

**EXECUTIVE SUMMARY - ENFORCEMENT MATTER**  
**DOCKET NUMBER: 2004-0445-PST-E TCEQ ID NO: RN102245263 ENF ID: 14189**  
**RESPONDENT NAME: YARI ENTERPRISES, INC. DBA GIT N GO**

**ORDER TYPE:**

<input checked="" 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 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		

**SITE WHERE VIOLATION(S) OCCURRED:** 302 South 17th Street, West Columbia, Brazoria County

**TYPE OF OPERATION:** Convenience store with retail sales of gasoline

**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 November 6, 2006. No comments were received.

**CONTACTS AND MAILING LIST:**

**TCEQ Attorney:** Ms. Kathleen C. Decker, Litigation Division, MC 175, (512) 239-6500; Jennifer Cook, Litigation Division, MC 175, (512) 239-1873  
**TCEQ Enforcement Coordinator:** Mr. Kent Heath, Enforcement Division, MC 149, (512) 239-4575  
**TCEQ Regional Contact:** Ms. Nicole Bealle, Houston Regional Office, MC R-12, (713) 767-3623  
**Respondent:** Mr. Serwer Ali Ajani, President, Yari Enterprises, Inc, dba Git No Go, 3911 Garnett Falls, Sugar Land, Texas 77479  
**Respondent's Attorney:** Not represented by counsel.

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY  
NOV 15 PM 1:49  
CHIEF CLERK'S OFFICE

**RESPONDENT'S NAME: YARI ENTERPRISES, INC. DBA GIT N GO**  
**DOCKET NO.: 2004-0445-PST-E**

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 checked="" 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> July 31, 2003 (Investigation),  April 1, 2004 (Record Review)</p> <p><b>Date(s) of NOV(s)/NOE(s) Relating to this Case:</b> October 8, 2003 (NOE)</p> <p><b>Background Facts:</b>  An EDPRP was filed on October 5, 2004. The case was referred to SOAH and an EDFARP was filed on October 7, 2005. An Agreed Order was signed on March 28, 2006.</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 demonstrate acceptable financial assurance for taking corrective action and for compensating third parties for bodily injury and property damage caused by accidental releases arising from the operation of petroleum underground storage tanks (USTs) [30 TEX. ADMIN. CODE § 37.815(a) and (b)].</li> <li>Failed to conduct manual or automatic inventory control for all USTs at the Facility, and by failing to conduct inventory control reconciliation on a monthly basis [30 TEX. ADMIN. CODE §§ 334.48(c) and 334.50(d)(1)(B)(ii)].</li> <li>Failed to test line leak detectors and product piping at least once per year for performance and operational liability, and by failing to monitor tanks (release detection) for releases at a frequency of at least once every month. Specifically at the time of the investigation annual testing for the lines was overdue and the Facility was not conducting proper release detection [30 TEX. ADMIN. CODE § 334.50(b)(1)(A), (b)(2)(A)(i)(III), and (b)(2)(A)(ii)(I), and TEX. WATER CODE § 26.3475(a) and (c)(1)].</li> <li>Failed to conduct the annual and triennial Stage II testing to verify proper operation of the Stage II equipment. Specifically, the pressure decay test must be conducted annually, and the Vapor Space Manifold and Dynamic Back-Pressure test must be conducted at least once every 3 years [30 TEX. ADMIN. CODE § 115.245(2) and TEX. HEALTH &amp; SAFETY CODE § 382.085(b)].</li> <li>Failed to pay outstanding underground storage tank fees for TCEQ Financial Administration Account No. 0059929U [30 TEX. ADMIN. CODE § 334.22(a)], and TEX. WATER CODE § 5.702].</li> </ol>	<p><b>Total Assessed:</b> \$17,100</p> <p><b>Total Deferred:</b> \$8,793  <input type="checkbox"/> Expedited Settlement  <input checked="" type="checkbox"/> Financial Inability to Pay</p> <p><b>Total Paid/Due to General Revenue:</b> \$257/\$8,050</p> <p>The Respondent has paid \$257 of the non-deferred administrative penalty. The remaining amount of \$8,050 shall be payable in 35 monthly payments of \$230 each.</p> <p><b>Site Compliance History Classification:</b>  <input checked="" type="checkbox"/> High <input type="checkbox"/> Avg. <input type="checkbox"/> Poor</p> <p><b>Person Compliance History Classification:</b>  <input checked="" type="checkbox"/> High <input 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>Corrective Action(s) Taken</b></p> <p>The Executive Director recognizes that on August 18, 2003, the Respondent obtained a Storage Tank Liability policy to insure the four USTs located at the Facility against third party bodily injury and property damage caused by accidental releases arising from the operation of the petroleum USTs and for taking corrective action.</p> <p><b>Ordering Provision(s)</b></p> <ol style="list-style-type: none"> <li>Immediately, begin conducting inventory control for all USTs at the Facility</li> <li>Within 30 days: <ol style="list-style-type: none"> <li>begin reconciliation of inventory control records on a monthly basis;</li> <li>conduct line leak detector tests;</li> <li>conduct product piping tests;</li> <li>monitor tanks for releases using one or more of the release detection methods;</li> <li>conduct the annual and triennial Stage II testing to verify proper operation of the Stage II equipment. Specifically, test for pressure decay, vapor space manifold, and dynamic back pressure; and</li> <li>pay all outstanding fees, including any associated penalties and interest.</li> </ol> </li> <li>Within 45 days, submit written certification of compliance 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>

# Texas Commission on Environmental Quality

## INTEROFFICE MEMORANDUM

**To:** Kathleen Decker, Attorney  
Litigation Division

**Thru:** Rob Norris, Senior Financial Analyst  
Revenue & Financial Assurance, MC-184 *RN*

**From:** Paige Seidenberger, Financial Analyst *PS*  
Revenue & Financial Assurance, MC-184

**Subject:** Yari Enterprises, Inc.  
Financial Review  
Docket No. 2004-0445-PST-E; Enforcement ID14189

**Date:** March 16, 2006

### CONFIDENTIAL: ATTORNEY-CLIENT PRIVILEGED COMMUNICATION

We have reviewed the financial information submitted by Yari Enterprises, Inc. dba Git N Go ("Yari") for the purpose of evaluating the financial capabilities of Yari to pay an administrative penalty in the amount of \$17,100 and compliance costs of \$4,250. The information reviewed included: Income Tax Returns for 2002, 2003 and 2004; Unaudited Financial Statements for 12/31/02, 12/31/03, 12/31/04 and 9/30/05; Texas Workforce Commission Reports; a Schedule of Indebtedness; copies of loan documents; a letter from Wells Fargo Bank declining to renew the loan, and Articles of Incorporation. Information was also obtained from the Brazoria County Appraisal District and the Secretary of State.

