

**EXECUTIVE SUMMARY - ENFORCEMENT MATTER**  
**DOCKET NUMBER: 2006-0170-PST-E TCEQ ID NO: RN104190855 ENF ID: 28329**  
**RESPONDENT NAME: SANDRA COOPER**

**ORDER TYPE:**

<input type="checkbox"/> 1660 AGREED ORDER	<input type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> AMENDED ORDER	<input type="checkbox"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
<input type="checkbox"/> SHUTDOWN ORDER	<input checked="" type="checkbox"/> FINDINGS DEFAULT ORDER	<input type="checkbox"/> EMERGENCY ORDER	

**CASE TYPE:**

<input type="checkbox"/> AGRICULTURE	<input type="checkbox"/> AIR	<input type="checkbox"/> INDUSTRIAL AND HAZARDOUS WASTE	<input type="checkbox"/> MUNICIPAL SOLID WASTE
<input type="checkbox"/> OCCUPATIONAL CERTIFICATION	<input checked="" type="checkbox"/> PETROLEUM STORAGE TANKS	<input type="checkbox"/> PUBLIC WATER SUPPLY	<input type="checkbox"/> RADIOACTIVE WASTE
<input type="checkbox"/> MULTI-MEDIA (check all that apply)	<input type="checkbox"/> SEWAGE SLUDGE	<input type="checkbox"/> UNDERGROUND INJECTION CONTROL	<input type="checkbox"/> USED OIL
<input type="checkbox"/> USED OIL FILTER	<input type="checkbox"/> WATER QUALITY	<input type="checkbox"/> DRY CLEANER REGISTRATION	

**SITE WHERE VIOLATION(S) OCCURRED:** 6101 Jade Avenue in Port Arthur, Jefferson County

**TYPE OF OPERATION:** Private property with one underground storage tank

**SMALL BUSINESS:**  Yes  No

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

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

**COMMENTS RECEIVED:** The *Texas Register* comment period expired on January 2, 2007. No comments were received.

**CONTACTS AND MAILING LIST:**

**TCEQ Attorney:** Mr. Shawn Slack, Litigation Division, MC 175, (512) 239-0063; Ms. Jennifer Cook, Litigation Division, MC 175, (512) 239-1873

