

EXECUTIVE SUMMARY - ENFORCEMENT MATTER

DOCKET NO.: 2006-0419-PST-E TCEQ ID: RN101447092 CASE NO.: 29060

RESPONDENT NAME: DEREK WASSON DBA CORNER MART GROCERY MART & STATION

ORDER TYPE:		
<input type="checkbox"/> 1660 AGREED ORDER	<input type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING
<input checked="" type="checkbox"/> FINDINGS DEFAULT ORDER	<input type="checkbox"/> SHUTDOWN ORDER	<input type="checkbox"/> IMMINENT AND SUBSTANTIAL
<input type="checkbox"/> AMENDED ORDER	<input type="checkbox"/> EMERGENCY ORDER	
CASE TYPE:		
<input type="checkbox"/> AIR	<input type="checkbox"/> MULTI-MEDIA (check all that apply)	<input type="checkbox"/> INDUSTRIAL AND HAZARDOUS WASTE
<input type="checkbox"/> PUBLIC WATER SUPPLY	<input checked="" type="checkbox"/> PETROLEUM STORAGE TANKS	<input type="checkbox"/> OCCUPATIONAL CERTIFICATION
<input type="checkbox"/> WATER QUALITY	<input type="checkbox"/> SEWAGE SLUDGE	<input type="checkbox"/> UNDERGROUND INJECTION CONTROL
<input type="checkbox"/> MUNICIPAL SOLID WASTE	<input type="checkbox"/> RADIOACTIVE WASTE	<input type="checkbox"/> DRY CLEANER REGISTRATION
<p>SITE WHERE VIOLATION(S) OCCURRED: 1001 Highway 59 North, Queen City, Cass County</p> <p>TYPE OF OPERATION: Convenience store with retail sales of gasoline</p> <p>SMALL BUSINESS: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>OTHER SIGNIFICANT MATTERS: There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.</p> <p>INTERESTED PARTIES: No one other than the ED and the Respondent has expressed an interest in this matter.</p> <p>COMMENTS RECEIVED: The <i>Texas Register</i> comment period expired on February 26, 2007. No comments were received.</p> <p>CONTACTS AND MAILING LIST: TCEQ Attorney: Ms. Kathleen C. Decker, Litigation Division, MC 175, (512) 239-6500 ; Ms. Jennifer Cook, Litigation Division, MC 175, (512) 239-1873 TCEQ Enforcement Coordinator: Ms. Shontay Wilcher, Enforcement Division, Section I, MC128, (512) 239-2136 TCEQ Regional Contact: Mr. Michael Brasher, Tyler Regional Office, MC R-5, (903) 535-5176 Respondent: Mr. Derek Wasson, Owner, Corner Mart Grocery & Station, P.O. Box 343, Queen City, Texas 75572 Respondent's Attorney: Not represented by counsel on this enforcement matter.</p>		

VIOLATION SUMMARY CHART:

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p>Type of Investigation:</p> <p><input type="checkbox"/> Complaint <input checked="" type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input type="checkbox"/> Records Review</p> <p>Date of Complaints Relating to this Case: None</p> <p>Dates of Investigation Relating to this Case: October 28, 2005</p> <p>Date of NOE Relating to this Case: March 24, 2006 (NOE)</p> <p>Background Facts: An EDP RP was filed on August 8, 2006. The Respondent received notice of the EDP RP on August 14, 2006. An EDFARP was filed on November 9, 2006. The Respondent received notice of the EDFARP on November 15, 2006. No Answer has been filed to the EDP RP or EDFARP.</p> <p>Although the Respondent has filed for bankruptcy, environmental enforcement actions are not subject to the automatic stay provisions of the Bankruptcy Code, only the demand for payment of the administrative penalty after obtaining an Order. The penalty assessed by a governmental unit against an individual in a Chapter 7 filing cannot be discharged in bankruptcy. The Attorney General's Office can then obtain a judicial determination in state court that the penalty is non-dischargeable. Once the determination is obtained, and the automatic stay is no longer in effect, the Commission is then free to demand payment for the penalty without regard to the bankruptcy.</p> <p>The Respondent in this case does owe other penalties according to the Administrative Penalty Database Report. The Commission approved another Default Order for \$3,150 in Docket No. 2005-0085-PST-E. A compliance investigation was performed for the prior order after the date of the violations for this order. The investigation confirmed that the facility was no longer in operation so no violation for violating a prior order was included in this case by the Enforcement Division.</p> <p>PST:</p> <p>1. Failed to inspect and test the corrosion protection for operability and adequacy of protection at a frequency of at least once every three years. Specifically, the Respondent did not conduct the triennial test [30 TEX. ADMIN. CODE §334.49(c)(4) and TEX. WATER CODE § 26.3475(d)].</p>	<p>Total Assessed: \$35,700</p> <p>Total Deferred: \$0</p> <p>Total Due to General Revenue: \$35,700</p> <p>This is a Default Order.</p> <p>The Respondent has not paid any of the assessed penalties, but will be required to do so under the terms of this Order.</p> <p>Site Compliance History Classification <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Person Compliance History Classification <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Major Source: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>Applicable Penalty Policy: September 2002</p>	<p>Corrective Action(s) Taken</p> <p>The Executive Director recognizes that the Respondent:</p> <ol style="list-style-type: none"> 1. Filed for Chapter 7 bankruptcy protection on September 26, 2006 in the United States Eastern District of Texas. 2. Closed the facility and is no longer in operation as of September 19, 2006.