Yari owns and operates a convenience store with retail sales of gasoline in West Columbia, Brazoria County, Texas. The corporate stock is owned by Serwar Ali Ajani (60%) and Ruksanah Pirani (40%). Yari was incorporated in December 2001 and purchased the subject real estate in January 2003. Financing for the purchase of the real estate was provided by the Seller (\$80,000) and Express Bank (\$363,758). The Seller note is paid in full and Wells Fargo now holds the note on the real estate with a balance of \$318,000.

The company was substantially undercapitalized at inception and has relied on shareholder loans to fund operations and meet debt service requirements. Loans from shareholders total \$366,000. The corporate assets consists of minimal cash, inventory, furniture, fixture, equipment and the real estate. All assets are used in the operation of the business and none are available for liquidation to pay the penalty. The long term note payable to Wells Fargo Bank is secured by the real estate and matures 4/16/06. The loan is personally guaranteed by Ruksanah Pirani, Karim Pirani, and Sewar Ali Ajani. The bank sent a letter to Mr. Ajani on 3/9/06 advising him that the bank will not be renewing the loan at maturity.

ASSETS	Tax 2002	Tax 2003	Tax 2004	Unaudited 9/30/2005
Cash	4,159	5,681	2,972	6,521
Inventories	36,754	38,981	51,345	53,451
Buildings and Depreciable assets	155,000	594,710	594,710	603,432
Less accumulated depreciation	-29,287	-87,301	-127,823	-127,823
Land	0	100,000	100,000	100,000
<b>Total Assets</b>	<b>166,626</b>	<b>652,071</b>	<b>621,204</b>	<b>635,581</b>

Yari Enterprises, Inc.  
 Financial Review  
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LIABILITIES AND EQUITY	Tax 2002	Tax 2003	Tax 2004	Unaudited 9/30/2005
Current Liabilities	0	0	0	2,961
Loans from shareholders	169,000	225,901	325,901	366,000
Long term Notes Payable	0	431,654	328,913	326,384
<b>Total Liabilities</b>	<b>169,000</b>	<b>657,555</b>	<b>654,814</b>	<b>695,345</b>
Common Stock	1,000	1,000	1,000	1,000
Retained Earnings	0	-3,374	-6,484	-34,610
Current Earnings	-3,374	-3,110	-28,126	-26,154
<b>Total Equity</b>	<b>-2,374</b>	<b>-5,484</b>	<b>-33,610</b>	<b>-59,764</b>

Sales declined 29% in 2004. According to Mr. Ajani, this is a result of increased competition from an HEB store and gas station which opened in 2003 and a new Exxon station. The decline in sales resulted in a loss of \$28,107 reported in 2004. For a portion of the last quarter in 2005, Yari did not sell gas. They were unable to refill the fuel pumps since they had not paid suppliers due to cash flow problems.

INCOME AND EXPENSES	Tax 2002	Tax 2003	Tax 2004	Unaudited 9/30/2005
<b>Sales</b>	<b>1,185,521</b>	<b>1,177,020</b>	<b>830,731</b>	<b>644,819</b>
Cost of Good Sold	1,085,010	1,027,001	748,170	556,895
Gross Profit	100,511	150,019	82,561	87,923
Other Income	12,842	24,084	25,681	0
<b>Total Income</b>	<b>113,353</b>	<b>174,103</b>	<b>108,242</b>	<b>87,923</b>
Salaries and wages	0	36,000	27,000	27,000
Repairs and maintenance	1,510	1,389	1,469	4,361
Bad Debts	2,668	38,891	0	1,500
Rents	42,087	9,000	0	0
Taxes and licenses	2,664	6,677	11,094	11,718
Interest	0	27,242	23,717	24,307
Depreciation	29,287	58,014	40,522	0
Bank/Telecheck/Credit Cards	2,940	0	5,620	4,280
Professional and Legal Fees	0	0	4,588	3,120
Telephone	595	0	667	2,654
Utilities	2,212	0	3,328	2,483
Miscellaneous	16,968	0	13,975	16,586
<b>Total Expenses</b>	<b>116,727</b>	<b>177,213</b>	<b>136,349</b>	<b>114,078</b>
<b>Net Income</b>	<b>-3,374</b>	<b>-3,110</b>	<b>-28,107</b>	<b>-26,155</b>

Cash flow available for debt service requirements has been very inconsistent for the past 4 years. The proforma cash flow analysis below assumes that Yari's bank note is renewed on a 20 year term loan. Debt service requirements would be \$35,570, annually. Historically, this would have provided a negative cash flow of \$9,657 in 2002 and through 9/30/05 a negative cash flow of \$28,526.

Yari Enterprises, Inc.  
Financial Review  
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ProForma Cash Flow Analysis	Tax 2002	Tax 2003	Tax 2004	Unaudited 9/30/2005
Net Income	-3,374	-3,110	-28,107	-26,155
Add: Interest	0	27,242	23,717	24,307
Add: Depreciation	29,287	58,014	40,522	0
Cash Flow Available for Debt Service	25,913	82,146	36,132	-1,848
\$318,000, 20 yrs, 9.5% (Prime + 2%)	35,570	35,570	35,570	26,678
Cash Flow After Debt Service	-9,657	46,576	562	-28,526

The minimum penalty allowed in the enforcement policy is 1% of annual sales. Based on 1% of sales reported on the 2004 tax return, the minimum penalty would be \$8,307. If this amount is paid in 36 monthly installments, the payments are \$230.75.

Based on the information reviewed, we are recommending payment of the minimum penalty of \$8,307. If the Respondent indicates a willingness or ability to pay the penalty in less than 36 months, please contact us because additional financial analysis may be warranted. Also, please send a copy of the Order after it is signed by the Respondent for our file. If there are any questions regarding our recommendation, please contact me at 512-239-6263.



