EXECUTIVE SUMMARY - ENFORCEMENT MATTER

DOCKET NO.: 2006-1790-PST-E **TCEQ ID:** RN102030681 **CASE NO.:** 31421

RESPONDENT NAME: Fred Garrison Oil Company dba Chucks Grocery & Grill

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: Chucks Grocery & Grill, 700 Secretary Drive, Arlington, Tarrant County

TYPE OF OPERATION: Convenience store with retail sales of gasoline

SMALL BUSINESS: __X__ Yes ____ No

OTHER SIGNIFICANT MATTERS: There are no complaints. There is no record of 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. Rajesh Acharya, Enforcement Division, Enforcement Section IV, MC 128, (512) 239-0577; Mr. Steven Lopez, Enforcement Division, MC 219, (512) 239-1896

TCEQ Field Investigator: Ms. Paddi Farmer, DFW Regional Office, MC R-04, (817) 588-5800

Respondent: Mr. Gary Garrison, President, Fred Garrison Oil Company dba Chucks Grocery & Grill, 1107 Walter Griffin Street, Plainview, Texas 79072

Respondent's Attorney: Not represented by counsel on this enforcement matter

Attachment: Site Compliance History

VIOLATION SUMMARY CHART:

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
Type of Investigation: __ Complaint _X_ Routine __ Enforcement Follow-up __ Records Review **Date of Complaint Relating to this Case:** None **Date of Investigation Relating to this Case:** August 24, 2006 **Date of NOE Relating to this Case:** September 21, 2006 (NOE) **Background Facts:** This was a routine investigation. Five violations were documented. **WASTE** 1) Failed to report a suspected release to the TCEQ within 24 hours of the discovery. Specifically, inventory control records for May and June, 2006 indicated a suspected release that was never reported [30 TEX. ADMIN. CODE § 334.72]. 2) Failed to immediately investigate and confirm all suspected releases of regulated substances at an underground storage tank ("UST") within 30 days [30 TEX. ADMIN. CODE § 334.74(1)]. 3) Failed to electrically isolate UST system components from the corrosive elements of the surrounding soil, back fill, groundwater, and or other metallic components. Specifically, three submersible pumps and their components were in contact with groundwater [30 TEX. ADMIN. CODE § 334.49(b)(2) and TEX. WATER CODE § 26.3475(d)]. 4) Failed to maintain records on-site at the Station ordinarily manned during business hours, and make immediately available for review. Specifically, Stage II Station representative certification and a copy of the California Air Resources Board (CARB) Executive Order were not available for inspection at the time of the investigation [30 TEX. ADMIN. CODE § 115.246(7)(A) and TEX. HEALTH & SAFETY CODE § 382.085(b)]. 5) Failed to prevent the release of gasoline vapors from the Stage II vapor recovery system, as documented by sight and smell at the time of investigation. Specifically, gasoline vapor were leaking from the dispenser #2 [30 TEX. ADMIN CODE §§ 115.222(3) and 115.242(4) and TEX. HEALTH & SAFETY CODE § 382.085(b)].	**Total Assessed:** $7,875 **Total Deferred:** $1,575 _X_ Expedited Settlement __ Financial Inability to Pay **SEP Conditional Offset:** $0 **Total Paid to General Revenue:** $6,300 **Site Compliance History Classification:** _X_ High __ 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 Fred Garrison has implemented the following corrective measures at the Station: a. Implemented a process for reporting suspected releases in the future on September 15, 2006; b. Conducted an investigation of the suspected release and implemented preventive measures at the Sation on September 15, 2006; c. Isolated submersible pumps and their components from corrosive elements on September 15, 2006; d. Began maintaining Stage II records at the Station on September 15, 2006; and e. Repaired the Stage II dispenser #2 nozzle on August 30, 2006.

Penalty Calculation Worksheet (PCW)

TCEQ

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

DATES					
Assigned	25-Sep-2006				
PCW	03-Oct-2006	Screening	03-Oct-2006	EPA Due	

RESPONDENT/FACILITY INFORMATION

Respondent	Fred Garrison Oil Company dba Chucks Grocery & Grill		
Reg. Ent. Ref. No.	RN102030681		
Facility/Site Region	4-Dallas/Fort Worth	Major/Minor Source	Minor Source

CASE INFORMATION

Enf./Case ID No.	31421	No. of Violations	5
Docket No.	2006-1790-PST-E	Order Type	1660
Media Program(s)	Petroleum Storage Tank	Enf. Coordinator	Rajesh Acharya
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* $10,500

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* -$2,625

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

Notes: The respondent came into compliance on September 15, 2006.