VIOLATION SUMMARY CHART:

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p>2. Failed to monitor USTs for releases, at a frequency of at least once every month (not to exceed 35 days between each monitoring). Specifically, the Respondent did not conduct monthly monitoring of all USTs for releases at the Facility [30 TEX. ADMIN. CODE § 334.50(b)(1)(A) and TEX. WATER CODE § 26.3475(c)(1)].</p> <p>3. Failed to conduct reconciliation of detailed inventory control records at least once each month sufficiently accurate to detect a release as small as the sum of 1.0% of the total substance flow-through for the month plus 130 gallons. Specifically, the Respondent did not reconcile inventory records to determine a leak by comparing gallons sold to tank gauge measurements [30 TEX. ADMIN. CODE § 334.50(d)(1)(B)(ii) and TEX. WATER CODE § 26.3475(c)(1)].</p> <p>4. Failed to timely renew a previously issued TCEQ delivery certificate by submitting a properly completed UST registration and self-certification form at least 30 days before the expiration date of the delivery certificate. Specifically, the delivery certificate expired on May 31, 2002 [30 TEX. ADMIN. CODE § 334.8(c)(5)(B)(ii)].</p> <p>5. Failed to make available to a common carrier a valid, current TCEQ delivery certificate before accepting delivery of a regulated substance into the USTs at the Facility. Specifically, the Respondent accepted a total of 47 fuel deliveries without a delivery certificate [30 TEX. ADMIN. CODE § 334.8(c)(5)(A)(i) and TEX. WATER CODE § 26.3467(a)].</p> <p>6. Failed to ensure that a legible tag, label, or marking with the tank number is permanently applied upon or affixed to either the top of the fill-tube or to a non-removable point in the immediate area of the fill tube according to the UST Registration and Self-Certification Form. Specifically, the Respondent did not number the tanks [30 TEX. ADMIN. CODE § 334.8(c)(5)(C)].</p> <p>7. Failed to properly install and maintain a secure anchor at the base of each UL-listed emergency shutoff valve in a piping system in which regulated substances are conveyed under pressure to an aboveground dispensing unit. Specifically, it was observed that the impact valves were not properly anchored at Diesel Tank No. 1 and Super Tank No. 3 [30 TEX. ADMIN. CODE § 334.45(c)(3)(A)].</p>		



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

DATES	Assigned	27-Mar-2006	Screening	13-Apr-2006	EPA Due	
	PCW	20-Jul-2006				

RESPONDENT/FACILITY INFORMATION	
Respondent	Derek Wasson dba Corner Mart Grocery & Station
Reg. Ent. Ref. No.	RN101447092
Facility/Site Region	5-Tyler <input type="checkbox"/> Major/Minor Source <input type="checkbox"/> Minor Source

CASE INFORMATION			
Enf./Case ID No.	29060	No. of Violations	6
Docket No.	2006-0419-PST-E	Order Type	1660
Media Program(s)	Petroleum Storage Tank	Enf. Coordinator	Shontay Wilcher
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	\$35,000
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ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History	2% Enhancement	Subtotals 2, 3, & 7	\$700
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Notes: Enhancement for one Notice of Violation without same or similar violations.

Culpability	No <input type="checkbox"/>	0% Enhancement	Subtotal 4	\$0
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Notes: The respondent does not meet the culpability criteria.

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

Notes: The respondent is not yet in compliance.

Economic Benefit	0% Enhancement*	Subtotal 6	\$0
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Total EB Amounts	\$1,319	*Capped at the Total EB \$ Amount
Approx. Cost of Compliance	\$2,850	

SUM OF SUBTOTALS 1-7	Final Subtotal	\$35,700
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OTHER FACTORS AS JUSTICE MAY REQUIRE	Adjustment	\$0
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Reduces or enhances the Final Subtotal by the indicated percentage. (Enter number only; e.g. -30 for -30%.)

Notes:

Final Penalty Amount	\$35,700
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$35,700
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DEFERRAL	0% Reduction	Adjustment	\$0
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Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes: This is not an expedited case.

PAYABLE PENALTY	\$35,700
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Screening Date	13-Apr-2006	Docket No.	2006-0419-PST-E	PCW
Respondent	Derek Wasson dba Corner Mart Grocery & Station		Policy Revision 2 (September 2002)	
Case ID No.	29060	PCW Revision May 19, 2005		
Reg. Ent. Reference No.	RN101447092			
Media [Statute]	Petroleum Storage Tank			
Enf. Coordinator	Shontay Wilcher			

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	1	2%
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%
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) 2%

>> Repeat Violator (Subtotal 3)

No **Adjustment Percentage (Subtotal 3)** 0%

>> Compliance History Person Classification (Subtotal 7)

Average Performer **Adjustment Percentage (Subtotal 7)** 0%

>> Compliance History Summary

Compliance History Notes: Enhancement for one Notice of Violation without same or similar violations.