**TCEQ Enforcement Coordinator:** Ms. Deanna Holland, Enforcement Division, MC 219, (512) 239-2506

**TCEQ Regional Contact:** Mr. Keith Anderson, Beaumont Regional Office, MC R-10, (409) 898-3838

**Respondent:** Ms. Sandra Cooper, P.O. Box 276, Shepherd, Montana 59070

**Respondent's Attorney:** Not represented by counsel.

**RESPONDENT'S NAME: SANDRA COOPER  
DOCKET NO.: 2006-0170-PST-E**

**VIOLATION SUMMARY CHART:**

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p><b>Type of Investigation:</b> <input type="checkbox"/> Complaint <input checked="" type="checkbox"/> Routine  <input type="checkbox"/> Enforcement Follow-up <input type="checkbox"/> Records Review</p> <p><b>Date(s) of Complaints Relating to this Case:</b> None</p> <p><b>Date(s) of Investigation(s) Relating to this Case:</b> December 19, 2005</p> <p><b>Date(s) of NOV(s)/NOE(s) Relating to this Case:</b> February 9, 2006 (NOE)</p> <p><b>Background Facts:</b> An EDPRP was filed on July 24, 2006, then re-filed on September 26, 2006. The Respondent received notice of the EDPRP on or about October 5, 2006. The staff attorney attempted to contact the Respondent before filing the EDPRP, but was unable to reach her. The Respondent has not filed an answer or requested a hearing. The Respondent has not registered her USTs with the TCEQ, and therefore does not have a delivery certificate.</p> <p>The Respondent in this case does not owe any other penalties according to the Administrative Penalty Database Report.</p> <p><b>PST:</b></p> <ol style="list-style-type: none"> <li>Failed to permanently remove from service, no later than 60 days after the prescribed upgrade implementation date, an existing UST system for which any applicable component of the system is not brought into timely compliance with the upgrade requirements [30 TEX. ADMIN. CODE § 334.47(a)(2)].</li> <li>Failed to register a UST system with the TCEQ [30 TEX. ADMIN. CODE § 334.7(a)(1) and TEX. WATER CODE § 26.346].</li> <li>Failed to provide corrosion protection for the UST system [30 TEX. ADMIN. CODE § 334.49(a)(1) and TEX. WATER CODE § 26.3475(d)].</li> </ol>	<p><b>Total Assessed:</b> \$6,600</p> <p><b>Total Deferred:</b> \$0  <input type="checkbox"/> Expedited Settlement  <input type="checkbox"/> Financial Inability to Pay</p> <p><b>Total Due to General Revenue:</b> \$6,600</p> <p>This is a Default Order.</p> <p>The Respondent has not actually paid any of the assessed penalty but will be required to do so under the terms of this Order.</p> <p><b>Site Compliance History Classification:</b>  <input type="checkbox"/> High <input checked="" type="checkbox"/> Avg. <input type="checkbox"/> Poor</p> <p><b>Person Compliance History Classification:</b>  <input type="checkbox"/> High <input checked="" type="checkbox"/> Avg. <input type="checkbox"/> Poor</p> <p><b>Major Source:</b> <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p><b>Applicable Penalty Policy:</b> September 2002</p>	<p><b>Ordering Provision(s)</b></p> <p>The Respondent shall undertake the following technical requirements:</p> <ol style="list-style-type: none"> <li>Within 30 days <ul style="list-style-type: none"> <li>a. Permanently remove the UST system from service, or</li> <li>b. Install a corrosion protection system for the UST system, and</li> <li>c. Submit a properly completed registration form to indicate the current status of the UST system.</li> </ul> </li> <li>Within 45 days submit written certification notarized by a State of Texas Notary Public, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with these Ordering Provisions.</li> </ol>



Policy Revision 2 (September 2002)

# Penalty Calculation Worksheet (PCW)

PCW Revision May 19, 2005

<b>DATES</b>	Assigned	13-Feb-2006			
	PCW	25-May-2006	Screening	14-Feb-2006	EPA Due

<b>RESPONDENT/FACILITY INFORMATION</b>					
Respondent	Sandra Cooper				
Reg. Ent. Ref. No.	RN104190855				
Facility/Site Region	10-Beaumont		Major/Minor Source	Minor Source	

<b>CASE INFORMATION</b>					
Enf./Case ID No.	28329		No. of Violations	3	
Docket No.	2006-0170-PST-E		Order Type	1660	
Media Program(s)	Petroleum Storage Tank		Enf. Coordinator	Deana Holland	
Multi-Media			EC's Team	Enforcement Team 7	
Admin. Penalty \$	Limit Minimum	\$0	Maximum	\$10,000	

## Penalty Calculation Section

<b>TOTAL BASE PENALTY (Sum of violation base penalties)</b>	<b>Subtotal 1</b>	<b>\$6,000</b>
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### ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

<b>Compliance History</b>	10% Enhancement	<b>Subtotals 2, 3, &amp; 7</b>	<b>\$600</b>
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Notes: Enhancement for two NOVs with same or similar violations.

<b>Culpability</b>	No	0% Enhancement	<b>Subtotal 4</b>	<b>\$0</b>
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Notes: The respondent does not meet the culpability criteria.

<b>Good Faith Effort to Comply</b>	0% Reduction	<b>Subtotal 5</b>	<b>\$0</b>
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	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary		
N/A	X	(mark with a small x)

Notes: The respondent is not yet in compliance.

<b>Economic Benefit</b>	0% Enhancement*	<b>Subtotal 6</b>	<b>\$0</b>
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Total EB Amounts	\$4,169	*Capped at the Total EB \$ Amount
Approx. Cost of Compliance	\$15,100	

<b>SUM OF SUBTOTALS 1-7</b>	<b>Final Subtotal</b>	<b>\$6,600</b>
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<b>OTHER FACTORS AS JUSTICE MAY REQUIRE</b>		<b>Adjustment</b>	<b>\$0</b>
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Reduces or enhances the Final Subtotal by the indicated percentage. (Enter number only; e.g. -30 for -30%.)

Notes:

<b>Final Penalty Amount</b>	<b>\$6,600</b>
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<b>STATUTORY LIMIT ADJUSTMENT</b>	<b>Final Assessed Penalty</b>	<b>\$6,600</b>
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<b>DEFERRAL</b>		Reduction	<b>Adjustment</b>	<b>\$0</b>
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Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes: This is not an expedited case.