# Penalty Calculation Worksheet (PCW)

Policy Revision 2 (09/02)

PCW Revision 2/10/2004

<b>DATES</b>		PCW 5-Aug-2004	Screening 2-Apr-2004	Priority Due 31-Jul-2004	EPA Due
<b>RESPONDENT INFORMATION</b>					
Respondent	Yari Enterprises, Inc. dba Git N Go				
Respondent/Site ID No(s)	PST ID No. 14810, RN102245263				
Facility/Site Region	12 - Houston	Major/Minor Source		Minor	
<b>CASE INFORMATION</b>					
Enf./Case ID No(s)	Case No. 14189		No. Violations		5
Docket No.	2004-0445-PST-E		Order Type		1660 without deferral
Case Priority	3	EC's Team		Enforcement Team 2	
Enf. Coordinator	Kent Heath				
Media Program(s)	Petroleum Storage Tank				
Admin. Penalty \$ Limit	Minimum \$0	Maximum \$10,000			

## Penalty Calculation Section

**TOTAL BASE PENALTY** (Sum of violation base penalties) **Subtotal 1** \$19,000

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

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

**Compliance History** -10% Reduction **Subtotals 2, 3 & 7** -\$1,900

Notes: A downwards adjustment has been applied to reflect high performer classification. **+**

**Culpability** 0% Enhancement **Subtotal 4** \$0

Notes: The Respondent does not meet the culpability criteria. **+**

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

	Before NOV	NOV to EDPRP/Settlement Offer	
Extraordinary			
Ordinary			
None of the above	X	(mark with small x)	<b>+</b>

Notes: The Respondent is not yet in compliance.

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

\$1,447	Total EB Amounts	*Capped at the Total EB \$ Amount	=
\$4,250	Approx. Cost of Compliance		

**SUM OF SUBTOTALS 1-7** **Final Subtotal** \$17,100

**OTHER FACTORS AS JUSTICE MAY REQUIRE** **Adjustment** \$0

Reduces or enhances the Final Subtotal by the indicated percentage. (enter number only; e.g. -30 for -30%)

Notes: **=**

**Final Penalty Amount** \$17,100

**STATUTORY LIMIT ADJUSTMENT** **Final Assessed Penalty** \$17,100

**DEFERRAL** Deferral Reduction **Adjustment** \$0

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

Notes: No deferral is recommended because settlement was not achieved through the expedited process. **=**

**PAYABLE PENALTY** \$17,100

<b>Screening Date</b>	2-Apr-2004	<b>Docket Number</b>	2004-0445-PST-E	<b>PCW</b>
<b>Respondent</b>	Yari Enterprises, Inc. dba Git N Go	<b>Policy Revision 2 (09/02)</b>		
<b>Case ID No.</b>	Case No. 14189	<b>PCW Revision 2/10/2004</b>		
<b>Respondent/Site ID No.</b>	PST ID No. 14810, RN102245263			
<b>Media [Statute]</b>	Petroleum Storage Tank			
<b>Enf. Coordinator</b>	Kent Heath			
<b>Site Address</b>	302 South 17th Street, West Columbia, Brazoria County			

**Compliance History Worksheet**

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

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written NOVs with same or similar violations as those in the current enforcement action (number of NOVs meeting criteria)	0	0%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (number of judgements or consent decrees meeting criteria)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (number of counts)	0	0%
Emissions	Chronic excessive emissions events (number of events)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which notices were submitted)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which violations were disclosed)	0	0%
Other	<i>Please enter Yes or No</i>		
	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**

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

Screening Date 02-Apr-04 Docket Number 2004-0445-PST-E

PCW

Respondent Yari Enterprises, Inc. dba Git N Go

Policy Revision 2 (09/02)

Case ID No. Case No. 14189

PCW Revision 2/10/2004

Respondent/Site ID No. PST ID No. 14810, RN102245263

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Kent Heath

Violation Number

1

Primary Rule Cite

30 Tex. Admin Code § 37.815(a) and (b)

Secondary Cite(s)

Violation Description

Failure to demonstrate acceptable financial assurance for taking corrective action and for compensating third parties for bodily injury and property damage caused by accidental releases arising from the operation of petroleum USTs.

Base Penalty \$10,000

» Environmental, Property and Human Health Matrix

Harm

Release	Major	Moderate	Minor
Actual			
Potential			

OR

Percent

» Programmatic Matrix

Falsification	Major	Moderate	Minor
	x		

OR

Percent 10%

Matrix Notes

100% of the rule requirement has not been met.

Adjustment -\$9,000

Base Penalty Subtotal \$1,000

Violation Events

Number of Violation Events 4

mark only one; use small x

daily	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty \$4,000

Events Notes

Four single events (one for each tank) are recommended based on documentation of the violation during the July 31, 2003, inspection.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount (\$) \$0

Violation Final Penalty total \$3,600

This Violation Final Assessed Penalty (adjusted for limits) \$3,600



**Economic Benefit Worksheet**

**Respondent** Yari Enterprises, Inc. dba Git N Go  
**ID Number(s)** Case No. 14189  
**Media [Statute]** Petroleum Storage Tank  
**Violation Number** 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost <small>No commas or \$</small>	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)				0.0	\$0	n/a	\$0

Notes for DELAYED costs

**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/equip				0.0	\$0	\$0	\$0
Financial Assurance [2]	\$2,650	31-Jul-2003	18-Aug-2003	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

Estimated cost to provide financial assurance for the petroleum USTs.