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

Screening Date	13-Apr-2006	Docket No.	2006-0419-PST-E	PCW
Respondent	Derek Wasson dba Corner Mart Grocery & Station			<i>Policy Revision 2 (September 2002)</i>
Case ID No.	29060			<i>PCW Revision May 19, 2005</i>
Reg. Ent. Reference No.	RN101447092			
Media [Statute]	Petroleum Storage Tank			
Enf. Coordinator	Shontay Wilcher			
Violation Number	1			
Primary Rule Cite(s)	30 Tex. Admin. Code § 334.49(c)(4)			
Secondary Rule Cite(s)	Tex. Water Code § 26.3475(d)			
Violation Description	Failed to inspect and test the corrosion protection system for operability and adequacy of protection at a frequency of a least once every three years. Specifically, the respondent did not conduct the triennial test.			
Base Penalty	\$10,000			

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

OR	Harm			Percent	
	Release	Major	Moderate		Minor
	Actual				
	Potential	X			25%

>> **Programmatic Matrix**

	Falsification	Major	Moderate	Minor	Percent
Matrix Notes	Failure to test the cathodic protection system could result in the release of significant amounts of pollutants that would exceed levels that are protective of human health or the environment.				

Adjustment -\$7,500

Base Penalty Subtotal \$2,500

Violation Events

Number of Violation Events

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

Violation Base Penalty \$2,500

One single event is recommended for the three-year period preceding the October 28, 2005 investigation date.

Economic Benefit (EB) for this violation	Statutory Limit Test
Estimated EB Amount <input type="text" value="\$1,150"/>	Violation Final Penalty Total <input type="text" value="\$2,550"/>
This violation Final Assessed Penalty (adjusted for limits) <input type="text" value="\$2,550"/>	

Economic Benefit Worksheet

Respondent: Derek Wasson dba Corner Mart Grocery & Station
 Case ID No.: 29060
 Reg. Ent. Reference No.: RN101447092
 Media [Statute]: Petroleum Storage Tank
 Violation No.: 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/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)	\$1,000	28-Oct-2002	28-Oct-2005	3.0	\$150	\$1,000	\$1,150

Notes for AVOIDED costs

Avoided cost for completing the triennial test. The Date Required is three years before the investigation and the Final Date is the investigation date.

Approx. Cost of Compliance \$1,000

TOTAL \$1,150

Screening Date	13-Apr-2006	Docket No.	2006-0419-PST-E	PCW
Respondent	Derek Wasson dba Corner Mart Grocery & Station			<i>Policy Revision 2 (September 2002)</i>
Case ID No.	29060			<i>PCW Revision May 19, 2005</i>
Reg. Ent. Reference No.	RN101447092			
Media [Statute]	Petroleum Storage Tank			
Enf. Coordinator	Shontay Wilcher			
Violation Number	2			
Primary Rule Cite(s)	30 Tex. Admin. Code § 334.50(b)(1)(A) and 334.50(d)(1)(B)(ii)			
Secondary Rule Cite(s)	Tex. Water Code § 26.3475(c)(1)			
Violation Description	<p>Failed to monitor USTs for releases at a frequency of at least once every month (not to exceed 35 days between each monitoring). Specifically, the respondent did not conduct monthly monitoring of all USTs for releases at the Facility. Also, the respondent failed to conduct reconciliation of detailed inventory control records at least once each month, sufficiently accurate to detect a release as small as the sum of 1.0% of the total substance flow-through for the month plus 130 gallons. Specifically, the respondent did not reconcile inventory records to determine a leak by comparing gallons sold to tank gauge measurements.</p>			
Base Penalty	\$10,000			

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

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

>> **Programmatic Matrix**

		Falsification	Major	Moderate	Minor	
						Percent <input type="text"/>

Matrix Notes

Failure to monitor for releases at a frequency of at least once every month and to conduct monthly reconciliation of inventory records could result in the release of significant amounts of pollutants that would exceed levels that are protective of human health or the environment.

Adjustment

Base Penalty Subtotal

Violation Events

Number of Violation Events

mark only one use a small x	daily	<input type="text"/>
	monthly	<input type="text"/>
	quarterly	X
	semiannual	<input type="text"/>
	annual	<input type="text"/>

single event

Violation Base Penalty

Two quarterly events are recommended based on documentation of the violation during the October 28, 2005 investigation date to the April 13, 2006 screening date.

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

Estimated EB Amount	<input type="text" value="\$123"/>	Violation Final Penalty Total	<input type="text" value="\$5,100"/>
This violation Final Assessed Penalty (adjusted for limits)		<input type="text" value="\$5,100"/>	

Economic Benefit Worksheet

Respondent: Derek Wasson dba Corner Mart Grocery & Station
 Case ID No: 29060
 Reg. Ent. Reference No: RN101447092
 Media [Statute]: Petroleum Storage Tank
 Violation No: 2

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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Delayed Costs

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)	\$1,500	28-Oct-2005	28-Dec-2006	1.2	\$6	\$117	\$123
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 costs to monitor all tanks for releases. The Date Required is the investigation date and the Final Date is the estimated date of compliance.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance \$1,500