<b>PAYABLE PENALTY</b>	<b>\$6,600</b>
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<b>Screening Date</b>	14-Feb-2006	<b>Docket No.</b>	2006-0170-PST-E	<b>PCW</b>
<b>Respondent</b>	Sandra Cooper	Policy Revision 2 (September 2002)		
<b>Case ID No.</b>	28329	PCW Revision May 19, 2005		
<b>Reg. Ent. Reference No.</b>	RN104190855			
<b>Media [Statute]</b>	Petroleum Storage Tank			
<b>Enf. Coordinator</b>	Deana Holland			

**Compliance History Worksheet**

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

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written NOVs with same or similar violations as those in the current enforcement action <i>(number of NOVs meeting criteria)</i>	2	10%
	Other written NOVs	0	0%
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)</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) 10%**

**>> 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 two NOVs with same or similar violations.

**Total Adjustment Percentage (Subtotals 2, 3, & 7) 10%**

<b>Screening Date</b>	14-Feb-2006	<b>Docket No.</b>	2006-0170-PST-E	<b>PCW</b>
<b>Respondent</b>	Sandra Cooper	<i>Policy Revision 2 (September 2002)</i>		
<b>Case ID No.</b>	28329	<i>PCW Revision May 19, 2005</i>		
<b>Reg. Ent. Reference No.</b>	RN104190855			
<b>Media [Statute]</b>	Petroleum Storage Tank			
<b>Enf. Coordinator</b>	Deana Holland			
<b>Violation Number</b>	1			
<b>Primary Rule Cite(s)</b>	30 Tex. Admin. Code § 334.47(a)(2)			
<b>Secondary Rule Cite(s)</b>				
<b>Violation Description</b>	The respondent failed to permanently remove from service, no later than 60 days after the prescribed upgrade implementation date, an existing UST system for which any applicable component of the system is not brought into timely compliance with the upgrade requirements.			
<b>Base Penalty</b>				\$10,000

>> **Environmental, Property and Human Health Matrix**

OR	<b>Harm</b>			Percent	
	Release	Major	Moderate		Minor
	Actual				
Potential	X			25%	

>> **Programmatic Matrix**

	Falsification	Major	Moderate	Minor	Percent

Matrix Notes: Human health or the environment will or could be exposed to pollutants which would exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment: -\$7,500

**Base Penalty Subtotal** \$2,500

**Violation Events**

Number of Violation Events: 1

mark only one use a small x	daily	
	monthly	
	quarterly	X
	semiannual	
	annual	
	single event	

**Violation Base Penalty** \$2,500

One quarterly event is recommended based on the investigation date of December 19, 2005 and the screening date of February 14, 2006.

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

Estimated EB Amount: \$3,890      **Violation Final Penalty Total** \$2,750

**This violation Final Assessed Penalty (adjusted for limits)** \$2,750

**Economic Benefit Worksheet**

Respondent: Sandra Cooper  
 Case ID No: 28329  
 Reg. Ent. Reference No: RN104190855  
 Media [Statute]: Petroleum Storage Tank  
 Violation No: 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost No commas or \$	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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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)	\$10,000	22-Dec-1998	01-Oct-2006	7.8	\$3,890	n/a	\$3,890

Notes for DELAYED costs: The estimated cost to permanently remove a UST system from service. The Date Required is the date the respondent was required to upgrade the UST system. The Final Date is estimated the 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: n/a

Approx. Cost of Compliance **\$10,000**

**TOTAL \$3,890**

<b>Screening Date</b>	14-Feb-2006	<b>Docket No.</b>	2006-0170-PST-E	<b>PCW</b>
<b>Respondent</b>	Sandra Cooper	<i>Policy Revision 2 (September 2002)</i>		
<b>Case ID No.</b>	28329	<i>PCW Revision May 19, 2005</i>		
<b>Reg. Ent. Reference No.</b>	RN104190855			
<b>Media [Statute]</b>	Petroleum Storage Tank			
<b>Enf. Coordinator</b>	Deana Holland			
<b>Violation Number</b>	2			
<b>Primary Rule Cite(s)</b>	30 Tex. Admin. Code § 334.7(a)(1)			
<b>Secondary Rule Cite(s)</b>	Tex. Water Code § 26.346			
<b>Violation Description</b>	Failed to register a UST system with the TCEQ.			
<b>Base Penalty</b>				\$10,000

