

There is no economic benefit associated with this violation because the system was ordered to abandon the well.

Avoided Costs

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

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

TOTAL

Screening Date 22-Apr-2008

Docket No. 2008-0680-PWS-E

PCW

Respondent City Int'l., Ltd. dba Snappy Mart 3

Policy Revision 2 (September 2002)

Case ID No. 35781

PCW Revision March 8, 2008

Reg. Ent. Reference No. RN101458057

Media [Statute] Public Water Supply

Enf. Coordinator Stephen Thompson

Violation Number 2

Rule Cite(s) 30 Tex. Admin. Code § 290.41(c)(3)(A)

Violation Description Failed to submit well completion data before placing the well into service.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

OR	Harm			Percent	
	Release	Major	Moderate		Minor
	Actual				
	Potential				0%

>> Programmatic Matrix

Matrix Notes	Falsification	Major	Moderate	Minor	Percent
		x			
	100% of the rule requirement was not met.				
Adjustment					\$900

\$100

Violation Events

Number of Violation Events 1 235 Number of violation days

mark only one with an x	daily	
	monthly	
	quarterly	
	semiannual	
	annual	
	single event	x

Violation Base Penalty \$100

One single event is recommended.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$0

Violation Final Penalty Total \$130

This violation Final Assessed Penalty (adjusted for limits) \$130

Economic Benefit Worksheet

Respondent City Int'l., Ltd. dba Snappy Mart 3

Case ID No. 35781

Reg. Ent. Reference No. RN101458057

Media Public Water Supply

Violation No. 2

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

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

There is no economic benefit associated with this violation because the system was ordered to abandon the well.

Avoided Costs

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

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

TOTAL

Screening Date 22-Apr-2008

Docket No. 2008-0680-PWS-E

PCW

Respondent City Int'l., Ltd. dba Snappy Mart 3

Policy Revision 2 (September 2002)

Case ID No. 35781

PCW Revision March 8, 2008

Reg. Ent. Reference No. RN101458057

Media [Statute] Public Water Supply

Enf. Coordinator Stephen Thompson

Violation Number 3

Rule Cite(s) 30 Tex. Admin. Code § 290.40(a)

Violation Description Failed to cease operations on the receipt of a written notification of the executive director Specifically, the Respondent was sent a letter on May 17, 2004 from the TCEQ Water Supply Division that ordered the Respondent to stop using the water well, purchase bottled water for temporary usage, and plug and abandon the well within two years. At the time of the investigation, the Respondent was not using bottled water and the water well was still in operation.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

OR	Harm			Percent	
	Release	Major	Moderate		Minor
	Actual				
	Potential	x		25%	

>> Programmatic Matrix

	Falsification	Major	Moderate	Minor	Percent
					0%

Matrix Notes Failure to cease operations at the direction of the TCEQ could result in consumers of the water being exposed to a significant level of contaminants which would exceed levels that are protective of human health.

Adjustment \$750

\$250

Violation Events

Number of Violation Events 1 235 Number of violation days

mark only one with an x	daily	
	monthly	
	quarterly	
	semiannual	
	annual	
	single event	x

Violation Base Penalty \$250

One single event is recommended.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$173

Violation Final Penalty Total \$325

This violation Final Assessed Penalty (adjusted for limits) \$325

Economic Benefit Worksheet

Respondent City Int'l., Ltd. dba Snappy Mart 3
Case ID No. 35781
Reg. Ent. Reference No. RN101458057
Media Public Water Supply
Violation No. 3

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				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction	\$1,000	17-May-2006	3-Nov-2008	2.5	\$8	\$165	\$173
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

The delayed costs include the amount necessary to properly seal and plug the well, calculated from the deadline date the TCEQ ordered the Respondent to plug the well to the estimated date of compliance.