TOTAL \$123

Screening Date	13-Apr-2006	Docket No.	2006-0419-PST-E	PCW
Respondent	Derek Wasson dba Corner Mart Grocery & Station			<i>Policy Revision 2 (September 2002)</i>
Case ID No.	29060			<i>PCW Revision May 19, 2005</i>
Reg. Ent. Reference No.	RN101447092			
Media [Statute]	Petroleum Storage Tank			
Enf. Coordinator	Shontay Wilcher			
Violation Number	<input type="text" value="3"/>			
Primary Rule Cite(s)	<input type="text" value="30 Tex. Admin. Code § 334.8(c)(5)(B)(ii)"/>			
Secondary Rule Cite(s)	<input type="text"/>			
Violation Description	Failed to timely renew a previously issued TCEQ delivery certificate by submitting a properly completed UST registration and self-certification form at least 30 days before the expiration date of the delivery certificate. Specifically, the delivery certificate expired on May 31, 2002.			
Base Penalty	<input type="text" value="\$10,000"/>			

>> Environmental, Property and Human Health Matrix				
	Harm			
	Release	Major	Moderate	Minor
OR	Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>
	Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>
				Percent <input type="text"/>
>> Programmatic Matrix				
	Falsification	Major	Moderate	Minor
	<input type="text"/>	<input checked="" type="checkbox"/>	<input type="text"/>	<input type="text"/>
				Percent <input type="text" value="10%"/>
Matrix Notes	<input type="text" value="100% of the rule requirement was not met."/>			
	Adjustment	<input type="text" value="- \$9,000"/>		

Base Penalty Subtotal

Violation Events				
	Number of Violation Events	<input type="text" value="1"/>		
	mark only one use a small x	daily	<input type="text"/>	
		monthly	<input type="text"/>	
		quarterly	<input type="text"/>	
		semiannual	<input type="text"/>	
		annual	<input type="text"/>	
		single event	<input checked="" type="checkbox"/>	
				Violation Base Penalty <input type="text" value="\$1,000"/>
	One single event is recommended based on documentation of the violation during the October 28, 2005 investigation date.			

Economic Benefit (EB) for this violation	Statutory Limit Test
Estimated EB Amount <input type="text" value="\$35"/>	Violation Final Penalty Total <input type="text" value="\$1,020"/>
This violation Final Assessed Penalty (adjusted for limits) <input type="text" value="\$1,020"/>	

Economic Benefit Worksheet

Respondent: Derek Wasson dba Corner Mart Grocery & Station
 Case ID No: 29060
 Reg. Ent. Reference No: RN101447092
 Media [Statute]: Petroleum Storage Tank
 Violation No: 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)	\$150	01-May-2002	28-Dec-2006	4.7	\$35	n/a	\$35

Notes for DELAYED costs: Estimated cost to prepare and submit the UST registration & self-certification form. Date Required is 30 days prior to the expiration date of the delivery certificate and the Final Date is the estimated date of compliance.

Avoided Costs							
ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)							
Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs:

Approx. Cost of Compliance \$150

TOTAL \$35

Screening Date	13-Apr-2006	Docket No.	2006-0419-PST-E	PCW
Respondent	Derek Wasson dba Corner Mart Grocery & Station		Policy Revision 2 (September 2002)	
Case ID No.	29060		PCW Revision May 19, 2005	
Reg. Ent. Reference No.	RN101447092			
Media [Statute]	Petroleum Storage Tank			
Enf. Coordinator	Shontay Wilcher			
Violation Number	4			
Primary Rule Cite(s)	30 Tex. Admin. Code § 334.8(c)(5)(A)(i)			
Secondary Rule Cite(s)	Tex. Water Code § 26.3467(a)			
Violation Description	Failed to make available to a common carrier a valid, current TCEQ delivery certificate before accepting delivery of a regulated substance into the USTs at the Facility. Specifically, the respondent accepted a total of 47 fuel deliveries without a delivery certificate.			
Base Penalty	\$10,000			

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

OR	Harm			Percent	
	Release	Major	Moderate		Minor
	Actual				
Potential			X	5%	

>> **Programmatic Matrix**

Matrix Notes	Falsification	Major	Moderate	Minor	Percent
Failure to make available a valid, current TCEQ delivery certificate to a common carrier before accepting a delivery of regulated substance into the USTs could result in the release of insignificant amounts of pollutants that would not exceed levels that are protective of human health or the environment.					

Adjustment -\$9,500

Base Penalty Subtotal \$500

Violation Events

Number of Violation Events

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

Violation Base Penalty \$23,500

Forty-seven single events are recommended (one per fuel drop) based on documentation of the violation during the October 28, 2005 investigation date.

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

Estimated EB Amount Violation Final Penalty Total

This violation Final Assessed Penalty (adjusted for limits)

Economic Benefit Worksheet

Respondent Derek Wasson dba Corner Mart Grocery & Station
Case ID No. 29060
Reg. Ent. Reference No. RN101447092
Media [Statute] Petroleum Storage Tank
Violation No. 4

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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Delayed Costs

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs

Economic benefit included in Violation No. 3.