>> **Environmental, Property and Human Health Matrix**

		<b>Harm</b>			
<b>Release</b>		Major	Moderate	Minor	
Actual					Percent <input type="text"/>
Potential					

>> **Programmatic Matrix**

	Falsification	Major	Moderate	Minor	
		x			Percent <input type="text" value="10%"/>

Matrix Notes

**Adjustment**

**Base Penalty Subtotal**

**Violation Events**

Number of Violation Events

mark only one use a small x

daily	<input type="text"/>
monthly	<input type="text"/>
quarterly	<input type="text"/>
semiannual	<input type="text"/>
annual	<input type="text"/>
single event	x

**Violation Base Penalty**

One single event is recommended based on the investigation date of December 19, 2005.

**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: Sandra Cooper  
 Case ID No: 28329  
 Reg. Ent. Reference No: RN104190855  
 Media [Statute]: Petroleum Storage Tank  
 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
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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)	\$100	19-Dec-2005	01-Oct-2006	0.8	\$4	n/a	\$4

Notes for DELAYED costs: Estimated cost to complete and submit the UST registration form. The Date Required is the date of the investigation. The Final Date is 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: n/a

Approx. Cost of Compliance \$100

**TOTAL** \$4

<b>Screening Date</b>	14-Feb-2006	<b>Docket No.</b>	2006-0170-PST-E	<b>PCW</b>
<b>Respondent</b>	Sandra Cooper	<i>Policy Revision 2 (September 2002)</i>		
<b>Case ID No.</b>	28329	<i>PCW Revision May 19, 2005</i>		
<b>Reg. Ent. Reference No.</b>	RN104190855			
<b>Media [Statute]</b>	Petroleum Storage Tank			
<b>Enf. Coordinator</b>	Deana Holland			
<b>Violation Number</b>	<input type="text" value="3"/>			
<b>Primary Rule Cite(s)</b>	<input type="text" value="30 Tex. Admin. Code § 334.49(a)(1)"/>			
<b>Secondary Rule Cite(s)</b>	<input type="text" value="Tex. Water Code § 26.3475(d)"/>			
<b>Violation Description</b>	<input type="text" value="Failure to provide corrosion protection for the UST system, as documented during the December 19, 2005 investigation."/>			
<b>Base Penalty</b>				<input type="text" value="\$10,000"/>

>> **Environmental, Property and Human Health Matrix**

Release	Harm			Percent
	Major	Moderate	Minor	
Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text" value="25%"/>
Potential	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	

>> **Programmatic Matrix**

Matrix Notes	Falsification	Major	Moderate	Minor	Percent
	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	
<input type="text" value="Human health or the environment could be exposed to significant amounts of pollutants which may exceed levels that are protective of human health and environmental receptors."/>					

**Adjustment**

**Base Penalty Subtotal**

**Violation Events**

Number of Violation Events

<i>mark only one use a small x</i>	<i>daily</i>	<input type="text"/>
	<i>monthly</i>	<input type="text"/>
	<i>quarterly</i>	<input checked="" type="checkbox"/>
	<i>semiannual</i>	<input type="text"/>
	<i>annual</i>	<input type="text"/>
	<i>single event</i>	<input type="text"/>

**Violation Base Penalty**

**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 Sandra Cooper  
 Case ID No. 28329  
 Reg. Ent. Reference No. RN104190855  
 Media [Statute] Petroleum Storage Tank  
 Violation No. 3

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost No commas or \$	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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Delayed Costs							
Equipment	\$5,000	19-Dec-2005	01-Oct-2006	0.8	\$13	\$261	\$274
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

Estimated cost to provide an adequate corrosion protection system. Date Required is the investigation date and the Final Date is 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

n/a

Approx. Cost of Compliance

**TOTAL**

## Compliance History

Customer/Respondent/Owner-Operator:	CN602582009      COOPER, SANDRA	Classification: AVERAGE	Rating: 9.00
Regulated Entity:	RN104190855      COOPER PROPERTY	Classification: AVERAGE	Site Rating: 9.00
ID Number(s):			
Location:	6101 JADE AVE, PORT ARTHUR, TX, 77640	Rating Date: September 01 05 Repeat Violator: NO	
TCEQ Region:	REGION 10 - BEAUMONT		
Date Compliance History Prepared:	February 14, 2006		
Agency Decision Requiring Compliance History:	Enforcement		
Compliance Period:	February 14, 2001 to February 14, 2006		

