

**Executive Summary – Enforcement Matter – Case No. 40806**  
**City of Thornton**  
**RN102844461**  
**Docket No. 2010-1977-MWD-E**

**Order Type:**

1660 Agreed Order

**Findings Order Justification:**

N/A

**Media:**

MWD

**Small Business:**

No

**Location(s) Where Violation(s) Occurred:**

City of Thornton, 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 of Thornton, Limestone County

**Type of Operation:**

Wastewater treatment plant

**Other Significant Matters:**

Additional Pending Enforcement Actions: No

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: None

**Texas Register Publication Date:** May 27, 2011

**Comments Received:** No

***Penalty Information***

**Total Penalty Assessed:** \$5,490

**Amount Deferred for Expedited Settlement:** \$1,098

**Amount Deferred for Financial Inability to Pay:** \$0

**Total Paid to General Revenue:** \$880

**Total Due to General Revenue:** \$3,512

Payment Plan: 4 payments of \$878 each

**SEP Conditional Offset:** \$0

Name of SEP: N/A

**Compliance History Classifications:**

Person/CN - Average

Site/RN - Average

**Major Source:** No

**Statutory Limit Adjustment:** N/A

**Applicable Penalty Policy:** September 2002

**Executive Summary – Enforcement Matter – Case No. 40806  
City of Thornton  
RN102844461  
Docket No. 2010-1977-MWD-E**

***Investigation Information***

**Complaint Date(s):** N/A  
**Complaint Information:** N/A  
**Date(s) of Investigation:** October 11, 2010  
**Date(s) of NOE(s):** November 12, 2010

***Violation Information***

Failed to comply with permitted effluent limits for total suspended solids and flow [TEX. WATER CODE § 26.121(a)(1), 30 TEX. ADMIN. CODE § 305.125(1), and Texas Pollutant Discharge Elimination System (“TPDES”) Permit No. WQ0010824001, Effluent Limitations and Monitoring Requirements No. 1].

***Corrective Actions/Technical Requirements***

**Corrective Action(s) Completed:**

N/A

**Technical Requirements:**

Within 90 days, the Respondent shall submit written certification of compliance with the permitted effluent limits of TPDES Permit No. WQ0010824001, including specific corrective actions that were implemented at the Facility to achieve compliance and copies of the most current self-reported discharge monitoring reports, demonstrating at least three consecutive months of compliance with all permitted effluent limits.

***Litigation Information***

**Date Petition(s) Filed:** N/A  
**Date Answer(s) Filed:** N/A  
**SOAH Referral Date:** N/A  
**Hearing Date(s):** N/A  
**Settlement Date:** N/A

***Contact Information***

**TCEQ Attorney:** N/A  
**TCEQ Enforcement Coordinator:** Steve Villatoro, Enforcement Division, Enforcement Team 1, MC 169, (512) 239-4930; Laurie Eaves, Enforcement Division, MC 219, (512) 239-4495  
**TCEQ SEP Coordinator:** N/A  
**Respondent:** The Honorable Joe W. Neason, Sr., Mayor, City of Thornton, P.O. Box 396, Thornton, Texas 76687  
**Respondent's Attorney:** N/A



# Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

TCEQ

<b>DATES</b>	<b>Assigned</b>	15-Nov-2100	<b>Screening</b>	24-Nov-2010	<b>EPA Due</b>	
	<b>PCW</b>	22-Nov-2010				

## RESPONDENT/FACILITY INFORMATION

<b>Respondent</b>	City of Thornton		
<b>Reg. Ent. Ref. No.</b>	RN102844461		
<b>Facility/Site Region</b>	9-Waco	<b>Major/Minor Source</b>	Minor

## CASE INFORMATION

<b>Enf./Case ID No.</b>	40806	<b>No. of Violations</b>	1
<b>Docket No.</b>	2010-1977-MWD-E	<b>Order Type</b>	1660
<b>Media Program(s)</b>	Water Quality	<b>Government/Non-Profit</b>	Yes
<b>Multi-Media</b>		<b>Enf. Coordinator</b>	Steve Villatoro
		<b>EC's Team</b>	Enforcement Team 1
<b>Admin. Penalty \$ Limit Minimum</b>	\$0	<b>Maximum</b>	\$10,000

## Penalty Calculation Section

**TOTAL BASE PENALTY (Sum of violation base penalties)** **Subtotal 1** **\$3,000**

### ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

**Compliance History** **86.0%** Enhancement **Subtotals 2, 3, & 7** **\$2,580**

Notes: Enhancement for six months of self-reported effluent violations, one NOV with same/similar violations, three NOVs with dissimilar violations, one final agreed order with denial of liability, and one final agreed order without denial of liability.