Avoided Costs

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

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance \$1,000

TOTAL \$173

Compliance History Report

Customer/Respondent/Owner-Operator: CN600930440 City Int'l., Ltd. Classification: AVERAGE Rating: 12.91
Regulated Entity: RN101458057 SNAPPY MART 3 Classification: HIGH Site Rating: 0.00
ID Number(s): PUBLIC WATER SYSTEM/SUPPLY REGISTRATION 1012512
PETROLEUM STORAGE TANK REGISTRATION 63508
REGISTRATION
Location: 10214 GARTH RD, BAYTOWN, HARRIS COUNTY, TX
TCEQ Region: REGION 12 - HOUSTON
Date Compliance History Prepared: April 7, 2008

Agency Decision Requiring Compliance History: Enforcement

Compliance Period: April 07, 2003 to April 07, 2008

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

Name: Stephen Thompson Phone: (512) 239-2558

Site Compliance History Components

1. Has the site been in existence and/or operation for the full five year compliance period? Yes
2. Has there been a (known) change in ownership/operator of the site during the compliance period? No
3. If Yes, who is the current owner/operator? N/A
4. If Yes, who was/were the prior owner(s)/operator(s) ? N/A
5. When did the change(s) in owner or operator occur? N/A
6. Rating Date: 9/1/2007 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 | 07/02/2003 | (61961) |
| 2 | 11/15/2004 | (336961) |
| 3 | 10/09/2007 | (596087) |
| 4 | 03/31/2008 | (640552) |
- E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)
- | | | | |
|--------------|---|----------|--------------------------|
| Date: | 11/15/2004 | (336961) | CN600930440 |
| Self Report? | NO | | Classification: Moderate |
| Citation: | 30 TAC Chapter 290, SubChapter D 290.40(f)
30 TAC Chapter 290, SubChapter D 290.41(c)(3)(A) | | |
| Description: | Failure to provide well completion data, resulting in the failure to operate a public water system according to the Rules and Regulations for Public Water Systems. | | |
- 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 INT'L., LTD. DBA SNAPPY MART 3; RN101458057	§ § § § §	BEFORE THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY
---	-----------------------	---

**AGREED ORDER
DOCKET NO. 2008-0680-PWS-E**

I. JURISDICTION AND STIPULATIONS

At its _____ agenda, the Texas Commission on Environmental Quality (“Commission” or “TCEQ”) considered this agreement of the parties, resolving an enforcement action regarding City Int'l., Ltd. dba Snappy Mart 3 (“Respondent”) under the authority of TEX. HEALTH & SAFETY CODE ch. 341. The Executive Director of the TCEQ, represented by the Litigation Division, and Respondent, appear before the Commission and together stipulate that:

1. Respondent owns and operates a public water supply system at 10214 Garth Road in Baytown, Harris County, Texas (the “Facility”). The Facility provides water for human consumption, has one service connection, and serves at least 25 people per day for at least 60 days per year. As such, the Facility is a public water supply system as defined in 30 TEX. ADMIN. CODE § 290.38(63).
2. This Agreed Order is entered into pursuant to TEX. HEALTH & SAFETY CODE § 341.049. The Commission has jurisdiction of this matter pursuant to TEX. WATER CODE § 5.013 and TEX. HEALTH & SAFETY CODE § 341.031 because it alleges violations of TEX. HEALTH & SAFETY CODE ch. 341 and TCEQ rules.
3. The Commission and Respondent agree that the Commission has jurisdiction to enter this Agreed Order, and that Respondent is subject to the Commission's jurisdiction.
4. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by Respondent of any violation alleged in Section II (“Allegations”), nor of any statute or rule.

5. An administrative penalty in the amount of five hundred twenty dollars (\$520.00) is assessed by the Commission in settlement of the violations alleged in Section II (“Allegations”). Respondent paid five hundred twenty dollars (\$520.00) of the administrative 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 Respondent 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 Respondent 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

1. During an investigation conducted on August 31, 2007, a TCEQ Houston Regional Office investigator documented that Respondent violated:
 - a. 30 TEX. ADMIN. CODE § 290.41(c)(1)(F) by failing to obtain a sanitary control easement to cover all land within 150 feet of the well. Specifically, at the time of the investigation, it was documented that a request for an exception to have a properly recorded sanitary control easement was denied by the TCEQ in a letter dated May 17, 2004;
 - b. 30 TEX. ADMIN. CODE § 290.41(c)(3)(A) by failing to submit well completion data before placing the well into service; and
 - c. 30 TEX. ADMIN. CODE § 290.40(a) by failing to cease operations on the receipt of a written notification of the Executive Director. Specifically, the Respondent was sent a letter on May 17, 2004 from the TCEQ Water Supply Division that ordered the Respondent to stop using the water well, purchase bottled water for temporary usage, and plug and abandon the well within two years. At the time of the investigation, the Respondent was not using bottled water and the water well was still in operation.