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

Name: Deana Holland Phone: 239-2504

### Site Compliance History Components

- |  |            |
|--|------------|
| 1. Has the site been in existence and/or operation for the full five year compliance period? | Yes        |
| 2. Has there been a (known) change in ownership of the site during the compliance period?    | No         |
| 3. If Yes, who is the current owner?   | <u>N/A</u> |
| 4. If Yes, who was/were the prior owner(s)?  | <u>N/A</u> |
| 5. When did the change(s) in ownership occur?  | <u>N/A</u> |

#### 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 05/18/2005 (379651)

2 02/09/2006 (450570)

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

Date: 06/03/2005 (394407)

Self Report? NO

Citation: 30 TAC Chapter 334, SubChapter C 334.47(a)(2)

Description: Failure to upgrade tank to meet all technical standards.

Classification: Moderate

Self Report? NO

Citation: 30 TAC Chapter 334, SubChapter A 334.7(a)(1)[G]

Description: Failure to register all USTs with the Commission.

Classification: Moderate

Self Report? NO

Citation: 30 TAC Chapter 334, SubChapter C 334.49(a)(1)

Description: Failure to provide corrosion protection for the UST system.

Classification: Moderate

Date: 05/18/2005 (379651)

Self Report? NO

Citation: 30 TAC Chapter 334, SubChapter C 334.47(a)(2)

Description: Failure to upgrade tank to meet all technical standards.

Classification: Moderate

Self Report? NO

Citation: 30 TAC Chapter 334, SubChapter A 334.7(a)(1)[G]

Description: Failure to register all USTs with the Commission.

Classification: Moderate

Self Report? NO

Citation: 30 TAC Chapter 334, SubChapter C 334.49(a)(1)

Classification: Moderate

Description Failure to provide corrosion protection for the UST system.

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  
SANDRA COOPER;  
RN104190855

§  
§  
§  
§  
§

BEFORE THE  
TEXAS COMMISSION ON  
ENVIRONMENTAL QUALITY

**DEFAULT ORDER**  
**DOCKET NO. 2006-0170-PST-E**

At its \_\_\_\_\_ agenda, the Texas Commission on Environmental Quality, ("Commission" or "TCEQ") considered the Executive Director's Preliminary Report and Petition filed pursuant to TEX. WATER CODE chs. 7 and 26 and the rules of the TCEQ, which requests appropriate relief, including, the imposition of an administrative penalty and corrective action of the respondent. The respondent made the subject of this Order is Sandra Cooper ("Ms. Cooper").

The Commission makes the following Findings of Fact and Conclusions of Law:

**FINDINGS OF FACT**

1. Ms. Cooper owns private property with one underground storage tank ("UST") located at 6101 Jade Avenue in Port Arthur, Jefferson County, Texas (the "Facility").
2. Ms. Cooper's underground storage tank ("UST") is not exempt or excluded from regulation under the Texas Water Code or the rules of the Commission.
3. During an inspection conducted on December 19, 2005, a TCEQ Beaumont Regional Office investigator documented that Ms. Cooper:
  - a. Failed to permanently remove from service, no later than 60 days after the prescribed upgrade implementation date, an existing UST system for which any applicable component of the system is not brought into timely compliance with the upgrade requirements.
  - b. Failed to register a UST system with the TCEQ.
  - c. Failed to provide corrosion protection for the UST system.
4. Ms. Cooper received notice of the violations on or about February 14, 2006.