Approx Cost of Compliance \$2,650

**TOTAL** \$0

<b>Screening Date</b>	02-Apr-04	<b>Docket Number</b>	2004-0445-PST-E	<b>PCW</b>	
<b>Respondent</b>	Yari Enterprises, Inc. dba Git N Go			Policy Revision 2 (09/02)	
<b>Case ID No.</b>	Case No. 14189			PCW Revision 2/10/2004	
<b>Respondent/Site ID No.</b>	PST ID No. 14810, RN102245263				
<b>Media [Statute]</b>	Petroleum Storage Tank				
<b>Enf. Coordinator</b>	Kent Heath				
<b>Violation Number</b>	2				
<b>Primary Rule Cite</b>	30 Tex. Admin. Code §§ 334.48(c) and 334.50(d)(1)(B)(ii)				
<b>Secondary Cite(s)</b>					
<b>Violation Description</b>	Failure to conduct manual or automatic inventory control for all USTs at the facility, and failure to conduct inventory control reconciliation on a monthly basis.				
<b>Base Penalty</b>				\$10,000	
» Environmental, Property and Human Health Matrix					
<b>Harm</b>					
	<b>Release</b>	<b>Major</b>	<b>Moderate</b>	<b>Minor</b>	
OR	Actual	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
	Potential	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<b>Percent</b> <input type="text" value="25%"/>
» Programmatic Matrix					
	<b>Falsification</b>	<b>Major</b>	<b>Moderate</b>	<b>Minor</b>	
OR	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<b>Percent</b> <input type="text" value=""/>
<b>Matrix Notes</b>	Failure to conduct inventory control and reconciliation could result in a release of significant amount of product which would exceed levels protective of human health and environmental receptors.				
<b>Adjustment</b>				-\$7,500	
<b>Base Penalty Subtotal</b>				\$2,500	
Violation Events					
<b>Number of Violation Events</b>		<input type="text" value="2"/>			
<i>mark only one; use small x</i>	<b>daily</b>	<input type="checkbox"/>			
	<b>monthly</b>	<input type="checkbox"/>			
	<b>quarterly</b>	<input type="checkbox"/>			
	<b>semiannual</b>	<input checked="" type="checkbox"/>			
	<b>annual</b>	<input type="checkbox"/>			
	<b>single event</b>	<input type="checkbox"/>			
<b>Violation Base Penalty</b>				\$5,000	
<b>Events Notes</b>	Two semiannual events are recommended based on documentation of the violation during the July 31, 2003, investigation, to the July 25, 2004, settlement deadline date, to make the penalty commensurate with the situation.				
Economic Benefit (EB) for this violation      Statutory Limit Test					
<b>Estimated EB Amount (\$)</b>		<b>Violation Final Penalty total</b>			
<input type="text" value="\$163"/>		<input type="text" value="\$4,500"/>			
<b>This Violation Final Assessed Penalty (adjusted for limits)</b>				\$4,500	

**Economic Benefit Worksheet**

**Respondent** Yari Enterprises, Inc. dba Git N Go  
**ID Number(s)** Case No. 14189  
**Media [Statute]** Petroleum Storage Tank  
**Violation Number** 2

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)				0.0	\$0	n/a	\$0

Notes for DELAYED costs

**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	\$100	31-Jul-2003	18-Feb-2005	1.6	\$8	\$156	\$163
Supplies/equip				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

Estimated cost to conduct manual or automatic inventory control.

Approx Cost of Compliance

**TOTAL**

<b>Screening Date</b> 02-Apr-04	<b>Docket Number</b> 2004-0445-PST-E	<b>PCW</b>						
<b>Respondent</b> Yari Enterprises, Inc. dba Git N Go		Policy Revision 2 (09/02)						
<b>Case ID No.</b> Case No. 14189		PCW Revision 2/10/2004						
<b>Respondent/Site ID No.</b> PST ID No. 14810, RN102245263								
<b>Media [Statute]</b> Petroleum Storage Tank								
<b>Enf. Coordinator</b> Kent Heath								
<b>Violation Number</b> 3								
<b>Primary Rule Cite</b> 30 Tex. Admin. Code § 334.50(b)(1)(A), (b)(2)(A)(i)(III) and (b)(2)(A)(ii)(I)								
<b>Secondary Cite(s)</b> Tex. Water Code § 26.3475(a) and (c)(1)								
<b>Violation Description</b>	Failure to test line leak detectors and product piping at least once per year for performance and operational reliability, and failure to monitor tanks (release detection) for releases at a frequency of at least once every month. Specifically, at the time of the investigation annual testing for the lines was overdue and the facility was not conducting proper release detection.							
	<b>Base Penalty</b>	\$10,000						
» Environmental, Property and Human Health Matrix								
	<b>Harm</b>							
	<b>Release</b>	Major      Moderate      Minor						
OR	Actual	<table border="1" style="width:100%;"><tr><td style="width:33%;"></td><td style="width:33%;"></td><td style="width:33%;"></td></tr><tr><td>Potential</td><td style="text-align: center;">x</td><td></td></tr></table>				Potential	x	
Potential	x							
		<b>Percent</b> 25%						
» Programmatic Matrix								
	<b>Falsification</b>	Major      Moderate      Minor						
OR		<table border="1" style="width:100%;"><tr><td style="width:33%;"></td><td style="width:33%;"></td><td style="width:33%;"></td></tr></table>						
		<b>Percent</b>						
<b>Matrix Notes</b>	Failing to test line leak detectors, product lines, and conduct release detection could result in a release of significant amount of product which would exceed levels protective of human health and environmental receptors.							
	<b>Adjustment</b>	-\$7,500						
	<b>Base Penalty Subtotal</b>	\$2,500						
Violation Events								
	<b>Number of Violation Events</b>	2						
<i>mark only one; use small x</i>	daily	<input type="checkbox"/>						
	monthly	<input type="checkbox"/>						
	quarterly	<input type="checkbox"/>						
	semiannual	x						
	annual	<input type="checkbox"/>						
	single event	<input type="checkbox"/>						
		<b>Violation Base Penalty</b> \$5,000						
<b>Events Notes</b>	Two semiannual events are recommended based on documentation of the violation during the July 31, 2003 investigation, to the July 25, 2004, settlement deadline date, to make the penalty commensurate with the situation.							
Economic Benefit (EB) for this violation      Statutory Limit Test								
	<b>Estimated EB Amount (\$)</b>	\$1,225						
	<b>Violation Final Penalty total</b>	\$4,500						
	<b>This Violation Final Assessed Penalty (adjusted for limits)</b>	\$4,500						

### Economic Benefit Worksheet

**Respondent** Yari Enterprises, Inc. dba Git N Go  
**ID Number(s)** Case No. 14189  
**Media [Statute]** Petroleum Storage Tank  
**Violation Number** 3

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost <small>No commas or \$</small>	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)				0.0	\$0	n/a	\$0

Notes for DELAYED costs

**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	\$750	31-Jul-2003	18-Feb-2005	1.6	\$58	\$1,167	\$1,225
Supplies/equip				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

Estimated cost to conduct release detection. The Respondent successfully passed the annual line leak detector and product piping tests on August 27, 2003.