**Culpability** **No** **0.0%** Enhancement **Subtotal 4** **\$0**

Notes: The Respondent does not meet the culpability criteria.

**Good Faith Effort to Comply Total Adjustments** **Subtotal 5** **\$0**

**Economic Benefit** **0.0%** Enhancement\* **Subtotal 6** **\$0**

Total EB Amounts **\$959**  
 Approx. Cost of Compliance **\$10,000**  
 \*Capped at the Total EB \$ Amount

**SUM OF SUBTOTALS 1-7** **Final Subtotal** **\$5,580**

**OTHER FACTORS AS JUSTICE MAY REQUIRE** **-1.6%** **Adjustment** **-\$90**

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes: Recommended reduction to prevent double-enhancement of the penalty amount for same violations that were self-reported.

**Final Penalty Amount** **\$5,490**

**STATUTORY LIMIT ADJUSTMENT** **Final Assessed Penalty** **\$5,490**

**DEFERRAL** **20.0%** Reduction **Adjustment** **-\$1,098**

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

Notes: Deferral offered for expedited settlement.

**PAYABLE PENALTY** **\$4,392**

**Screening Date** 24-Nov-2010

**Docket No.** 2010-1977-MWD-E

**PCW**

**Respondent** City of Thornton

Policy Revision 2 (September 2002)

**Case ID No.** 40806

PCW Revision October 30, 2008

**Reg. Ent. Reference No.** RN102844461

**Media [Statute]** Water Quality

**Enf. Coordinator** Steve Villatoro

### Compliance History Worksheet

>> **Compliance History Site Enhancement (Subtotal 2)**

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action ( <i>number of NOVs meeting criteria</i> )	7	35%
	Other written NOVs	3	6%
Orders	Any agreed final enforcement orders containing a denial of liability ( <i>number of orders meeting criteria</i> )	1	20%
	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	1	25%
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)** 86%

>> **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 for six months of self-reported effluent violations, one NOV with same/similar violations, three NOVs with dissimilar violations, one final agreed order with denial of liability, and one final agreed order without denial of liability.

**Total Adjustment Percentage (Subtotals 2, 3, & 7)** 86%

Screening Date 24-Nov-2010

Docket No. 2010-1977-MWD-E

PCW

Respondent City of Thornton

Policy Revision 2 (September 2002)

Case ID No. 40806

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN102844461

Media [Statute] Water Quality

Enf. Coordinator Steve Villatoro

Violation Number 1

Rule Cite(s) Tex. Water Code § 26.121(a)(1), 30 Tex. Admin. Code § 305.125(1), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0010824001, Effluent Limitations and Monitoring Requirements No. 1

Violation Description Failed to comply with permitted effluent limits, as documented during a record review conducted on October 11, 2010 and shown in the attached table.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

Release	Harm			Percent
	Major	Moderate	Minor	
Actual			X	10%
Potential				

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
				0%

Matrix Notes Human health or the environment has been exposed to insignificant amounts of pollutants which do not exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events 3 Number of violation days 304

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

Violation Base Penalty \$3,000

Three quarterly events are recommended.

Good Faith Efforts to Comply

0.0% Reduction

\$0

	Before NOV	NOV to EDRP/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 \$3,000

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$959

Violation Final Penalty Total \$5,490

This violation Final Assessed Penalty (adjusted for limits) \$5,490

# Economic Benefit Worksheet

**Respondent** City of Thornton  
**Case ID No.** 40806  
**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)	\$10,000	30-Sep-2009	31-Aug-2011	1.92	\$959	n/a	\$959

**Notes for DELAYED costs**

Estimated costs to determine the cause of non-compliance and to implement corrective actions. Date required is the first date of non-compliance. Final date is the expected date of compliance.