2. Respondent received notice of the violations on or about April 6, 2008.

III. DENIALS

Respondent generally denies each allegation in Section II (“Allegations”).

IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that Respondent pay an administrative penalty as set forth in Section I, Paragraph 5 above. The payment of this administrative penalty and Respondent’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 considering or requiring corrective action or penalties for violations which are not raised here.
2. Respondent shall undertake the following technical requirements:
 - a. Immediately upon the effective date of this Agreed Order, Respondent shall cease providing water to consumers from the existing water well at the Facility and temporarily provide water to consumers from a TCEQ-approved source until Respondent complies with Ordering Provision Nos. 2.b. through 2.c.;
 - b. Within 60 days after the effective date of this Agreed Order, Respondent shall, in accordance with all applicable 30 TEX. ADMIN. CODE ch. 290 requirements, submit planning materials for review and receive written approval from TCEQ to:
 - i. Plug and abandon the existing well and construct a new well that meets all of TCEQ construction and completion requirements for public water supplies including requirements for sanitary control easements, well completion data submittals, and setback distances;
 - ii. Plug and abandon the existing well and construct new piping and interconnection facilities to connect to a nearby TCEQ-approved public water system; or
 - iii. Provide treatment and monitoring for the existing well in compliance with the TCEQ’s rules governing surface water systems including facilities for pretreatment disinfection, taste and odor control, continuous coagulation, sedimentation, filtration, covered storage, and terminal disinfection of the water with chlorine or suitable chlorine compounds.

- c. Within 120 days after the effective date of this Agreed Order, Respondent shall, in accordance with all applicable 30 TEX. ADMIN. CODE ch. 290 requirements, complete construction to:
- i. Construct a new well that meets all TCEQ construction and completion requirements for public water supplies including requirements for sanitary control easements, well completion data submittals, and setback distances;
 - ii. Construct new piping and interconnection facilities used to connect to a nearby TCEQ-approved public water system; or
 - iii. Provide treatment and monitoring for the existing well in compliance with TCEQ rules governing surface water systems including facilities for pretreatment disinfection, taste and odor control, continuous coagulation, sedimentation, filtration, covered clearwell storage, and terminal disinfection of the water with chlorine or suitable chlorine compounds.
- d. Within 135 days after the effective date of this Agreed Order, Respondent shall submit written certification as described below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision Nos. 2.a through 2.c. 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:

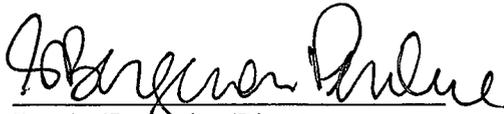
Stephen Smith, Water Section Manager
Houston Regional Office
Texas Commission on Environmental Quality
5425 Polk Avenue, Suite H
Houston, Texas 77023-1486

3. The provisions of this Agreed Order shall apply to and be binding upon Respondent. Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
4. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by Respondent shall be made in writing to the Executive Director. Extensions are not effective until Respondent 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 Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
6. This Agreed Order may be executed in multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreed Order 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) and TEX. GOV'T CODE § 2001.142, the effective date of this Agreed Order is the date of hand-delivery of the Agreed Order to Respondent, or three days after the date on which the Commission mails notice of this Agreed Order to Respondent, 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



For the Executive Director

1/25/2010

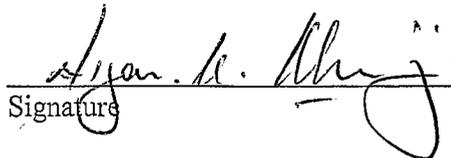
Date

I, the undersigned, have read and understand the attached Agreed Order. I represent that I am authorized to agree to the attached Agreed Order on behalf of the entity, if any, 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 my failure to comply with the Ordering Provisions, if any, in this order and/or my failure to timely pay the penalty amount, may result in:

- A negative impact on Respondent's compliance history;
- Greater scrutiny of any permit applications submitted by Respondent;
- 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 against Respondent;
- Automatic referral to the Attorney General's Office of any future enforcement actions against Respondent; and
- TCEQ seeking other relief as authorized by law.

In addition, any falsification of any compliance documents may result in criminal prosecution.


Signature

12-03-09
Date

Nizar Khanji
Name (Printed or typed)
Authorized representative of
City Int'l., Ltd. dba Snappy Mart 3

President & Director
Title