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 \$0

TOTAL \$0

Screening Date	13-Apr-2006	Docket No.	2006-0419-PST-E	PCW
Respondent	Derek Wasson dba Corner Mart Grocery & Station		Policy Revision 2 (September 2002)	
Case ID No.	29060		PCW Revision May 19, 2005	
Reg. Ent. Reference No.	RN101447092			
Media [Statute]	Petroleum Storage Tank			
Enf. Coordinator	Shontay Wilcher			
Violation Number	5			
Primary Rule Cite(s)	30 Tex. Admin. Code § 334.8(c)(5)(C)			
Secondary Rule Cite(s)				
Violation Description	Failed to ensure that a legible tag, label, or marking with the tank number is permanently applied upon or affixed to either the top of the fill tube or to a nonremovable point in the immediate area of the fill tube according to the UST registration and self-certification form. Specifically, the respondent did not number the tanks.			
Base Penalty	\$10,000			

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

		Harm			
Release		Major	Moderate	Minor	
OR	Actual				Percent
	Potential				

>> **Programmatic Matrix**

		Major	Moderate	Minor	
	Falsification	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 documentation of the violation during the October 28, 2005 investigation date.

Economic Benefit (EB) for this violation	Statutory Limit Test
Estimated EB Amount \$6	Violation Final Penalty Total \$1,020
This violation Final Assessed Penalty (adjusted for limits) \$1,020	

Economic Benefit Worksheet

Respondent: Derek Wasson dba Corner Mart Grocery & Station
Case ID No.: 29060
Reg. Ent. Reference No.: RN101447092
Media [Statute]: Petroleum Storage Tank
Violation No.: 5

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	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	28-Oct-2005	28-Dec-2006	1.2	\$6	n/a	\$6

Notes for DELAYED costs: Estimated cost to label the tank fill ports. The Date Required is the date of the investigation and the Final Date is the estimated date of compliance.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance: \$100

TOTAL \$6

Screening Date	13-Apr-2006	Docket No.	2006-0419-PST-E	PCW
Respondent	Derek Wasson dba Corner Mart Grocery & Station			<i>Policy Revision 2 (September 2002)</i>
Case ID No.	29060			<i>PCW Revision May 19, 2005</i>
Reg. Ent. Reference No.	RN101447092			
Media [Statute]	Petroleum Storage Tank			
Enf. Coordinator	Shontay Wilcher			
Violation Number	6			
Primary Rule Cite(s)	30 Tex. Admin. Code § 334.45(c)(3)(A)			
Secondary Rule Cite(s)				
Violation Description	Failed to properly install and maintain a secure anchor at the base of each UL-listed emergency shutoff valve in a piping system in which regulated substances are conveyed under pressure to an aboveground dispensing unit. Specifically, it was observed that the impact valves were not properly anchored at Diesel Tank No. 1 and Super Tank No. 3.			
	Base Penalty	\$10,000		

>> Environmental, Property and Human Health Matrix				
OR	Harm			
	Release	Major	Moderate	Minor
	Actual	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	Potential	<input type="checkbox"/>	X	<input type="checkbox"/>
				Percent <input type="text" value="10%"/>
>> Programmatic Matrix				
	Falsification	Major	Moderate	Minor
	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
				Percent <input type="text"/>
Matrix Notes	Failure to properly install and maintain a secure anchor at the base of each UL-list emergency shutoff valve could result in the release of significant amounts of pollutants that would not exceed levels that are protective of human health or the environment.			
	Adjustment	-\$9,000		

Base Penalty Subtotal	\$1,000
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Violation Events				
Number of Violation Events	<input type="text" value="2"/>			
<i>mark only one use a small x</i>	daily	<input type="checkbox"/>		
	monthly	<input type="checkbox"/>		
	quarterly	X		
	semiannual	<input type="checkbox"/>		
	annual	<input type="checkbox"/>		
	single event	<input type="checkbox"/>		
	Violation Base Penalty	\$2,000		
	Two quarterly events are recommended based on documentation of the violation during the October 28, 2005 investigation date to the April 13, 2006 screening date.			

Economic Benefit (EB) for this violation	Statutory Limit Test
Estimated EB Amount <input type="text" value="\$6"/>	Violation Final Penalty Total <input type="text" value="\$2,040"/>
This violation Final Assessed Penalty (adjusted for limits) <input type="text" value="\$2,040"/>	

Economic Benefit Worksheet

Respondent: Derek Wasson dba Corner Mart Grocery & Station
 Case ID No: 29060
 Reg. Ent. Reference No: RN101447092
 Media [Statute]: Petroleum Storage Tank
 Violation No: 6

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	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	28-Oct-2005	28-Dec-2006	1.2	\$6	n/a	\$6

Notes for DELAYED costs: Estimated cost to properly install and maintain anchors. The Date Required is the date of the investigation and the Final Date is the estimated date of compliance.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs:

Approx. Cost of Compliance: \$100

TOTAL: \$6

Compliance History

Customer/Respondent/Owner-Operator:	CN600752471 WASSON, DEREK	Classification: AVERAGE	Rating: 1.00
Regulated Entity:	RN101447092 CORNER MART GROCERY & STATION	Classification: AVERAGE	Site Rating: 1.00
ID Number(s):	PETROLEUM STORAGE TANK REGISTRATION	REGISTRATION	38512
Location:	1001 HIGHWAY 59, QUEEN CITY, TX, 75572	Rating Date: 9/1/2005	Repeat Violator: NO
TCEQ Region:	REGION 05 - TYLER		
Date Compliance History Prepared:	April 13, 2006		
Agency Decision Requiring Compliance History:	Enforcement		
Compliance Period:	April 13, 2001 to April 13, 2006		