Approx Cost of Compliance

**TOTAL**

Screening Date 02-Apr-04 Docket Number 2004-0445-PST-E

PCW

Respondent Yari Enterprises, Inc. dba Git N Go

Policy Revision 2 (09/02)

Case ID No. Case No. 14189

PCW Revision 2/10/2004

Respondent/Site ID No. PST ID No. 14810, RN102245263

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Kent Heath

Violation Number

4

Primary Rule Cite

30 Tex. Admin. Code § 115.245(2)

Secondary Cite(s)

Tex. Health & Safety Code § 382.085(b)

Violation Description

Failure to conduct the annual and triennial Stage II testing to verify proper operation of the Stage II equipment. Specifically, the pressure decay test must be conducted annually, and the Vapor Space Manifold and Dynamic Back-Pressure test must be conducted at least once every 3 years.

Base Penalty \$10,000

» Environmental, Property and Human Health Matrix

Harm

Release	Major	Moderate	Minor
Actual			
Potential	x		

Percent 25%

» Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent

Matrix Notes

Failing to conduct Stage II testing could result in a release of significant amount of product which would exceed levels protective of human health and environmental receptors.

Adjustment -\$7,500

Base Penalty Subtotal \$2,500

Violation Events

Number of Violation Events

2

mark only one; use small x

daily	
monthly	
quarterly	
semiannual	
annual	x
single event	

Violation Base Penalty \$5,000

Events Notes

Two annual events are recommended based on documentation of the violation during the July 31, 2003 investigation, to the July 25, 2004, settlement deadline date, to make the penalty commensurate with the situation.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount (\$) \$58

Violation Final Penalty total \$4,500

This Violation Final Assessed Penalty (adjusted for limits) \$4,500

**Economic Benefit Worksheet**

**Respondent** Yari Enterprises, Inc. dba Git N Go  
**ID Number(s)** Case No. 14189  
**Media [Statute]** Petroleum Storage Tank  
**Violation Number** 4

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost <small>No commas or \$</small>	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)	\$750	31-Jul-2003	18-Feb-2005	1.6	\$58	n/a	\$58

Notes for DELAYED costs

Estimated cost to conduct the pressure decay test, The Respondent sucessfully passed the vapor space manifold, and dynamic back-pressure tests on August 27, 2003.

**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/equip				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Approx Cost of Compliance

**TOTAL**

<b>Screening Date</b> 02-Apr-04	<b>Docket Number</b> 2004-0445-PST-E	<b>PCW</b>
<b>Respondent</b> Yari Enterprises, Inc. dba Git N Go		Policy Revision 2 (09/02)
<b>Case ID No.</b> Case No. 14189		PCW Revision 2/10/2004
<b>Respondent/Site ID No.</b> PST ID No. 14810, RN102245263		
<b>Media [Statute]</b> Petroleum Storage Tank		
<b>Enf. Coordinator</b> Kent Heath		
<b>Violation Number</b> 5		
<b>Primary Rule Cite</b>	30 Tex. Admin. Code § 334.22(a)	
<b>Secondary Cite(s)</b>	Tex. Water Code § 5.702	
<b>Violation Description</b>	Failed to pay outstanding underground storage tank fees for TCEQ Financial Administration Account No. 0059929U, as documented during a record review conducted on April 1, 2004.	
	<b>Base Penalty</b>	\$10,000
» Environmental, Property and Human Health Matrix		
	<b>Harm</b>	
	<b>Release</b>	Major      Moderate      Minor
<i>OR</i>	Actual	<input type="text"/> <input type="text"/> <input type="text"/>
	Potential	<input type="text"/> <input type="text"/> <input type="text"/>
	<b>Percent</b>	<input type="text"/>
» Programmatic Matrix		
	Falsification	Major      Moderate      Minor
<i>OR</i>	<input type="text"/>	<input type="text"/> <input type="text"/> <input type="text"/>
	<b>Percent</b>	<input type="text"/>
<b>Matrix Notes</b>	<input type="text"/>	
	<b>Adjustment</b>	-\$10,000
	<b>Base Penalty Subtotal</b>	\$0
<b>Violation Events</b>		
	<b>Number of Violation Events</b>	<input type="text"/>
<i>mark only one; use small x</i>	daily	<input type="text"/>
	monthly	<input type="text"/>
	quarterly	<input type="text"/>
	semiannual	<input type="text"/>
	annual	<input type="text"/>
	single event	<input type="text"/>
	<b>Violation Base Penalty</b>	\$0
<b>Events Notes</b>	No administrative penalty was calculated for this violation as penalties and interest will be assessed during the next billing cycle.	
<b>Economic Benefit (EB) for this violation</b>		
	<b>Estimated EB Amount (\$)</b>	<input type="text"/> \$0
	<b>Violation Final Penalty total</b>	\$0
	<b>This Violation Final Assessed Penalty (adjusted for limits)</b>	
		\$0



**Economic Benefit Worksheet**

**Respondent** Yari Enterprises, Inc. dba Git N Go  
**ID Number(s)** Case No. 14189  
**Media [Statute]** Petroleum Storage Tank  
**Violation Number** 5

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost <small>No commas or \$</small>	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)				0.0	\$0	n/a	\$0

Notes for DELAYED costs

There is no economic benefit for this violation.

**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/equip				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Approx Cost of Compliance

**TOTAL**

Training Wish list for FY 07												
Course	Attorney:	Burnett	Dickenson	Dobecki	Marvin	Minerve	Ogilvie	Paterson	Robards	Stokes	Talcott	Totals
												\$ 2,617.50
Advanced Admin Law							195.00					195.00
Bankruptcy										300.00		300.00
Constr Law					172.50							172.50
Cost Analysis/Payment Methods						Cost?						?
Federal Procurement Law						Cost?						?
Fraud Course, SAO										Cost?		?
Software Licensing						650.00					650.00	1,300.00
Contracts											Cost?	?
Auditing						Cost?						?
Grants Management						450.00						450.00
Counseling the Agency								200.00				200.00
<b>Totals</b>		0.00	0.00	0.00	172.50	1,100.00	195.00	200.00	0.00	300.00	650.00	\$ 2,617.50

