EXECUTIVE SUMMARY - ENFORCEMENT MATTER

DOCKET NO.: 2006-1914-PST-E **TCEQ ID:** RN102130341 **CASE NO.:** 31603

RESPONDENT NAME: Raymond Huff dba Detail Masters

ORDER TYPE:

X 1660 AGREED ORDER	__FINDINGS AGREED ORDER	__AMENDED ORDER	__IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
__SHUTDOWN ORDER	__FINDINGS DEFAULT ORDER	__EMERGENCY ORDER	

CASE TYPE:

__AGRICULTURE	__AIR	__INDUSTRIAL AND HAZARDOUS WASTE	__MUNICIPAL SOLID WASTE
__OCCUPATIONAL CERTIFICATION	X PETROLEUM STORAGE TANKS	__PUBLIC WATER SUPPLY	__RADIOACTIVE WASTE
__MULTI-MEDIA (check all that apply)	__SEWAGE SLUDGE	__UNDERGROUND INJECTION CONTROL	__USED OIL
__USED OIL FILTER	__WATER QUALITY		

SITE WHERE VIOLATION(S) OCCURRED: Detail Masters, 2700 South Broadway Avenue, Tyler, Smith County

TYPE OF OPERATION: Automobile detailing with retail sales of gasoline

SMALL BUSINESS: __X__ Yes ____ No

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

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 March 19, 2007. No comments were received.

CONTACTS AND MAILING LIST:

TCEQ Attorney/SEP Coordinator: None
TCEQ Enforcement Coordinator: Mr. Thomas Greimel, Enforcement Division, Enforcement Section IV, MC 128, (512) 239-5690; Mr. Steven Lopez, Enforcement Division, MC 219, (512) 239-1896
Central Office Investigator: Ms. Teresa Nemec, Financial Administration Division, Revenue Section, MC 184, (512) 239-0325
Respondent: Mr. Raymond Huff, Owner/President, Detail Masters, 2700 South Broadway Avenue, Tyler, Texas 75701
Respondent's Attorney: Not represented by counsel on this enforcement matter

Attachment: Site Compliance History

RESPONDENT'S NAME: Raymond Huff dba Detail Masters
DOCKET NO.: 2006-1914-PST-E

VIOLATION SUMMARY CHART:

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
Type of Investigation: __ Complaint ___ Routine ___ Enforcement Follow-up _X_ Records Review **Date of Complaint Relating to this Case:** None **Date of Investigation Relating to this Case:** October 18, 2006 **Date of NOE Relating to this Case:** October 23, 2006 (NOE) **Background Facts:** This was a routine record review. One violation was documented. **WASTE** 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)].	**Total Assessed:** $3,000 **Total Deferred:** $600 _X_ Expedited Settlement __Financial Inability to Pay **SEP Conditional Offset:** $0 **Total Paid to General Revenue:** $2,400 **Site Compliance History Classification:** __High _X_ Avg. __Poor **Person Compliance History Classification:** __High _X_ Avg. __Poor **Major Source:** __ Yes _X_ No **Applicable Penalty Policy:** September 2002	**Corrective Actions Taken:** The Executive Director recognizes that Mr. Huff has provided acceptable financial assurance for the USTs at the Facility on October 20, 2006.

Attachment: Site Compliance History

Penalty Calculation Worksheet (PCW)

TCEQ

Policy Revision 2 (September 2002) *PCW Revision May 19, 2005*

DATES					
Assigned	30-Oct-2006				
PCW	03-Nov-2006	Screening	01-Nov-2006	EPA Due	

RESPONDENT/FACILITY INFORMATION

Respondent	Raymond Huff dba Detail Masters		
Reg. Ent. Ref. No.	RN102130341		
Facility/Site Region	5-Tyler	Major/Minor Source	Minor Source

CASE INFORMATION

Enf./Case ID No.	31603	No. of Violations	1
Docket No.	2006-1914-PST-E	Order Type	1660
Media Program(s)	Petroleum Storage Tank	Enf. Coordinator	Thomas Greimel
Multi-Media		EC's Team	Enforcement Team 7
Admin. Penalty $ Limit Minimum	$0	Maximum	$10,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties) *Subtotal 1* $4,000

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History 0% Enhancement *Subtotals 2, 3, & 7* $0

Notes: No adjustment for compliance history.

Culpability No 0% Enhancement *Subtotal 4* $0

Notes: The respondent does not meet the culpability criteria.

Good Faith Effort to Comply 25% Reduction *Subtotal 5* -$1,000

	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary	x	
N/A		*(mark with a small x)*

Notes: The respondent came into compliance on October 20, 2006.

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

Total EB Amounts	$2,730
Approx. Cost of Compliance	$2,600

**Capped at the Total EB $ Amount*

SUM OF SUBTOTALS 1-7 Final Subtotal $3,000

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 $3,000

STATUTORY LIMIT ADJUSTMENT Final Assessed Penalty $3,000

DEFERRAL 20% Reduction Adjustment -$600

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

Notes: Deferral offered for expedited settlement.

PAYABLE PENALTY $2,400

Screening Date 01-Nov-2006 **Docket No.** 2006-1914-PST-E **PCW**
Respondent Raymond Huff dba Detail Masters *Policy Revision 2 (September 2002)*
Case ID No. 31603 *PCW Revision May 19, 2005*
Reg. Ent. Reference No. RN102130341
Media [Statute] Petroleum Storage Tank
Enf. Coordinator Thomas Greimel

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*	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%
		Please Enter Yes or No	
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) **0%**

>> 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 No adjustment for compliance history.