5. The Executive Director filed the "Executive Director's Preliminary Report and Petition Recommending that the Texas Commission on Environmental Quality Enter an Enforcement Order Assessing an Administrative Penalty Against and Requiring Certain Actions of Sandra Cooper" (the "EDPRP") in the TCEQ Chief Clerk's office on July 24, 2006.
6. By letter dated July 24, 2006, sent via certified mail, return receipt requested, and via first class mail, postage prepaid, the Executive Director served Ms. Cooper with notice of the EDPRP. According to the United States Postal Service Track & Confirm database, the certified mail, return receipt requested copy of the EDPRP "was forwarded to a different address at 8:26 am on July 27, 2006". Additionally, the first class mail has not been returned, indicating that Ms. Cooper received notice of the EDPRP.
7. The Executive Director re-filed the EDPRP in the TCEQ Chief Clerk's office on September 26, 2006.
8. By letter dated September 26, 2006, sent via certified mail, return receipt requested, and via first class mail, postage prepaid, the Executive Director served Ms. Cooper with notice of the EDPRP. According to the return receipt "green card," Ms. Cooper received notice of the EDPRP on October 5, 2006, as evidenced by the signature on the card.
9. More than 20 days have elapsed since Ms. Cooper received notice of the EDPRP, provided by the Executive Director. Ms. Cooper failed to file an answer to the EDPRP, failed to request a hearing, and failed to schedule a settlement conference.

### CONCLUSIONS OF LAW

1. As evidenced by Finding of Fact Nos. 1 and 2, Ms. Cooper is subject to the jurisdiction of the TCEQ pursuant to TEX. WATER CODE chs. 7 and 26 and the rules of the Commission.
2. As evidenced by Finding of Fact No. 3.a., Ms. Cooper, failed to permanently remove from service, no later than 60 days after the prescribed upgrade implementation date, an existing UST system for which any applicable component of the system is not brought into timely compliance with the upgrade requirements in violation of 30 TEX. ADMIN. CODE § 334.47(a)(2).
3. As evidenced by Finding of Fact No. 3.b., Ms. Cooper failed to register a UST system with the TCEQ, in violation of 30 TEX. ADMIN. CODE § 334.7(a)(1) and TEX. WATER CODE § 26.346.

4. As evidenced by Finding of Fact No. 3.c., Ms. Cooper failed to provide corrosion protection for the UST system in violation of 30 TEX. ADMIN. CODE § 334.49(a)(1) and TEX. WATER CODE § 26.3475(d).
5. As evidenced by Finding of Fact Nos. 7 and 8, the Executive Director has timely served Ms. Cooper with proper notice of the EDPRP, as required by TEX. WATER CODE § 7.055 and 30 TEX. ADMIN. CODE § 70.104(c)(2).
6. As evidenced by Finding of Fact No. 9, Ms. Cooper has failed to file a timely answer to the EDPRP, as required by TEX. WATER CODE § 7.056 and 30 TEX. ADMIN. CODE § 70.105. Pursuant to TEX. WATER CODE § 7.057 and 30 TEX. ADMIN. CODE § 70.106, the Commission may enter a Default Order against Ms. Cooper and assess the penalty recommended by the Executive Director.
7. Pursuant to TEX. WATER CODE § 7.051, the Commission has the authority to assess an administrative penalty against Ms. Cooper for violations of the Texas Water Code and the Texas Health and Safety Code within the Commission's jurisdiction; for violations of rules adopted under such statutes; or for violations of orders or permits issued under such statutes.
8. An administrative penalty in the amount of six thousand six hundred dollars (\$6,600.00) is justified by the facts recited in this Order, and considered in light of the factors set forth in TEX. WATER CODE § 7.053.
9. TEX. WATER CODE §§ 5.102 and 7.002 authorize the Commission to issue orders and make determinations necessary to effectuate the purposes of the statutes within its jurisdiction.

### **ORDERING PROVISIONS**

NOW, THEREFORE, THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY ORDERS that:

1. Ms. Cooper is assessed an administrative penalty in the amount of six thousand six hundred dollars (\$6,600.00) for violations of TEX. WATER CODE ch. 26 and rules of the TCEQ. The payment of this administrative penalty and Ms. Cooper's compliance with all the terms and conditions set forth in this Order completely resolve the matters set forth by this Order in this action. The Commission shall not be constrained in any manner from requiring corrective actions or penalties for other violations which are not raised here. All checks submitted to pay the penalty imposed by this Order shall be made out to the "Texas Commission on Environmental Quality." The administrative penalty assessed by this Order shall be paid

within 30 days after the effective date of this Order and shall be sent with the notation "Re: Sandra Cooper; Docket No. 2006-0170-PST-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. Ms. Cooper shall undertake the following technical requirements:

- a. Within 30 days after the effective date of this Order, Ms. Cooper shall:
  - i. Permanently remove the UST system from service, in accordance with 30 TEX. ADMIN. CODE § 334.55; or
  - ii. Install a corrosion protection system for the UST system, in accordance with 30 TEX. ADMIN. CODE § 334.49; and
  - iii. Submit a properly completed registration form to indicate the current status of the UST system, in accordance with 30 TEX. ADMIN. CODE § 334.7 to:

Registration and Reporting Section  
Registration, Review & Reporting Division, MC-138  
Texas Commission on Environmental Quality  
P.O. Box 13087  
Austin, Texas 78711-3087

- b. Within 45 days after the effective date of this 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 Nos. 2.a. i. through 2.a. iii.

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:

Keith Anderson, Waste Section Manager  
Beaumont Regional Office  
Texas Commission on Environmental Quality  
3870 Eastex Freeway  
Beaumont, Texas 77703-1892

3. All relief not expressly granted in this Order is denied.
4. The provisions of this Order shall apply to and be binding upon Ms. Cooper. Ms. Cooper is ordered to give notice of this Order to personnel who maintain day-to-day control over the Facility's operations referenced in this Order.
5. If Ms. Cooper fails to comply with any of the Ordering Provisions in this Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, Ms. Cooper's failure to comply is not a violation of this Order. Ms. Cooper shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. Ms. Cooper shall notify the Executive Director within seven days after Ms. Cooper becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
6. The Executive Director may grant an extension of any deadline in this Order or in any plan, report, or other document submitted pursuant to this Order, upon a written and substantiated showing of good cause. All requests for extensions by Ms. Cooper shall be made in writing to the Executive Director. Extensions are not effective until Ms. Cooper receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.

7. The Executive Director may refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings without notice to Ms. Cooper if the Executive Director determines that Ms. Cooper has not complied with one or more of the terms or conditions in this Order.
8. This Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Order, whichever is later.
9. The Chief Clerk shall provide a copy of this Order to each of the parties. By law, the effective date of this Order shall be the date the Order is final, as provided by 30 TEX. ADMIN. CODE § 70.106(d) and TEX. GOV'T CODE § 2001.144.

Sandra Cooper  
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**SIGNATURE PAGE**

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

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For the Commission

**AFFIDAVIT OF SHAWN A. SLACK**

STATE OF TEXAS           §  
  §  
COUNTY OF TRAVIS       §

“My name is Shawn A. Slack. I am of sound mind, capable of making this affidavit, and the facts stated in this affidavit are within my personal knowledge and are true and correct.

On behalf of the Executive Director of the Texas Commission on Environmental Quality, I filed the “Executive Director’s Preliminary Report and Petition Recommending that the Texas Commission on Environmental Quality Enter an Enforcement Order Assessing an Administrative Penalty Against and Requiring Certain Actions of Sandra Cooper” (the “EDPRP”) with the Office of the Chief Clerk on July 24, 2006.

I sent the EDPRP to Ms. Cooper at her last known address on July 24, 2006, via certified mail, return receipt requested, and via first class mail, postage prepaid. According to the United States Postal Service Track & Confirm database, the certified mail, return receipt requested copy of the EDPRP "was forwarded to a different address at 8:26 am on July 27, 2006". Additionally, the first class mail has not been returned, indicating the respondent received notice of the EDPRP, in accordance with 30 TEX. ADMIN. CODE § 70.104(c)(2).

On behalf of the Executive Director of the Texas Commission on Environmental Quality, I re-filed the EDPRP with the Office of the Chief Clerk on September 26, 2006.

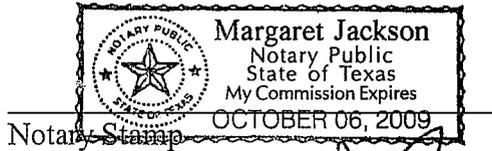
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More than 20 days have elapsed since Ms. Cooper received notice of the EDPRP. Ms. Cooper failed to file an answer to the EDPRP, failed to request a hearing, and failed to schedule a settlement conference.”

  
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Shawn A. Slack, Attorney  
Texas Commission on Environmental Quality

Before me, the undersigned authority, on this day personally appeared Shawn A. Slack, known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that he executed the same for the purposes and consideration herein expressed.

Given under my hand and seal of office this 9 day of November, 2006.



*Margaret Jackson*