Training by Class, GLD - Contracts Team

FY 2007

Updated: 19-Oct-06

<u>Date</u>	<u>Course</u>	<u>Scheduled</u>	<u>Actual</u>	<u>Note</u>	<u>Atty</u>	<u>Provider</u>	<u>Travel?</u>
Oct 6-7	Basic Texas Construction Law	\$ 280.00		reg = \$375	Stokes	State Bar	Austin
Oct 6-7	Basic Texas Construction Law	\$ 280.00		reg = \$375	Paterson	State Bar	Austin
Nov 3.	Government Contracting	\$ 195.00			Dickenson	ABA	San Antonio
Nov 16-17	25th Annual Bankruptcy Conf.	\$ 300.00		reg = \$485	Ogilvie	UTCLE	Austin
Dec 7-9	10th Annual Insurance Law CLE	\$ 295.00		reg = \$450	Minerve	UTCLE	no
Dec 7-9	10th Annual Insurance Law CLE	\$ 295.00		reg = \$450	Ogilvie	UTCLE	no
March 1-2	19th Annual Construction Law	\$ 172.50		reg = \$400	Burnett	State Bar	San Antonio
March 1-2	19th Annual Construction Law	\$ 172.50		reg = \$400	Dobecki	State Bar	San Antonio
March 1-2	19th Annual Construction Law	\$ 172.50		reg = \$400	Marvin	State Bar	San Antonio
March 1-2	19th Annual Construction Law	\$ 172.50		reg = \$400	Minerve	State Bar	San Antonio
March 1-2	19th Annual Construction Law	\$ 172.50		reg = \$400	Talcott	State Bar	San Antonio
Spring	Annual Rural Ag Law Seminar	\$ 25.00			Burnett	State Bar	
?	Insurance, Advance	\$ 295.00			Stokes		
?	Insurance, Advance	\$ 295.00			Talcott		
May/June ?	Software Licensing	\$ 650.00			Marvin	Sem Today	
May/June ?	Software Licensing	\$ 650.00			Robards	Sem Today	
July ?	College/Bar Summer School	\$ 225.00			Dobecki	Colleg/Bar	Galveston
August 3-4	Environmental Superconference	\$ 175.00			Burnett		no
August 3-4	Environmental Superconference	\$ 175.00			Talcott		no
August 3-4	Environmental Superconference	\$ 175.00			Dobecki		no
August 3-4	Environmental Superconference	\$ 175.00			Paterson		no
?	Construction Law Online	\$ 150.00			Burnett		no
<b>Training Totals</b>		<b>\$ 5,497.50</b>	<b>\$ _____</b>				

Note 1: FY06 final actual total was \$5,825.00.

Note 2: FY07 core requirements originally planned = \$5,052.50.

# Compliance History

Customer/Respondent/Owner-Operator:	CN601601768	Yari Enterprises Inc.	Classification: HIGH	Rating: 0.00
Regulated Entity:	RN102245263	GIT N GO	Classification: HIGH	Site Rating: 0.00
ID Number(s):	PETROLEUM STORAGE TANK REGISTRATION		REGISTRATION	14810
Location:	302 S 17TH ST, WEST COLUMBIA, TX, 77486		Rating Date: 9/1/03 Repeat Violator: No	
TCEQ Region:	REGION 12 - HOUSTON			
Date Compliance History Prepared:	March 25, 2004			
Agency Decision Requiring Compliance History:	Enforcement			
Compliance Period:	March 25, 1999 to March 25, 2004			

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

Name: Kent Heath Phone: (512) 239-4575

## 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? N/A
4. If Yes, who was/were the prior owner(s)? N/A
5. When did the change(s) in ownership occur? N/A

## 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 11/04/1999 (55530)
- E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)  
N/A
- 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	§	BEFORE THE
ENFORCEMENT ACTION	§	
AGAINST YARI ENTERPRISES,	§	TEXAS COMMISSION ON
INC. DBA GIT N GO;	§	
RN102245263	§	ENVIRONMENTAL QUALITY

AGREED ORDER  
DOCKET NO. 2004-0445-PST-E

I. JURISDICTION AND STIPULATIONS

At its DEC 06 2006 agenda, the Texas Commission on Environmental Quality ("Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding Yari Enterprises, Inc. dba Git N Go ("Yari") under the authority of TEX. WATER CODE chs. 5, 7 and 26; and TEX. HEALTH & SAFETY CODE ch. 382. The Executive Director of the TCEQ, represented by the Litigation Division, and Yari appear before the Commission and together stipulate that:

1. Yari owns a convenience store with retail sales of gasoline located at 302 South 17<sup>th</sup> Street, West Columbia, Brazoria County, Texas (the "Facility").
2. This Agreed Order is entered into pursuant to TEX. WATER CODE §§ 7.051 and 7.070. The Commission has jurisdiction of this matter pursuant to TEX. WATER CODE § 5.013 because it alleges violations of TEX. WATER CODE chs. 5 and 26; TEX. HEALTH & SAFETY CODE ch. 382 and TCEQ rules.
3. The Commission and Yari agree that the Commission has jurisdiction to enter this Agreed Order, and that Yari is subject to the Commission's jurisdiction.
4. Yari received notice of the violations alleged in Section II ("Allegations") on or about October 13, 2003.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by Yari of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
6. An administrative penalty in the amount of seventeen thousand one hundred dollars (\$17,100.00) is assessed by the Commission in settlement of the violations alleged in Section

II ("Allegations"). The Financial Assurance Section of the Commission's Financial Administration Division reviewed the financial documentation submitted by Yari and determined that Yari is unable to pay part of the administrative penalty. Therefore, eight thousand seven hundred ninety-three (\$8,793.00) of the penalty is deferred contingent upon Yari'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 Yari fails to timely and satisfactorily comply with all requirements of this Agreed Order, including the payment schedule, the Executive Director may require Yari to pay all or part of the deferred penalty.

Yari has paid two hundred fifty-seven dollars (\$257.00) of the un-deferred administrative penalty. The remaining amount of eight thousand fifty dollars (\$8,050.00) shall be payable in thirty-five monthly payments of two hundred thirty dollars (\$230.00) 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 Yari fails to timely and satisfactorily comply with the payment requirements of this Agreed Order, the Executive Director may, at his 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 acceleration of any remaining balance constitutes the failure of Yari to timely and satisfactorily comply with all the terms of this Agreed Order and the Executive Director may demand payment of any deferred penalty amount.