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

**Capped at the Total EB $ Amount*

Total EB Amounts	$8
Approx. Cost of Compliance	$1,450

SUM OF SUBTOTALS 1-7 Final Subtotal $7,875

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 $7,875

STATUTORY LIMIT ADJUSTMENT Final Assessed Penalty $7,875

DEFERRAL 20% Reduction Adjustment -$1,575

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 $6,300

Screening Date 03-Oct-2006 **Docket No.** 2006-1790-PST-E **PCW**
Respondent Fred Garrison Oil Company dba Chucks Grocery & Grill *Policy Revision 2 (September 2002)*
Case ID No. 31421 *PCW Revision May 19, 2005*
Reg. Ent. Reference No. RN102030681
Media [Statute] Petroleum Storage Tank
Enf. Coordinator Rajesh Acharya

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%**

Screening Date 03-Oct-2006 **Docket No.** 2006-1790-PST-E **PCW**

Respondent Fred Garrison Oil Company dba Chucks Grocery & Grill *Policy Revision 2 (September 2002)*

Case ID No. 31421 *PCW Revision May 19, 2005*

Reg. Ent. Reference No. RN102030681

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Rajesh Acharya

Violation Number 1

Primary Rule Cite(s) 30 Tex. Admin. Code § 334.72

Secondary Rule Cite(s)

Violation Description Failed to report a suspected release to the TCEQ within 24 hours of the discovery. Specifically, inventory control records for May and June, 2006 indicated a suspected release that was never reported.

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: 1

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

Violation Base Penalty $1,000

One single event is recommended based on the investigation date of August 24, 2006.

Economic Benefit (EB) for this violation

Estimated EB Amount $1

Statutory Limit Test

Violation Final Penalty Total $750

This violation Final Assessed Penalty (adjusted for limits) $750

Economic Benefit Worksheet

Respondent Fred Garrison Oil Company dba Chucks Grocery & Grill
Case ID No. 31421
Reg. Ent. Reference No. RN102030681
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)	$100	30-Jun-2006	15-Sep-2006	0.2	$1	n/a	$1

Notes for DELAYED costs: Estimated cost to notify the agency. Date Required is the date of the suspected release. Final Date is the compliance date.

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:

Approx. Cost of Compliance: $100

TOTAL $1

Screening Date 03-Oct-2006 **Docket No.** 2006-1790-PST-E **PCW**

Respondent Fred Garrison Oil Company dba Chucks Grocery & Grill *Policy Revision 2 (September 2002)*

Case ID No. 31421 *PCW Revision May 19, 2005*

Reg. Ent. Reference No. RN102030681

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Rajesh Acharya

Violation Number 2

Primary Rule Cite(s) 30 Tex. Admin. Code § 334.74(1)

Secondary Rule Cite(s)

Violation Description Failed to immediately investigate and confirm a suspected release of regulated substances at a UST within 30 days.

Base Penalty $10,000

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

Release	Harm: Major	Moderate	Minor
Actual			
Potential	x		

OR

Percent 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 2

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

Violation Base Penalty $5,000

Two monthly events are recommended from the release investigation due date of August 1, 2006 to the September 15, 2006 date of compliance.

Economic Benefit (EB) for this violation

Estimated EB Amount $4

Statutory Limit Test

Violation Final Penalty Total $3,750

This violation Final Assessed Penalty (adjusted for limits) $3,750

Economic Benefit Worksheet

Respondent Fred Garrison Oil Company dba Chucks Grocery & Grill
Case ID No. 31421
Reg. Ent. Reference No. RN102030681
Media [Statute] Petroleum Storage Tank
Violation No. 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
Delayed Costs							
Equipment				0.0	$0	$0	$0
Buildings				0.0	$0	$0	$0
Other (as needed)	$500	01-Aug-2006	15-Sep-2006	0.1	$0	$4	$4
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 investigate the suspected release. Date Required is 30 days after the discovery of the suspected release. Final Date is the compliance date.						
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							

Approx. Cost of Compliance $500

TOTAL $4

Screening Date 03-Oct-2006 **Docket No.** 2006-1790-PST-E **PCW**

Respondent Fred Garrison Oil Company dba Chucks Grocery & Grill *Policy Revision 2 (September 2002)*

Case ID No. 31421 *PCW Revision May 19, 2005*

Reg. Ent. Reference No. RN102030681

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Rajesh Acharya

Violation Number 3

Primary Rule Cite(s) 30 Tex. Admin. Code § 334.49(b)(2)

Secondary Rule Cite(s) Tex. Water Code § 26.3475(d)

Violation Description Failed to electrically isolate UST system components from the corrosion elements of the surrounding soil, back fill, groundwater, and or other metallic components. Specifically, three submersible pumps and their components were in contact with groundwater.

Base Penalty $10,000

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

Release	Harm: Major	Moderate	Minor
Actual			
Potential	x		

OR

Percent 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	x
quarterly	
semiannual	
annual	
single event	

Violation Base Penalty $2,500

One monthly event is recommended from the investigation date of August 24, 2006 to the compliance date of September 15, 2006.

