

Executive Summary – Enforcement Matter – Case No. 45256

Glenn Thurman, Inc.

RN106035389

Docket No. 2012-2127-WQ-E

Order Type:

1660 Agreed Order

Findings Order Justification:

N/A

Media:

WQ

Small Business:

No

Location(s) Where Violation(s) Occurred:

Golden Triangle Boulevard, at Golden Triangle Boulevard between IH-35 West and State Highway 377, Fort Worth, Tarrant County

Type of Operation:

Construction site

Other Significant Matters:

Additional Pending Enforcement Actions: No

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: None

Texas Register Publication Date: March 1, 2013

Comments Received: No

Penalty Information

Total Penalty Assessed: \$8,017

Amount Deferred for Expedited Settlement: \$1,602

Amount Deferred for Financial Inability to Pay: \$0

Total Paid to General Revenue: \$6,415

Total Due to General Revenue: \$0

Payment Plan: N/A

SEP Conditional Offset: \$0

Name of SEP: N/A

Compliance History Classifications:

Person/CN - Satisfactory

Site/RN - High

Major Source: No

Statutory Limit Adjustment: N/A

Applicable Penalty Policy: September 2002 and September 2011

**Executive Summary – Enforcement Matter – Case No. 45256
Glenn Thurman, Inc.
RN106035389
Docket No. 2012-2127-WQ-E**

Investigation Information

Complaint Date(s): August 7, 2012

Complaint Information: Alleged Respondent's construction activities did not have erosion controls in place.

Date(s) of Investigation: August 31, 2012

Date(s) of NOE(s): October 15, 2012

Violation Information

Failed to conduct site inspections of control measures at least once every seven calendar days as specified in the Site's Storm Water Pollution Prevention Plan. Specifically, only four site inspections had been conducted at the Site since July 7, 2011 [Texas Pollutant Discharge Elimination System General Permit No. TXR15QX66, Part III, Section F.7.(a), Inspections of Controls, 30 TEX. ADMIN. CODE § 281.25(a)(4)].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

N/A

Technical Requirements:

The Order will require Respondent to:

- a. Immediately, begin conducting site inspections of control measures at least once every seven calendar days; and
- b. Within 30 days, submit written certification demonstrating compliance with Ordering Provision a.

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: Jorge Ibarra, P.E., Enforcement Division, Enforcement Team 3, MC R-04, (817) 588-5890; Debra Barber, Enforcement Division, MC 219, (512) 239-0412

TCEQ SEP Coordinator: N/A

Executive Summary – Enforcement Matter – Case No. 45256
Glenn Thurman, Inc.
RN106035389
Docket No. 2012-2127-WQ-E

Respondent: Gary R. Maynor, Executive Vice President, Glenn Thurman, Inc., P.O.
Box 850842, Mesquite, Texas 75185
Glenn Thurman, President, P.O. Box 850842, Mesquite, Texas 75185

Respondent's Attorney: N/A



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

TCEQ

DATES Assigned 15-Oct-2012
 PCW 22-Oct-2012 Screening 15-Oct-2012 EPA Due

RESPONDENT/FACILITY INFORMATION

Respondent Glenn Thurman, Inc.
 Reg. Ent. Ref. No. RN106035389
 Facility/Site Region 4-Dallas/Fort Worth Major/Minor Source Minor

CASE INFORMATION

Enf./Case ID No. 45256 No. of Violations 1
 Docket No. 2012-2127-WQ-E Order Type 1660
 Media Program(s) Water Quality Government/Non-Profit No
 Multi-Media EC's Team Jorge Ibarra, P.E.
 Enforcement Team 3

Admin. Penalty \$ Limit Minimum Maximum

Penalty Calculation Section

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

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History 2.0% Enhancement Subtotals 2, 3, & 7