Total Adjustment Percentage (Subtotals 2, 3, & 7) **0%**

PCW

Policy Revision 2 (September 2002)
PCW Revision May 19, 2005

Screening Date	01-Nov-2006
Docket No.	2006-1914-PST-E
Respondent	Raymond Huff dba Detail Masters
Case ID No.	31603
Reg. Ent. Reference No.	RN102130341
Media [Statute]	Petroleum Storage Tank
Enf. Coordinator	Thomas Greimel
Violation Number	1
Primary Rule Cite(s)	30 Tex. Admin. Code § 37.815(a) and (b)
Secondary Rule 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

Release	Harm: Major	Moderate	Minor
Actual			
Potential			

OR

Percent

>> Programmatic Matrix

Falsification	Major	Moderate	Minor
	x		

Percent 10%

Matrix Notes: 100% of the rule requirement was not met.

Adjustment -$9,000

Base Penalty Subtotal $1,000

Violation Events

Number of Violation Events: 4

mark only one use a small x

daily	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty **$4,000**

Four single events (one per tank) are recommended based on the October 18, 2006 record review which documented the violation.

Economic Benefit (EB) for this violation

Estimated EB Amount $2,730

Statutory Limit Test

Violation Final Penalty Total **$3,000**

This violation Final Assessed Penalty (adjusted for limits) **$3,000**

Economic Benefit Worksheet

Respondent Raymond Huff dba Detail Masters
Case ID No. 31603
Reg. Ent. Reference No. RN102130341
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
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/equipment				0.0	$0	$0	$0
Financial Assurance [2]	$2,600	18-Oct-2005	20-Oct-2006	1.0	$130	$2,600	$2,730
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 four petroleum USTs. Date required is one year prior to the record review date and Final date is the compliance date.						

Approx. Cost of Compliance $2,600

TOTAL $2,730

Compliance History

Customer/Respondent/Owner-Operator:	CN602729162	HUFF, RAYMOND	Classification: AVERAGE BY DEFAULT	Rating: 3.01
Regulated Entity:	RN102130341	DETAIL MASTERS	Classification: AVERAGE BY DEFAULT	Site Rating: 3.01
ID Number(s):	PETROLEUM STORAGE TANK REGISTRATION	REGISTRATION	6566	
Location:	2700 S BROADWAY AVE, TYLER, TX, 75701	Rating Date: September 01 06	Repeat Violator: NO	
TCEQ Region:	REGION 05 - TYLER			
Date Compliance History Prepared:	November 01, 2006			
Agency Decision Requiring Compliance History:	Enforcement			
Compliance Period:	November 01, 2001 to November 01, 2006			

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

Name: Thomas Greimel Phone: (512) 239-5690

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 10/23/2006 (516634)

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 ENFORCEMENT ACTION CONCERNING RAYMOND HUFF DBA DETAIL MASTERS RN102130341	**§ § § § §**	**BEFORE THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY**

AGREED ORDER
DOCKET NO. 2006-1914-PST-E

I. JURISDICTION AND STIPULATIONS

At its _____ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding Raymond Huff dba Detail Masters ("Mr. Huff") under the authority of TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, through the Enforcement Division, and Mr. Huff appear before the Commission and together stipulate that:

1. Mr. Huff owns and operates an automobile detailing business with retail sales of gasoline at 2700 South Broadway Avenue in Tyler, Smith County, Texas (the "Facility").

2. Mr. Huff's four underground storage tanks ("USTs") are not exempt or excluded from regulation under the Texas Water Code or the rules of the Commission.

3. The Commission and Mr. Huff agree that the Commission has jurisdiction to enter this Agreed Order, and that Mr. Huff is subject to the Commission's jurisdiction.

4. Mr. Huff received notice of the violations alleged in Section II ("Allegations") on or about October 28, 2006.

5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by Mr. Huff of any violation alleged in Section II ("Allegations"), nor of any statute or rule.

6. An administrative penalty in the amount of Three Thousand Dollars ($3,000) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). Mr. Huff has paid Two Thousand Four Hundred Dollars ($2,400) of the administrative penalty and Six Hundred Dollars ($600) is deferred contingent upon Mr. Huff'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 Mr. Huff fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require Mr. Huff to pay all or part of the deferred penalty.

7. Any notice and procedures which might otherwise be authorized or required in this action are waived in the interest of a more timely resolution of the matter.

8. The Executive Director of the TCEQ and Mr. Huff 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 Mr. Huff has provided acceptable financial assurance for the USTs at the Facility on October 20, 2006.

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 Mr. Huff 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

As owner and operator of the Facility, Mr. Huff is alleged to have 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 USTs, in violation of 30 TEX. ADMIN. CODE § 37.815(a) and (b), as documented during a record review conducted on October 18, 2006.

III. DENIALS

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

IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that Mr. Huff pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and Mr. Huff's compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective action or

penalties for violations which are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: Raymond Huff dba Detail Masters, Docket No. 2006-1914-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. The provisions of this Agreed Order shall apply to and be binding upon Mr. Huff. Mr. Huff 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.

3. This Agreed Order, issued by the Commission, shall not be admissible against Mr. Huff 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.

4. 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.

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

_____ 3/26/07
For the Executive Director Date

I, the undersigned, have read and understand the attached Agreed Order. I am authorized to agree to the attached Agreed Order on behalf of the entity, 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.

_____ 12-15-06
Signature Date

Raymond D. Huff PRESIDENT
Name (Printed or typed) Title
Authorized Representative of
Raymond Huff dba Detail Masters

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