Economic Benefit (EB) for this violation

Estimated EB Amount $2

Statutory Limit Test

Violation Final Penalty Total $1,875

This violation Final Assessed Penalty (adjusted for limits) $1,875

Economic Benefit Worksheet

Respondent Fred Garrison Oil Company dba Chucks Grocery & Grill
Case ID No. 31421
Reg. Ent. Reference No. RN102030681
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
Delayed Costs							
Equipment				0.0	$0	$0	$0
Buildings				0.0	$0	$0	$0
Other (as needed)	$500	24-Aug-2006	15-Sep-2006	0.1	$0	$2	$2
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 protect and electrically isolate the submersible pumps and their components. Date Required is the Investigation date. Final Date is the compliance date.

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:

Approx. Cost of Compliance: $500

TOTAL $2

Screening Date 03-Oct-2006 **Docket No.** 2006-1790-PST-E **PCW**

Respondent Fred Garrison Oil Company dba Chucks Grocery & Grill *Policy Revision 2 (September 2002)*

Case ID No. 31421 *PCW Revision May 19, 2005*

Reg. Ent. Reference No. RN102030681

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Rajesh Acharya

Violation Number 4

Primary Rule Cite(s) 30 Tex. Admin. Code § 115.246(7)(A)

Secondary Rule Cite(s) Tex. Health & Safety Code § 382.085(b)

Violation Description Failed to maintain records on-site at the Station ordinarily manned during business hours, and make immediately available for review. Specifically, Stage II Station representative certification and a copy of the CARB Executive Order were not available for inspection at the time of the investigation.

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 1

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

Violation Base Penalty $1,000

One single event is recommended based on the investigation date of August 24, 2006.

Economic Benefit (EB) for this violation

Estimated EB Amount $0

Statutory Limit Test

Violation Final Penalty Total $750

This violation Final Assessed Penalty (adjusted for limits) $750

Economic Benefit Worksheet

Respondent Fred Garrison Oil Company dba Chucks Grocery & Grill
Case ID No. 31421
Reg. Ent. Reference No. RN102030681
Media [Statute] Petroleum Storage Tank
Violation No. 4

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	$100	24-Aug-2006	15-Sep-2006	0.1	$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 maintain a recordkeeping system. Date Required is the investigation date. Final Date is the compliance date.						
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							

Approx. Cost of Compliance $100

TOTAL $0

Screening Date 03-Oct-2006 **Docket No.** 2006-1790-PST-E **PCW**

Respondent Fred Garrison Oil Company dba Chucks Grocery & Grill *Policy Revision 2 (September 2002)*

Case ID No. 31421 *PCW Revision May 19, 2005*

Reg. Ent. Reference No. RN102030681

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Rajesh Acharya

Violation Number 5

Primary Rule Cite(s) 30 Tex. Admin Code §§ 115.222(3) and 115.242(4)

Secondary Rule Cite(s) Tex. Health & Safety Code § 382.085(b)

Violation Description Failed to prevent the release of gasoline vapors from the Stage II vapor recovery system. Specifically, gasoline vapors were leaking from the dispenser #2, as documented by sight and smell at the time of investigation.

Base Penalty $10,000

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

Release	Harm: Major	Moderate	Minor
Actual			x
Potential			

OR

Percent 10%

>> **Programmatic Matrix**

Falsification	Major	Moderate	Minor

Percent

Matrix Notes: Human health or the environment has been exposed to insignificant amounts of pollutants which do not exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment -$9,000

Base Penalty Subtotal $1,000

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 $1,000

One quarterly event is recommended from the investigation date of August 24, 2006 to the compliance date of August 30, 2006.

Economic Benefit (EB) for this violation

Estimated EB Amount $0

Statutory Limit Test

Violation Final Penalty Total $750

This violation Final Assessed Penalty (adjusted for limits) $750

Economic Benefit Worksheet

Respondent Fred Garrison Oil Company dba Chucks Grocery & Grill
Case ID No. 31421
Reg. Ent. Reference No. RN102030681
Media [Statute] Petroleum Storage Tank
Violation No. 5

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	$250	24-Aug-2006	30-Aug-2006	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: Estimated cost to repair the Stage II nozzle. Date Required is the investigation date. Final Date is the compliance date.