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

Name: Shontay Wilcher Phone: (512) 239-2136

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 01/06/2005 (292287)
 - 2 02/23/2004 (282071)
 - 3 03/23/2006 (435705)
- E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)
 - Date: 02/23/2004 (282071)
 - Self Report? NO Classification: Moderate
 - Citation: 30 TAC Chapter 37, SubChapter I 37.815(a)[G]
30 TAC Chapter 37, SubChapter I 37.815(b)[G]
 - Description: Failure to provide acceptable financial assurance.
- 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
AGAINST
DEREK WASSON DBA CORNER
MART GROCERY & STATION;
RN101447092

§ BEFORE THE
§
§ TEXAS COMMISSION ON
§
§ ENVIRONMENTAL QUALITY

DEFAULT ORDER
DOCKET NO. 2006-0419-PST-E

At its _____ agenda, the Texas Commission on Environmental Quality, ("Commission" or "TCEQ") considered the Executive Director's First Amended Report and Petition filed pursuant to TEX. WATER CODE chs. 7 and 26, and the rules of the TCEQ, which requests appropriate relief including the imposition of an administrative penalty and corrective action of the respondent. The respondent made the subject of this Order is Derek Wasson dba Corner Mart Grocery & Station ("Mr. Wasson").

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

FINDINGS OF FACT

1. Mr. Wasson owns and operates a convenience store with retail sales of gasoline located at 1001 Highway 59 North, Queen City, Cass County, Texas (the "Facility").
2. Mr. Wasson's three underground storage tanks ("USTs") are not exempt or excluded from regulation under the Texas Water Code or the rules of the Commission. Mr. Wasson's USTs contain a regulated substance as defined in the rules of the Commission.
3. During an investigation conducted on October 28, 2005, a TCEQ Tyler Regional investigator documented that Mr. Wasson:
 - a. failed to inspect and test the corrosion protection system for operability and adequacy of protection at a frequency of a least once every three years. Specifically, Mr. Wasson did not conduct the triennial test.

- b. failed to monitor USTs for releases at a frequency of at least once every month (not to exceed 35 days between each monitoring). Specifically, Mr. Wasson did not conduct monthly monitoring of all USTs for releases at the Facility.
 - c. failed to conduct reconciliation of detailed inventory control records at least once each month, sufficiently accurate to detect a release as small as the sum of 1.0% of the total substance flow-through for the month plus 130 gallons. Specifically, Mr. Wasson did not reconcile inventory records to determine a leak by comparing gallons sold to tank gauge measurements.
 - d. failed to timely renew a previously issued TCEQ delivery certificate by submitting a properly completed UST registration and self-certification form at least 30 days before the expiration date of the delivery certificate. Specifically, the delivery certificate expired on May 31, 2002.
 - e. failed to make available to a common carrier a valid, current TCEQ delivery certificate before accepting delivery of a regulated substance into the USTs at the Facility. Specifically, Mr. Wasson accepted a total of 47 fuel deliveries without a delivery certificate.
 - f. failed to ensure that a legible tag, label, or marking with the tank number is permanently applied upon or affixed to either the top of the fill tube or to a nonremovable point in the immediate area of the fill tube according to the UST registration and self-certification form. Specifically, Mr. Wasson did not number the tanks.
 - g. failed to properly install and maintain a secure anchor at the base of each UL-listed emergency shutoff valve in a piping system in which regulated substances are conveyed under pressure to an aboveground dispensing unit. Specifically, it was observed that the impact valves were not properly anchored at Diesel Tank No. 1 and Super Tank No. 3.
4. Mr. Wasson received notice of the violations on or about March 29, 2006.
 5. The Executive Director recognizes that Mr. Wasson filed for bankruptcy on September 26, 2006 in the United States Eastern District of Texas.
 6. The Executive Director recognizes that Mr. Wasson closed the facility and is no longer in operation as of September 19, 2006.

7. The Executive Director filed the "Executive Director's Preliminary Report and Petition Recommending that the Texas Commission on Environmental Quality Enter an Enforcement Order Assessing an Administrative Penalty Against and Requiring Certain Actions of Derek Wasson dba Corner Mart Grocery & Station" (the "EDPRP") in the TCEQ Chief Clerk's office on August 8, 2006.
8. By letter dated August 8, 2006, sent via certified mail, return receipt requested, and via first class mail, postage prepaid, the Executive Director served Mr. Wasson with notice of the EDPRP. According to the return receipt "green card," Mr. Wasson received notice of the EDPRP on August 14, 2006, as evidenced by the signature on the card.
9. The Executive Director filed the "Executive Director's First Amended Report and Petition Recommending that the Texas Commission on Environmental Quality Enter an Enforcement Order Assessing an Administrative Penalty Against and Requiring Certain Actions of Derek Wasson dba Corner Mart Grocery & Station" (the "EDFARP") in the TCEQ Chief Clerk's office on November 9, 2006.
10. By letter dated November 9, 2006, sent via certified mail, return receipt requested, and via first class mail, postage prepaid, the Executive Director served Mr. Wasson with notice of the EDFARP. According to the return receipt "green card," Mr. Wasson received notice of the EDFARP on November 15, 2006, as evidenced by the signature on the card.
11. More than 20 days have elapsed since Mr. Wasson received notice of the EDPRP and EDFARP provided by the Executive Director. Mr. Wasson failed to file an Answer to either the EDPRP or the EDFARP, failed to request a hearing, and failed to schedule a settlement conference.