Notes

Culpability No 0.0% Enhancement Subtotal 4

Notes

Good Faith Effort to Comply Total Adjustments Subtotal 5

Economic Benefit 0.0% Enhancement* Subtotal 6

Total EB Amounts
 Approx. Cost of Compliance
 *Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7 Final Subtotal

OTHER FACTORS AS JUSTICE MAY REQUIRE 7.3% Adjustment

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes

Final Penalty Amount

STATUTORY LIMIT ADJUSTMENT Final Assessed Penalty

DEFERRAL 20.0% Reduction Adjustment

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

Notes

PAYABLE PENALTY

Screening Date 15-Oct-2012

Docket No. 2012-2127-WQ-E

PCW

Respondent Glenn Thurman, Inc.

Policy Revision 2 (September 2002)

Case ID No. 45256

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN106035389

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 notices of violation ("NOVs") with same or similar violations as those in the current enforcement action (<i>number of NOVs meeting criteria</i>)	0	0%
	Other written NOVs	1	2%
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%
<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)

>> Repeat Violator (Subtotal 3)

Adjustment Percentage (Subtotal 3)

>> Compliance History Person Classification (Subtotal 7)

Adjustment Percentage (Subtotal 7)

>> Compliance History Summary

Compliance History Notes

Enhancement for one NOV with dissimilar violations.

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

Screening Date 15-Oct-2012
Respondent Glenn Thurman, Inc.
Case ID No. 45256
Reg. Ent. Reference No. RN106035389
Media [Statute] Water Quality
Enf. Coordinator Jorge Ibarra, P.E.

Docket No. 2012-2127-WQ-E

PCW

Policy Revision 2 (September 2002)
 PCW Revision October 30, 2008

Violation Number

Rule Cite(s) Texas Pollutant Discharge Elimination System ("TPDES") General Permit No. TXR15QX66, Part III, Section F.7.(a), Inspections of Controls, 30 Tex. Admin. Code § 281.25(a)(4)

Violation Description Failed to conduct site inspections of control measures at least once every seven calendar days as specified in the Site's Storm Water Pollution Prevention Plan. Specifically, only three site inspections had been conducted at the Site for the period of July 7, 2011 to August 31, 2011.

Base Penalty

>> Environmental, Property and Human Health Matrix

OR

Release	Harm			Percent
	Major	Moderate	Minor	
Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text" value="10%"/>
Potential	<input type="text"/>	<input checked="" type="checkbox"/>	<input type="text"/>	

>> Programmatic Matrix

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

Matrix Notes

Human health or the environment will or could be exposed to significant amounts of pollutants which would not exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment

Violation Events

Number of Violation Events Number of violation days

mark only one with an x

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

Violation Base Penalty

One quarterly event is recommended from July 7, 2011 to August 31, 2011.

Good Faith Efforts to Comply

Reduction

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

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

Violation Subtotal

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount

Violation Final Penalty Total

This violation Final Assessed Penalty (adjusted for limits)

Economic Benefit Worksheet

Respondent Glenn Thurman, Inc.
Case ID No. 45256
Reg. Ent. Reference No. RN106035389
Media Water Quality
Violation No. 1

Percent Interest 5.0
Years of Depreciation 15

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

Delayed Costs

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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)	\$500	31-Aug-2012	1-May-2013	0.67	\$17	n/a	\$17

Notes for DELAYED costs

Estimated cost to begin conducting the required inspections of control measures at the Site. Date required is the investigation date, and the final date is the expected compliance date.

Avoided Costs

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

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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)	\$70	14-Jul-2011	31-Aug-2011	1.05	\$4	\$70	\$74

Notes for AVOIDED costs

Estimated cost for conducting the required inspections of control measures at the Site (\$10 per inspection for 7 inspections). Date required is the date the first inspection was due to the last date of violation for this PCW, August 31, 2011.

Approx. Cost of Compliance

\$570

TOTAL

31
\$90



Penalty Calculation Worksheet (PCW)

Policy Revision 3 (September 2011)

PCW Revision August 3, 2011

TCEQ

DATES

Assigned 15-Oct-2012
PCW 22-Oct-2012

Screening 15-Oct-2012

EPA Due

Print PCW

RESPONDENT/FACILITY INFORMATION

Respondent: Glenn Thurman, Inc.
Reg. Ent. Ref. No.: RN106035389
Facility/Site Region: 4-Dallas/Fort Worth Major/Minor Source: Minor

CASE INFORMATION

Enf./Case ID No.: 45256 No. of Violations: 1
Docket No.: 2012-2127-WQ-E Order Type: 1660
Media Program(s): Water Quality Government/Non-Profit: No
Multi-Media: Enf. Coordinator: Jorge Ibarra, P.E.
EC's Team: Enforcement Team 3

Admin. Penalty \$ Limit Minimum \$0 Maximum \$25,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties) Subtotal 1 \$6,250

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History 2.0% Enhancement Subtotals 2, 3, & 7 \$125

Notes: Enhancement for one NOV with dissimilar violations.

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 \$548
Approx. Cost of Compliance \$500
*Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7 Final Subtotal \$6,375

OTHER FACTORS AS JUSTICE MAY REQUIRE 8.6% Adjustment \$548

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes: Recommended enhancement to capture the avoided cost associated with Violation No. 1.

Final Penalty Amount \$6,923

STATUTORY LIMIT ADJUSTMENT Final Assessed Penalty \$6,923

DEFERRAL 20.0% Reduction Adjustment -\$1,384

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 \$5,539

Screening Date 15-Oct-2012

Docket No. 2012-2127-WQ-E

PCW

Respondent Glenn Thurman, Inc.

Policy Revision 3 (September 2011)

Case ID No. 45256

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN106035389

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 notices of violation ("NOVs") with same or similar violations as those in the current enforcement action (<i>number of NOVs meeting criteria</i>)	0	0%
	Other written NOVs	1	2%
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%
<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)

>> Repeat Violator (Subtotal 3)

Adjustment Percentage (Subtotal 3)

>> Compliance History Person Classification (Subtotal 7)

Adjustment Percentage (Subtotal 7)

>> Compliance History Summary

Compliance History Notes

Enhancement for one NOV with dissimilar violations.

Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7)

>> Final Compliance History Adjustment

Final Adjustment Percentage *capped at 100%

Screening Date 15-Oct-2012
Respondent Glenn Thurman, Inc.
Case ID No. 45256
Reg. Ent. Reference No. RN106035389
Media [Statute] Water Quality
Enf. Coordinator Jorge Ibarra, P.E.
Violation Number 1

Docket No. 2012-2127-WQ-E

PCW
 Policy Revision 3 (September 2011)
 PCW Revision August 3, 2011

Rule Cite(s) Texas Pollutant Discharge Elimination System ("TPDES") General Permit No. TXR15QX66, Part III, Section F.7.(a), Inspections of Controls, 30 Tex. Admin. Code § 281.25(a)(4)

Violation Description Failed to conduct site inspections of control measures at least once every seven calendar days as specified in the Site's Storm Water Pollution Prevention Plan. Specifically, only one site inspection had been conducted at the Site for the period beginning September 1, 2011.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual				5.0%
	Potential		X		

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
				0.0%

Matrix Notes

Human health or the environment will or could be exposed to significant amounts of pollutants which would not exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment \$23,750

\$1,250

Violation Events

Number of Violation Events: 5 410 Number of violation days

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

Violation Base Penalty \$6,250

Five quarterly events are recommended for the period September 1, 2011 through the screening date of October 15, 2012.