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:

Approx. Cost of Compliance: $250

TOTAL: $0

Compliance History

Customer/Respondent/Owner-Operator:	CN600253223	Fred Garrison Oil Company	Classification: AVERAGE	Rating: 2.63
Regulated Entity:	RN102030681	CHUCKS GROCERY & GRILL	Classification: HIGH	Site Rating: 0.00

ID Number(s):	PETROLEUM STORAGE TANK REGISTRATION	REGISTRATION	11367
Location:	700 SECRETARY DR, ARLINGTON, TX, 76015	Rating Date: September 01 06	Repeat Violator: NO
TCEQ Region:	REGION 04 - DFW METROPLEX		
Date Compliance History Prepared:	October 09, 2006		
Agency Decision Requiring Compliance History:	Enforcement		
Compliance Period:	October 09, 2001 to October 09, 2006		

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

Name: Rajesh Acharya Phone: (512) 239-0577

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 09/22/2006 (513185)
2 08/31/2006 (510571)

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	§	
CONCERNING	§	**TEXAS COMMISSION ON**
FRED GARRISON OIL COMPANY	§	
DBA CHUCKS GROCERY & GRILL	§	
RN102030681	§	**ENVIRONMENTAL QUALITY**

AGREED ORDER
DOCKET NO. 2006-1790-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 Fred Garrison Oil Company dba Chucks Grocery & Grill ("Fred Garrison") under the authority of TEX. HEALTH & SAFETY CODE ch. 382 and TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, through the Enforcement Division, and Fred Garrison appear before the Commission and together stipulate that:

1. Fred Garrison owns and operates a convenience store with retail sales of gasoline at 700 Secretary Drive in Arlington, Tarrant County, Texas (the "Station").

2. Fred Garrison's two underground storage tanks ("USTs") are not exempt or excluded from regulation under the Texas Water Code or the rules of the Commission. The Station consists of one or more sources as defined in TEX. HEALTH & SAFETY CODE § 382.003(12).

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

4. Fred Garrison received notice of the violations alleged in Section II ("Allegations") on or about September 26, 2006.

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

6. An administrative penalty in the amount of Seven Thousand Eight Hundred Seventy-Five Dollars ($7,875) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). Fred Garrison has paid Six Thousand Three Hundred Dollars ($6,300) of the administrative penalty and One Thousand Five Hundred Seventy-Five Dollars ($1,575) is deferred

contingent upon Fred Garrison'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 Fred Garrison fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require Fred Garrison 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 Fred Garrison 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 Fred Garrison has implemented the following corrective measures at the Station:

   a. Implemented a process for reporting suspected releases in the future on September 15, 2006;

   b. Conducted an investigation of the suspected release and implemented preventive measures at the Sation on September 15, 2006;

   c. Isolated submersible pumps and their components from corrosive elements on September 15, 2006;

   d. Began maintaining Stage II records at the Station on September 15, 2006; and

   e. Repaired the Stage II dispenser #2 nozzle on August 30, 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 Fred Garrison 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 Station, Fred Garrison is alleged to have:

1. Failed to report a suspected release to the TCEQ within 24 hours of the discovery, in violation of 30 TEX. ADMIN. CODE § 334.72 , as documented during an investigation conducted on August 24, 2006. Specifically, inventory control records for May and June, 2006 indicated a suspected release that was never reported.

2. Failed to immediately investigate and confirm all suspected releases of regulated substances at a UST within 30 days, in violation of 30 TEX. ADMIN. CODE § 334.74(1), as documented during an investigation conducted on August 24, 2006.

3. Failed to electrically isolate UST system components from the corrosive elements of the surrounding soil, back fill, groundwater, and or other metallic components, in violation of 30 TEX. ADMIN. CODE § 334.49(b)(2) and TEX. WATER CODE § 26.3475(d), as documented during an investigation conducted on August 24, 2006. Specifically, three submersible pumps and their components were in contact with groundwater.

4. Failed to maintain records on-site at the Station ordinarily manned during business hours, and make immediately available for review, in violation of 30 TEX. ADMIN. CODE § 115.246(7)(A) and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during an investigation conducted on August 24, 2006. Specifically, Stage II Station representative certification and a copy of the California Air Resources Board (CARB) Executive Order were not available for inspection at the time of the investigation.

5. Failed to prevent the release of gasoline vapors from the Stage II vapor recovery system, as documented by sight and smell at the time of investigation, in violation of 30 TEX. ADMIN CODE §§ 115.222(3) and 115.242(4) and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during an investigation conducted on August 24, 2006. Specifically, gasoline vapors were leaking from the dispenser #2.

III. DENIALS

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

IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that Fred Garrison pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and Fred Garrison'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: Fred Garrison Oil Company dba Chucks Grocery & Grill, Docket No. 2006-1790-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 Fred Garrison. Fred Garrison is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Station operations referenced in this Agreed Order.

3. This Agreed Order, issued by the Commission, shall not be admissible against Fred Garrison 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 Fred Garrison, or three days after the date on which the Commission mails notice of the Order to Fred Garrison, 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

_____ 4/12/07
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.

Gary Garrison 11/21/06
Signature Date

GARY GARRISON PRESIDENT
Name (Printed or typed) Title
Authorized Representative of
Fred Garrison Oil Company dba Chucks Grocery & Grill

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.