### Avoided Costs

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

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
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**

<b>Approx. Cost of Compliance</b>	\$10,000	<b>TOTAL</b>	\$959
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<b>EFFLUENT VIOLATION TABLE</b>		
<b>City of Thornton</b>		
<b>TPDES Permit No. WQ0010824001</b>		
<b>Docket No. 2010-1977-MWD-E</b>		
<b>Months</b>	<b>Flow Daily Avg.</b>	<b>TSS Daily Avg. Conc.</b>
	<b>Limit = 0.041 MGD</b>	<b>Limit = 20 mg/L</b>
<b>September 2009</b>	<b>.049</b>	<b>c</b>
<b>March 2010</b>	<b>c</b>	<b>27.2</b>
<b>April 2010</b>	<b>c</b>	<b>26.5</b>
<b>June 2010</b>	<b>c</b>	<b>40.0</b>
<b>July 2010</b>	<b>c</b>	<b>23.2</b>

Avg. = average

mg/L = milligrams per liter

MGD = million gallons per day

c = compliant

TSS = total suspended solids

conc. = concentration



# Compliance History

Customer/Respondent/Owner-Operator: CN600677306 City of Thornton Classification: AVERAGE Rating: 4.83

Regulated Entity: RN102844461 CITY OF THORNTON Classification: AVERAGE Site Rating: 6.65

ID Number(s): WASTEWATER PERMIT WQ0010824001  
WASTEWATER EPA ID TX0075639  
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 of Thornton in Limestone County, Texas

TCEQ Region: REGION 09 - WACO

Date Compliance History Prepared: November 22, 2010

Agency Decision Requiring Compliance History: Enforcement

Compliance Period: November 22, 2005 to November 22, 2010

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

Name: Steve Villatoro Phone: (512) 239-4930

## 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: 9/1/2010 Repeat Violator: NO

## Components (Multimedia) for the Site :

- A. Final Enforcement Orders, court judgments, and consent decrees of the State of Texas and the federal government.

Effective Date: 04/20/2009 ADMINORDER 2008-1767-MWD-E

Classification: Moderate

Citation: 30 TAC Chapter 30, SubChapter J 30.350(d)  
30 TAC Chapter 305, SubChapter F 305.125(1)

Rqmt Prov: Other Requirements, No. 1 Pg. 26 PERMIT

Description: Failed to employ or contract a licensed individual to operate the Facility. Specifically, the City does not have a wastewater operator with a "C" or higher license.

Effective Date: 05/22/2009 ADMINORDER 2006-0571-MWD-E

Classification: Major

Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)  
30 TAC Chapter 305, SubChapter F 305.125(1)

30 TAC Chapter 305, SubChapter F 305.125(4)

30 TAC Chapter 305, SubChapter F 305.125(5)

30 TAC Chapter 305, SubChapter O 305.535(c)(1)

Rqmt Prov: Permit Conditions; No. 2(d) Pg. 7 PERMIT

Description: Failure to prevent or mitigate the unauthorized discharge of excess solids or sludge.

Classification: Moderate

Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)  
30 TAC Chapter 305, SubChapter F 305.125(1)

Rqmt Prov: Effluent Limits PERMIT

Description: Failure to comply with permit effluent limits.

Classification: Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
30 TAC Chapter 305, SubChapter F 305.125(17)

Rqmt Prov: Self-Reporting PERMIT

Description: Failure to submit monitoring results at the intervals specified in the permit.

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

N/A

C. Chronic excessive emissions events.

N/A

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

1	04/18/2006	(456255)
2	02/22/2006	(475633)
3	03/22/2006	(475634)
4	12/30/2005	(475637)
5	01/27/2006	(475638)
6	04/24/2006	(503018)
7	05/22/2006	(503019)
8	06/22/2006	(503020)
9	07/27/2006	(525354)
10	07/20/2006	(525355)
11	07/21/2006	(525356)
12	08/24/2006	(525357)
13	10/20/2006	(550076)
14	11/21/2006	(550077)
15	12/21/2006	(550078)
16	04/27/2007	(556172)
17	02/22/2007	(585015)
18	03/21/2007	(585016)
19	04/20/2007	(585017)
20	05/23/2007	(585018)
21	06/26/2007	(585019)
22	01/24/2007	(585020)
23	07/26/2007	(604429)
24	08/22/2007	(604430)
25	09/21/2007	(604431)
26	10/22/2007	(623481)
27	11/26/2007	(623482)
28	03/19/2008	(674782)
29	01/02/2008	(674783)
30	01/28/2008	(674784)
31	07/22/2008	(686499)
32	07/23/2008	(686554)
33	03/14/2008	(693110)
34	08/26/2008	(700170)
35	09/19/2008	(702138)
36	10/29/2008	(705339)
37	11/07/2008	(705885)
38	10/13/2008	(714343)
39	01/13/2009	(722373)
40	09/18/2009	(742412)
41	06/10/2009	(743190)
42	06/24/2009	(759102)

43	06/08/2010	(762733)
44	09/18/2009	(775061)
45	01/22/2010	(788109)
46	05/19/2010	(833731)
47	05/19/2010	(833732)
48	05/19/2010	(833733)
49	05/25/2010	(833734)
50	08/03/2010	(845922)
51	06/25/2010	(847147)
52	07/23/2010	(861609)
53	08/30/2010	(867948)
54	11/12/2010	(870243)
55	09/29/2010	(874897)

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

Date: 02/29/2008 (674782) CN600677306

Self Report? YES Classification: 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) CN600677306

Self Report? NO Classification: 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: Failed to employ or contract a licensed individual to operate the Facility. Specifically, the City does not have a wastewater operator with a "C" or higher license.

Date: 11/07/2008 (705885) CN600677306

Self Report? NO Classification: 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 Classification: 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 Classification: 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 Classification: 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 Classification: 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 Classification: 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 Classification: 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 Classification: Minor

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)



Description:	NON-RPT VIOS FOR MONIT PER OR PIPE	Classification:	Moderate
Self Report?	NO		
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) 30 TAC Chapter 305, SubChapter F 305.125(17)		
Description:	NON-RPT VIOS FOR MONIT PER OR PIPE	Classification:	Moderate
Self Report?	NO		
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) 30 TAC Chapter 305, SubChapter F 305.125(17)		
Description:	NON-RPT VIOS FOR MONIT PER OR PIPE	Classification:	Moderate
Self Report?	NO		
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) 30 TAC Chapter 305, SubChapter F 305.125(17)		
Description:	NON-RPT VIOS FOR MONIT PER OR PIPE	Classification:	Moderate
Self Report?	NO		
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) 30 TAC Chapter 305, SubChapter F 305.125(17)		
Description:	NON-RPT VIOS FOR MONIT PER OR PIPE	Classification:	Moderate
Self Report?	NO		
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) 30 TAC Chapter 305, SubChapter F 305.125(17)		
Description:	NON-RPT VIOS FOR MONIT PER OR PIPE		

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  
RN10284461**

**§           BEFORE THE  
§           TEXAS COMMISSION ON  
§           ENVIRONMENTAL QUALITY**

## **AGREED ORDER DOCKET NO. 2010-1977-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 the City of Thornton ("the Respondent") under the authority of TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent appear before the Commission and together stipulate that:

1. The Respondent owns and operates a wastewater treatment plant 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 of Thornton in Limestone County, Texas (the "Facility").
2. The Respondent has discharged municipal waste, recreational waste into or adjacent to any water in the state under TEX. WATER CODE ch. 26.
3. The Commission and the Respondent agree that the Commission has jurisdiction to enter this Agreed Order, and that the Respondent is subject to the Commission's jurisdiction.
4. The Respondent received notice of the violations alleged in Section II ("Allegations") on or about November 17, 2010.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by the Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.

6. An administrative penalty in the amount of Five Thousand Four Hundred Ninety Dollars (\$5,490) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid Eight Hundred Eighty Dollars (\$880) of the administrative penalty and One Thousand Ninety-Eight Dollars (\$1,098) is deferred contingent upon the Respondent'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 Respondent fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require the Respondent to pay all or part of the deferred penalty.