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 \$6,250

Economic Benefit (EB) for this violation

Estimated EB Amount \$548

Statutory Limit Test

Violation Final Penalty Total \$6,923

This violation Final Assessed Penalty (adjusted for limits) \$6,923

Economic Benefit Worksheet

Respondent Glenn Thurman, Inc.
Case ID No. 45256
Reg. Ent. Reference No. RN106035389
Media Water Quality
Violation No. 1

Percent Interest 5.0
Years of Depreciation 15

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

Delayed Costs

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

See economic benefit for Violation No. 1 on the accompanying PCW.

Avoided Costs

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

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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)	\$500	1-Sep-2011	31-Aug-2012	1.92	\$48	\$500	\$548

Notes for AVOIDED costs

Estimated cost for conducting the required inspections of control measures at the Site (\$10 per inspection for the 50 inspections not performed). Date required is the first date of violation for this PCW, September 1, 2011 to the investigation date.

Approx. Cost of Compliance \$500

TOTAL \$548



Compliance History Report

PENDING Compliance History Report for CN600451538, RN106035389, Rating Year 2012 which includes Compliance History (CH) components from September 1, 2007, through August 31, 2012.

Customer, Respondent, or Owner/Operator:	CN600451538, Glenn Thurman, Inc.	Classification:	SATISFACTORY	Rating:	4.00
Regulated Entity:	RN106035389, GOLDEN TRIANGLE BLVD	Classification:	HIGH	Rating:	0.00
Complexity Points:	1	Repeat Violator:	NO		
CH Group:	14 - Other				
Location:	GOLDEN TRIANGLE BLVD BETWEEN I 35W AND STATE HWY 377, FORT WORTH, TARRANT COUNTY, TEXAS				
TCEQ Region:	REGION 04 - DFW METROPLEX				
ID Number(s):	STORMWATER PERMIT TXR15QX66				
Compliance History Period:	September 01, 2007 to August 31, 2012	Rating Year:	2012	Rating Date:	09/01/2012
Date Compliance History Report Prepared:	October 18, 2012				
Agency Decision Requiring Compliance History:	Enforcement				
Component Period Selected:	October 18, 2007 to October 18, 2012				
TCEQ Staff Member to Contact for Additional Information Regarding This Compliance History.					
Name:	Jorge Ibarra, P.E.	Phone	(817) 588-5890		

Site and Owner/Operator History:

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

Components (Multimedia) for the Site Are Listed in Sections A - J

A. Final Orders, court judgments, and consent decrees:

N/A

B. Criminal convictions:

N/A

C. Chronic excessive emissions events:

N/A

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

N/A

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

A notice of violation represents a written allegation of a violation of a specific regulatory requirement from the commission to a regulated entity. A notice of violation is not a final enforcement action, nor proof that a violation has actually occurred.

1	Date:	09/17/2012 (1035270)	CN600451538
	Self Report?	NO	Classification: Minor
	Citation:	30 TAC Chapter 281, SubChapter A 281.25(a)(4) TXR150000 Part II Sec. E(3)(c) PERMIT	

Description: Failure to post the NOI for the construction project. On August 31, 2012, the investigator discovered that the facility was not posting a copy of the operators Notice of Intent (NOI).

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 281, SubChapter A 281.25(a)(4)
TXR150000 Part II Sec. E(3)(d) PERMIT

Description: Failure to post the Site Notice for the construction project. On August 31, 2012, the investigator discovered that the facility was not posting a copy of the operators Notice of Intent (NOI).

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 281, SubChapter A 281.25(a)(4)
TXR150000 Part III Sec. D(1) PERMIT

Description: Failure to make the SWPPP available at the time of the on-site inspection. On August 31, 2012, during the investigation, Mr. Marshall was unable to provide the SWPPP. The SWPPP was not provided by the time requested (September 4, 2012).

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 281, SubChapter A 281.25(a)(4)
TXR150000 Part III Sec. F(1)(e) PERMIT

Description: Failure to identify or provide data describing the soil or quality of any discharge from the site. On September 6, 2012, during the review of the SWPPP, the investigator found that no data describing the soil or quality of any discharge from the site was indicated in the SWPPP.

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 281, SubChapter A 281.25(a)(4)
TXR150000 Part III Sec. F(4)(a) PERMIT

Description: Failure to develop or maintain controls to minimize off site tracking of sediment. On September 6, 2012, during the review of the SWPPP, the investigator found that no BMP (Best Management Practice) indicated for minimizing off site tracking along the road way. Mr. Marshall informed the investigator that sweeping of the roadway is done routinely.

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
GLENN THURMAN, INC.
RN106035389**

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

AGREED ORDER DOCKET NO. 2012-2127-WQ-E

I. JURISDICTION AND STIPULATIONS

On _____, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding Glenn Thurman, Inc. ("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 together stipulate that:

1. The Respondent operates a construction site at Golden Triangle Boulevard between Interstate Highway 35W and State Highway 377 in Fort Worth, Tarrant County, Texas (the "Site").
2. The Respondent has committed any other act or engaged in any other activity which in itself or in conjunction with any other discharge or activity causes, continues to cause, or will cause pollution of any water in the state under TEX. WATER CODE ch. 26.
3. The Executive Director 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 October 20, 2012.
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 Eight Thousand Seventeen Dollars (\$8,017) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid Six Thousand Four Hundred Fifteen Dollars (\$6,415) of the administrative penalty and One Thousand Six Hundred Two Dollars (\$1,602) 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.
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 and the Respondent agree on a settlement of the matters alleged in this enforcement action, subject to final approval in accordance with 30 TEX. ADMIN. CODE § 70.10(a).
 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 operator of the Site, the Respondent is alleged to have failed to conduct site inspections of control measures at least once every seven calendar days as specified in the Site's Storm Water Pollution Prevention Plan ("SWPPP"), in violation of Texas Pollutant Discharge Elimination System ("TPDES") General Permit No. TXR15QX66, Part III, Section F.7.(a), Inspections of Controls, 30 TEX. ADMIN. CODE § 281.25(a)(4), as documented during an investigation conducted on August 31, 2012. Specifically, only four site inspections had been conducted at the Site since July 7, 2011.

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: Glenn Thurman, Inc., Docket No. 2012-2127-WQ-E" to:

Financial Administration Division, Revenue Operations 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 Respondent shall undertake the following technical requirements:
 - a. Immediately after the effective date of this Agreed Order, begin conducting site inspections of control measures at least once every seven calendar days, in accordance with TPDES General Permit No. TXR15QX66, Part III, Section F.7.(a), Inspections of Controls and the Site's SWPPP; and
 - b. Within 30 days after the effective date of this Agreed Order, submit written certification as described below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision No. 2.a. The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

"I certify under penalty of law that 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 fines 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
Dallas/Fort Worth Regional Office
Texas Commission on Environmental Quality
2309 Gravel Drive
Fort Worth, Texas 76118-6951

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 Site 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.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission


For the Executive Director

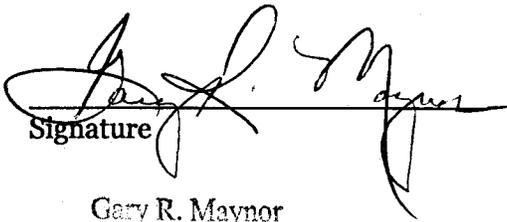
3/14/13
Date

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

I also understand that failure to comply with the Ordering Provisions, if any, in this order and/or failure to timely pay the penalty amount, may result in:

- A negative impact on compliance history;
- Greater scrutiny of any permit applications submitted;
- Referral of this case to the Attorney General's Office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions;
- Automatic referral to the Attorney General's Office of any future enforcement actions; and
- TCEQ seeking other relief as authorized by law.

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


Signature

Gary R. Maynor

1/14/13
Date

EXECUTIVE VICE PRESIDENT

Name (Printed or typed)
Authorized Representative of
Glenn Thurman, Inc.

Title

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