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 Yari have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
9. The Executive Director recognizes that on August 18, 2003, Yari obtained a Storage Tank Liability policy to insure the four USTs located at the Facility against third party bodily injury and property damage caused by accidental releases arising from the operation of the petroleum USTs and for taking corrective action.
10. 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 Yari has not complied with one or more of the terms or conditions in this Agreed Order.
11. 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.

12. 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

Yari is alleged to have violated:

- a. 30 TEX. ADMIN. CODE § 37.815(a) and (b), by failing to demonstrate acceptable financial assurance for taking corrective action and for compensating third parties for bodily injury and property damage caused by accidental releases arising from the operation of petroleum underground storage tanks (USTs), as documented during an inspection conducted on July 31, 2003.
- b. 30 TEX. ADMIN. CODE §§ 334.48(c) and 334.50(d)(1)(B)(ii), by failing to conduct manual or automatic inventory control for all USTs at the Facility, and by failing to conduct inventory control reconciliation on a monthly basis, as documented during an inspection conducted on July 31, 2003.
- c. 30 TEX. ADMIN. CODE § 334.50(b)(1)(A), (b)(2)(A)(i)(III), and (b)(2)(A)(ii)(I) and TEX. WATER CODE § 26.3475(a) and (c)(1), by failing to test line leak detectors and product piping at least once per year for performance and operational reliability, and by failing to monitor tanks (release detection) for releases at a frequency of at least once every month. Specifically, at the time of the investigation annual testing for the lines was overdue and the Facility was not conducting proper release detection, as documented during an inspection conducted on July 31, 2003.
- d. 30 TEX. ADMIN. CODE § 115.245(2) and TEX. HEALTH & SAFETY CODE § 382.085(b), by failing to conduct the annual and triennial Stage II testing to verify proper operation of the Stage II equipment. Specifically, the pressure decay test must be conducted annually, and the Vapor Space Manifold and Dynamic Back-Pressure test must be conducted at least once every 3 years, as documented during an inspection conducted on July 31, 2003.
- e. 30 TEX. ADMIN. CODE § 334.22(a) and TEX. WATER CODE § 5.702, by failing to pay outstanding underground storage tank fees for TCEQ Financial Administration Account No. 0059929U, as documented during a record review conducted on April 1, 2004.

### III. DENIALS

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

### IV. ORDER

1. It is, therefore, ordered by the TCEQ that Yari pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and Yari's compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from considering requiring corrective action or penalties for violations which are not raised here. Administrative penalty payments shall be made payable to "Texas Commission on Environmental Quality" and shall be sent with the notation "Re: Yari Enterprises, Inc. dba Git N Go, Docket No. 2004-0445-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. Immediately upon the effective date of this Agreed Order, Yari shall begin conducting inventory control for all USTs at the Facility in accordance with 30 TEX. ADMIN. CODE § 334.48(c) (relating to Inventory Control).
3. Within 30 days after the effective date of this Agreed Order, Yari shall:
  - a. Begin reconciliation of inventory control records on a monthly basis, in accordance with 30 TEX. ADMIN. CODE § 334.50(d)(1)(B)(ii) (relating to Release Detection).
  - b. Conduct line leak detector tests, in accordance with 30 TEX. ADMIN. CODE § 334.50(b)(2)(A)(ii)(III).
  - c. Conduct product piping tests, in accordance with 30 TEX. ADMIN. CODE § 334.50(b)(2)(A)(ii)(I).
  - d. Monitor tanks for releases using one or more of the release detection methods described in 30 TEX. ADMIN. CODE § 334.50(d)(4) through (10), in accordance with 30 TEX. ADMIN. CODE 334.50(b)(1)(A).



- e. Conduct the annual and triennial Stage II testing to verify proper operation of the Stage II equipment, in accordance with 30 TEX. ADMIN. CODE § 115.245(2). Specifically, test for pressure decay, vapor space manifold, and dynamic back pressure; and,
- f. Pay all outstanding fees, including any associated penalties and interest with the notation, "Yari Enterprises, Inc. dba Git N Go, TCEQ Financial Administration Account No. 0059929U" 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

- 4. Within 45 days after the effective date of this Agreed Order, Yari shall submit written certification of compliance as described below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision Nos. 2 and 3.

The documentation shall be accompanied by a certification 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

and

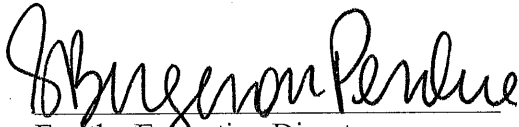
Ms. Marsha Hill  
Houston Waste Section Manager  
Texas Commission on Environmental Quality  
5425 Polk Avenue, Suite H  
Houston, Texas 77023-1452

5. The provisions of this Agreed Order shall apply to and be binding upon Yari. Yari 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.
6. This Agreed Order, issued by the Commission, shall not be admissible against Yari 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 agreement may be executed in multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreement may be transmitted by facsimile transmission to the other parties, which shall constitute an original signature for all purposes.
8. Under 30 TEX. ADMIN. CODE § 70.10(b) and TEX. GOV'T CODE § 2001.142, the effective date of this Agreed Order is the date of hand-delivery of the Order to Yari, or three days after the date on which the Commission mails notice of the Order to Yari, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

\_\_\_\_\_  
For the Commission



For the Executive Director

6/22/06

~~03/28/06~~ JBP

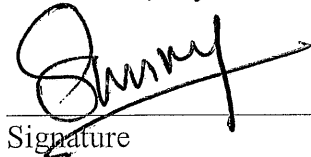
Date

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

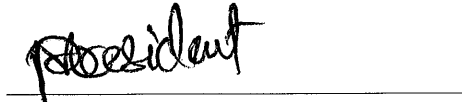
I also understand that my failure to comply with the Ordering Provisions, if any, in this order and/or my failure to timely pay the penalty amount, may result in:

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

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

  
Signature

03/28/06  
Date

  
Title  
Authorized Representative of  
Yari Enterprises, Inc. dba Git N Go

Kathleen Hartnett White, *Chairman*  
Larry R. Soward, *Commissioner*  
H. S. Buddy Garcia, *Commissioner*  
Glenn Shankle, *Executive Director*



## TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

*Protecting Texas by Reducing and Preventing Pollution*

April 10, 2007

TO: All Persons on Mailing List

RE: **TCEQ Docket No. 2004-0445-PST-E**; In the matter of an Agreed Order concerning the **Yari Enterprises, Inc. dba Git N Go.**

The above-referenced matter is scheduled to be considered by the Texas Commission on Environmental Quality on **April 25, 2007 at 9:30 A.M.** in Room 201S, Building E, 12100 Park 35 Circle, Austin, Texas.