The remaining amount of Three Thousand Five Hundred Twelve Dollars (\$3,512) of the administrative penalty shall be payable in four monthly payments of Eight Hundred Seventy-Eight Dollars (\$878) each. The next monthly payment shall be paid within 30 days after the effective date of this Agreed Order. The subsequent payments shall each be paid not later than 30 days following the due date of the previous payment until paid in full. If the Respondent fails to timely and satisfactorily comply with the payment requirements of this Agreed Order, the Executive Director may, at the Executive Director's option, accelerate the maturity of the remaining installments, in which event the unpaid balance shall become immediately due and payable without demand or notice. In addition, the failure of the Respondent to meet the payment schedule of this Agreed Order constitutes the failure by the Respondent to timely and satisfactorily comply with all the terms of this Agreed Order

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 Respondent have 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 Respondent 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 Respondent is alleged to have failed to comply with permitted effluent limits, in violation of TEX. WATER CODE § 26.121(a)(1), 30 TEX. ADMIN. CODE § 305.125(1), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0010824001, Effluent Limitations and Monitoring Requirements No. 1, as documented during a record review conducted on October 11, 2010 and shown in the following table:

<b>EFFLUENT VIOLATION TABLE</b>		
<b>Months</b>	<b>Flow Daily Avg.</b>	<b>TSS Daily Avg. Conc.</b>
	<b>Limit = 0.041 MGD</b>	<b>Limit = 20 mg/L</b>
<b>September 2009</b>	<b>.049</b>	<b>c</b>
<b>March 2010</b>	<b>c</b>	<b>27.2</b>
<b>April 2010</b>	<b>c</b>	<b>26.5</b>
<b>June 2010</b>	<b>c</b>	<b>40.0</b>
<b>July 2010</b>	<b>c</b>	<b>23.2</b>

Avg. = average  
 mg/L = milligrams per liter  
 MGD = million gallons per day  
 c = compliant  
 TSS = total suspended solids  
 Conc. = concentration

## III. DENIALS

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

#### IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that the Respondent pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and the 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 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. 2010-1977-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, within 90 days after the effective date of this Agreed Order, the Respondent shall submit written certification of compliance with the permitted effluent limits of TPDES Permit No. WQ0010824001, including specific corrective actions that were implemented at the Facility to achieve compliance and copies of the most current self-reported discharge monitoring reports, demonstrating at least three consecutive months of compliance with all permitted effluent limits. The certification shall include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with this Ordering Provision. 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 Respondent. The 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. If the Respondent 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 Respondent's failure to comply is not a violation of this Agreed Order. The Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The Respondent shall notify the Executive Director within seven days after the Respondent 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 Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent 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 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.
7. This Agreed Order may be executed in separate and multiple counterparts, which together shall constitute a single instrument. Any page of this Agreed Order may be copied, scanned, digitized, converted to electronic portable document format ("pdf"), or otherwise reproduced and may be transmitted by digital or electronic transmission, including but not limited to facsimile transmission and electronic mail. Any signature affixed to this Agreed Order shall constitute an original signature for all purposes and may be used, filed, substituted, or issued for any purpose for which an original signature could be used. The term "signature" shall include manual signatures and true and accurate reproductions of manual signatures created, executed, endorsed, adopted, or authorized by the person or persons to whom the signatures are attributable. Signatures may be copied or reproduced digitally, electronically, by photocopying, engraving, imprinting, lithographing, electronic mail, facsimile transmission, stamping, or any other means or process which the Executive Director deems acceptable. In this paragraph

exclusively, the terms “electronic transmission”, “owner”, “person”, “writing”, and “written” shall have the meanings assigned to them under TEX. BUS. ORG. CODE § 1.002.

8. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to the Respondent, or three days after the date on which the Commission mails notice of the Order to the 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

John Zedler  
\_\_\_\_\_  
For the Executive Director

6/2/2011  
\_\_\_\_\_  
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 Neason Sr.  
\_\_\_\_\_  
Signature

4-11-11  
\_\_\_\_\_  
Date

JOE W NEASON SR  
\_\_\_\_\_  
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.