CONCLUSIONS OF LAW

1. As evidenced by Finding of Fact Nos. 1 and 2, Mr. Wasson is subject to the jurisdiction of the TCEQ pursuant to TEX. WATER CODE chs. 7 and 26 and the rules of the Commission.
2. As evidenced by Finding of Fact No. 3.a., Mr. Wasson failed to inspect and test the corrosion protection system for operability and adequacy of protection at a frequency of a least once every three years, in violation of 30 TEX. ADMIN. CODE § 334.49(c)(4) and TEX. WATER CODE § 26.3475(d). Specifically, Mr. Wasson did not conduct the triennial test.

3. As evidenced by Finding of Fact No. 3.b., Mr. Wasson failed to monitor USTs for releases at a frequency of at least once every month (not to exceed 35 days between each monitoring), in violation of 30 TEX. ADMIN. CODE § 334.50(b)(1)(A) and TEX. WATER CODE § 26.3475(c)(1). Specifically, Mr. Wasson did not conduct monthly monitoring of all USTs for releases at the Facility.
4. As evidenced by Finding of Fact No. 3.c., Mr. Wasson failed to conduct reconciliation of detailed inventory control records at least once each month sufficiently accurate to detect a release as small as the sum of 1.0% of the total substance flow-through for the month plus 130 gallons, in violation of 30 TEX. ADMIN. CODE § 334.50(d)(1)(B)(ii) and TEX. WATER CODE § 26.3475(c)(1). Specifically, Mr. Wasson did not reconcile inventory records to determine a leak by comparing gallons sold to tank gauge measurements.
5. As evidenced by Finding of Fact No. 3.d., Mr. Wasson failed to timely renew a previously issued TCEQ delivery certificate by submitting a properly completed UST registration and self-certification form at least 30 days before the expiration date of the delivery certificate in violation of 30 TEX. ADMIN. CODE § 334.8(c)(5)(B)(ii). Specifically, the delivery certificate expired on May 31, 2002.
6. As evidenced by Finding of Fact No. 3.e., Mr. Wasson failed to make available to a common carrier a valid, current TCEQ delivery certificate before accepting delivery of a regulated substance into the USTs at the Facility in violation of 30 TEX. ADMIN. CODE § 334.8(c)(5)(A)(i) and TEX. WATER CODE § 26.3467(a). Specifically, Mr. Wasson accepted a total of 47 fuel deliveries without a delivery certificate.
7. As evidenced by Finding of Fact No. 3.f., Mr. Wasson failed to ensure that a legible tag, label, or marking with the tank number is permanently applied upon or affixed to either the top of the fill tube or to a nonremovable point in the immediate area of the fill tube according to the UST registration and self-certification form in violation of 30 TEX. ADMIN. CODE § 334.8(c)(5)(C). Specifically, Mr. Wasson did not number the tanks.
8. As evidenced by Finding of Fact No. 3.g., Mr. Wasson failed to properly install and maintain a secure anchor at the base of each UL-listed emergency shutoff valve in a piping system in which regulated substances are conveyed under pressure to an aboveground dispensing unit in violation of 30 TEX. ADMIN. CODE § 334.45(c)(3)(A). Specifically, it was observed that the impact valves were not properly anchored at Diesel Tank No. 1 and Super Tank No. 3.
9. As evidenced by Finding of Fact Nos. 8, 9, 10 and 11, the Executive Director timely served Mr. Wasson with proper notice of the EDPRP and the EDFARP, as required by TEX. WATER CODE § 7.055 and 30 TEX. ADMIN. CODE § 70.104(a).

10. As evidenced by Finding of Fact No. 12, Mr. Wasson failed to file a timely answer to either the EDPRP or the EDFARP, as required by TEX. WATER CODE § 7.056 and 30 TEX. ADMIN. CODE § 70.105. Pursuant to TEX. WATER CODE § 7.057 and 30 TEX. ADMIN. CODE § 70.106, the Commission may enter a Default Order against Mr. Wasson and assess the penalty recommended by the Executive Director.
11. Pursuant to TEX. WATER CODE § 7.051, the Commission has the authority to assess an administrative penalty against Mr. Wasson for violations of the Texas Water Code within the Commission's jurisdiction; for violations of rules adopted under such statute; or for violations of orders or permits issued under such statute.
12. An administrative penalty in the amount of thirty-five thousand seven hundred dollars (\$35,700.00) is justified by the facts recited in this Order, and considered in light of the factors set forth in TEX. WATER CODE § 7.053.
13. TEX. WATER CODE §§ 5.102 and 7.002 authorize the Commission to issue orders and make determinations necessary to effectuate the purposes of the statutes within its jurisdiction.