Should you need any additional information, please contact Paul Munguía at the Texas Commission on Environmental Quality, Office of the Chief Clerk, (512) 239-3300.

Sincerely,

A handwritten signature in cursive script, appearing to read "LaDonna Castañuela".

LaDonna Castañuela  
Chief Clerk

LDC/pm

**MAILING LIST**  
**YARI ENTERPRISES, INC. DBA GIT N GO**  
**TCEQ DOCKET NO. 2004-0445-PST-E**

Serwer Ali Ajani, President  
Yari Enterprises, Inc. dba Git N Go  
3911 Garnett Falls  
Sugar Land, Texas 77479

Kathleen C. Decker  
Jennifer Cook  
Texas Commission on Environmental Quality  
Legal Division, MC-175  
P.O. Box 13087  
Austin, Texas 78711-3087  
Tel: (512) 239-3400  
Fax: (512) 239-3434

Kent Heath  
TCEQ Enforcement Division MC-149  
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Austin, Texas 78711-3087  
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Fax: (512) 239-2550

Nicole Bealle  
TCEQ Houston Regional Office MC-R-12  
5425 Polk Ave., Ste. H  
Houston, Texas 77023-1452  
Tel: (713) 767-3500  
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Blas Coy, Jr.  
Texas Commission on Environmental Quality  
Office Public Interest Counsel, MC-103  
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Austin, Texas 78711-3087  
Tel: (512) 239-6363  
Fax: (512) 239-6377

Bridget Bohac, Acting Director  
TCEQ Office of Public Assistance MC-108  
P.O. Box 13087  
Austin, Texas 78711-3087  
Tel: (512) 239-4000  
Fax: (512) 239-4007

Docket Clerk  
Texas Commission on Environmental Quality  
Office of the Chief Clerk, MC-105  
P.O. Box 13087  
Austin, Texas 78711-3087  
Tel: (512) 239-3300  
Fax: (512) 239-3311

Kathleen Hartnett White, *Chairman*  
R. B. "Ralph" Marquez, *Commissioner*  
Larry R. Soward, *Commissioner*  
Glenn Shankle, *Executive Director*



## TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

*Protecting Texas by Reducing and Preventing Pollution*

January 4, 2007

To: Persons on the attached mailing list (By mail and facsimile as indicated)

Re: TCEQ Docket No. 2004-0445-PST-E: An Agreed Order assessing administrative penalties and requiring certain actions of Yari Enterprises, Inc., dba Git N Go in Brazoria County.

The above-referenced matter is scheduled to be considered by the Texas Commission on Environmental Quality (Commission) at its January 10, 2007, public meeting. However, the Office of General Counsel has determined the need to continue the matter from this meeting.

Accordingly, this matter is continued to a future public meeting to be determined by the Commission, pursuant to 30 TAC § 10.4. The Office of General Counsel will provide the parties with notice of the next setting in a separate letter once the matter is scheduled in the future.

If you have any questions about this matter, please contact Todd Burkey, Assistant General Counsel, at 512/239-2941.

Respectfully,

A handwritten signature in black ink that reads "Derek Seal".

Derek Seal  
General Counsel

TEXAS  
COMMISSION  
ON ENVIRONMENTAL  
QUALITY  
2007 JAN -5 AM 10:09  
CHIEF CLERKS OFFICE

Mailing List

Mailing List  
Yari Enterprises, Inc. dba Git N Go  
TCEQ Docket No. 2004-0445-PST-E

Serwer Ali Ajani, President  
Yari Enterprises, Inc. dba Git N Go  
3911 Garnett Falls  
Sugar Land, Texas 77479

Jennifer Cook  
TCEQ Litigation Division MC 175  
P.O. Box 13087  
Austin, Texas 78711-3087  
512/239-3400 FAX 512/239-3434

Blas Coy  
TCEQ Office of Public Interest Counsel MC 103  
P.O. Box 13087  
Austin, Texas 78711-3087  
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Docket Clerk  
TCEQ Office of Chief Clerk MC 105  
P.O. Box 13087  
Austin, Texas 78711-3087  
512/239-3300 FAX 512/239-3311

Jody Henneke  
TCEQ Office of Public Assistance MC 108  
P.O. Box 13087  
Austin, Texas 78711-3087  
512/239-4000 FAX 512/239-4007



Kathleen Hartnett White, *Chairman*  
Larry R. Soward, *Commissioner*  
Martin A. Hubert, *Commissioner*  
Glenin Shankle, *Executive Director*



## TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

*Protecting Texas by Reducing and Preventing Pollution*

December 4, 2006

To: Persons on the attached mailing list (By mail and facsimile as indicated)

Re: An Agreed Order assessing administrative penalties and requiring certain actions of Yari Enterprises, Inc. dba Git N Go in Brazoria County; TCEQ Docket No. 2004-0445-PST-E.

The above-referenced matter is scheduled to be considered by the Texas Commission on Environmental Quality (Commission) at its December 6, 2006, public meeting. However, the Office of General Counsel has determined the need to continue the matter from this meeting.

Accordingly, this matter is continued to the Commission's public meeting on **Wednesday, January 10, 2007**, beginning at **9:30 A.M.**, pursuant to 30 TAC § 10.4. The meeting will take place in Room 201S of Building E, 12118 N. Interstate 35, Austin, Texas.

If you have any questions about this matter, please contact Todd Burkey, Assistant General Counsel, at 512/239-2941.

Respectfully,

A handwritten signature in cursive script that reads "Derek Seal".

Derek Seal  
General Counsel

Mailing List

Mailing List  
Yari Enterprises, Inc. dba Git N Go  
TCEQ Docket No. 2004-0445-PST-E

Serwer Ali Ajani, President  
Yari Enterprises, Inc. dba Git N Go  
3911 Garnett Falls  
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Jennifer Cook  
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Docket Clerk  
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