

Thornton Shopping Center Compliance Order on Consent

Presented February 13, 2024

Purpose:

- To have the Thornton Development Authority (TDA) authorize signature on the Compliance Order on Consent (COC), a voluntary and negotiated agreement with the State detailing TDA's cleanup responsibilities and liability protections.

Agenda:

- Overview
- Why It's Important
- Next Steps
- Questions

Thornton Shopping Center Compliance Order on Consent

Overview:

- The COC is the official regulatory agreement between TDA and CDPHE, guiding cleanup. This important milestone is the result of months of negotiation, and TDA agreed to negotiate this agreement in good faith on November 1, 2022.
- Replaces previous owner's Corrective Action Plan (CAP)
- Does not take effect until TDA takes title
- Mutual Objectives:
 - a. To establish compliance requirements and schedules for corrective action.
 - b. To resolve TDA's liability for response costs (as defined in Paragraph 30)
 - c. To define TDA's responsibilities
 - d. To serve as an enforceable mechanism in lieu of a permit

Thornton Shopping Center Compliance Order on Consent

Overview (cont.)

- Details minimum requirements of forthcoming Remedial Investigation and Corrective Measures Workplan; must include the following:
 - Offsite indoor air monitoring; quarterly sampling to include additional monitoring wells necessary to fully delineate the groundwater plume; monitoring to assess the effectiveness of corrective action measures, on-site corrective action which may include source area excavation and contaminated soil removal; a boundary wall or permeable reactive barrier; bioremediation; a proposed work schedule or timeline; and a waste management plan.

Thornton Shopping Center Compliance Order on Consent

Why It's Important:

- Also includes CDPHE commitment to provide “comfort letters” to prospective purchasers
- Provides significant liability relief for TDA when compared to “voluntary” purchase
- Includes covenant-not-to-sue for CERCLA issues
- State can seek penalties for non-compliance
- CDPHE will bill quarterly for their review costs

Thornton Shopping Center Compliance Order on Consent

Next Steps

- Scheduled for TDA approval on February 13, 2024
- Public Participation Plan to outline process for soliciting community input into cleanup decisions
- Draft cleanup workplan to be posted for public comment for a minimum of 30 days
- Final workplan must be submitted to CDPHE within 30 days of title transfer
- Cleanup work must begin within 15 days of CDPHE workplan approval

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QUESTIONS?