ORDERING PROVISIONS

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

1. Mr. Wasson is assessed an administrative penalty in the amount of thirty-five thousand seven hundred dollars (\$35,700.00) for violations of TEX. WATER CODE ch. 26 and rules of the TCEQ. The payment of this administrative penalty and Mr. Wasson's compliance with all the terms and conditions set forth in this Order completely resolve the matters set forth by this Order in this action. The Commission shall not be constrained in any manner from requiring corrective actions or penalties for other violations which are not raised here. All checks submitted to pay the penalty imposed by this Order shall be made out to the "Texas Commission on Environmental Quality." The administrative penalty assessed by this Order shall be paid within 30 days after the effective date of this Order and shall be sent with the notation "Re: Derek Wasson dba Corner Mart Grocery & Station; Docket No. 2006-0419-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. On or about September 26, 2006, Mr. Wasson filed a petition for bankruptcy relief pursuant to Chapter 11 of the United States Code. The automatic stay imposed by the Bankruptcy Code (specifically, 11 USC § 362(a)) does not apply to the commencement or continuation of an action or proceeding by a governmental unit to enforce such governmental unit's police or regulatory power, by virtue of the exception set out at 11 USC § 362(b)(4). Accordingly, TCEQ (a governmental unit as defined under 11 USC § 101(27)) is expressly excepted from the automatic stay when pursuing enforcement of the State's environmental protection laws and in seeking to liquidate its damages for such violations. So long as Mr. Wasson's bankruptcy proceeding are pending and/or until relief from the automatic stay is granted, the TCEQ will not, however, seek to execute upon any monetary judgment obtained without first approaching the United States Bankruptcy Court where Mr. Wasson's bankruptcy case is pending as necessary, after consultation with the Attorney General's Office.
3. All relief not expressly granted in this Order is denied.
4. The provisions of this Order shall apply to and be binding upon Mr. Wasson.
5. The Executive Director may refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings without notice to Mr. Wasson if the Executive Director determines that Mr. Wasson has not complied with one or more of the terms or conditions in this Order.
6. This Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Order, whichever is later.
7. The Chief Clerk shall provide a copy of this Order to each of the parties. By law, the effective date of this Order shall be the date the Order is final, as provided by 30 TEX. ADMIN. CODE § 70.106(d) and TEX. GOV'T CODE § 2001.144.

Derek Wasson dba Corner Mart Grocery & Station
Docket No. 2006-0419-PST-E
Page 7

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

AFFIDAVIT OF KATHLEEN C. DECKER

STATE OF TEXAS §
 §
COUNTY OF TRAVIS §

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

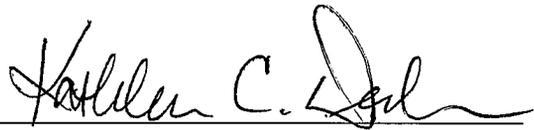
On behalf of the Executive Director of the Texas Commission on Environmental Quality, the ‘Executive Director’s Preliminary Report and Petition Recommending that the Texas Commission on Environmental Quality Enter an Enforcement Order Assessing an Administrative Penalty Against and Requiring Certain Actions of Derek Wasson dba Corner Mart Grocery & Station’ (the ‘EDPRP’) was filed with the Office of the Chief Clerk on August 8, 2006.

The EDPRP was sent to Mr. Wasson at his last known address on August 8, 2006, via certified mail, return receipt requested, and via first class mail, postage prepaid. According to the return receipt ‘green card,’ Mr. Wasson received notice of the EDPRP on August 14, 2006, as evidenced by the signature on the card.

On behalf of the Executive Director of the Texas Commission on Environmental Quality, I filed the ‘Executive Director’s First Amended Report and Petition Recommending that the Texas Commission on Environmental Quality Enter an Enforcement Order Assessing an Administrative Penalty Against and Requiring Certain Actions of Derek Wasson dba Corner Mart Grocery & Station’ (the ‘EDFARP’) with the Office of the Chief Clerk on November 9, 2006.

I sent the EDFARP to Mr. Wasson at his last known address on November 9, 2006, via certified mail, return receipt requested, and via first class mail, postage prepaid. According to the return receipt ‘green card,’ Mr. Wasson received notice of the EDFARP on November 15, 2006, as evidenced by the signature on the card.

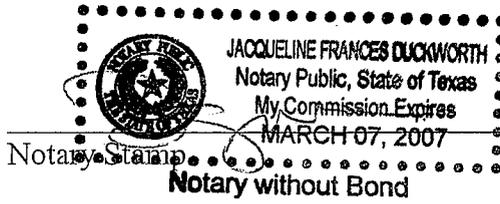
More than 20 days have elapsed since Mr. Wasson received notice of the EDPRP and the EDFARP. Mr. Wasson failed to file an answer to either the EDPRP or the EDFARP, failed to request a hearing, and failed to schedule a settlement conference.”



Kathleen C. Decker
Attorney
Texas Commission on Environmental Quality

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

Given under my hand and seal of office this 9th day of January, 2007.



March 7, 2007
My Commission expires: