

EXECUTIVE SUMMARY - ENFORCEMENT MATTER
DOCKET NUMBER: 2005-0913-IHW-E TCEQ ID NO: RN100566280 ENF ID: 25526
RESPONDENT NAME: DONALD SAVAGE DBA REDI-STRIP

ORDER TYPE:

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

CASE TYPE:

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

SITE WHERE VIOLATION(S) OCCURRED: 6070 Van Hise Drive, Dallas, Dallas County

TYPE OF OPERATION: Former auto body paint stripping facility

SMALL BUSINESS: Yes No

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

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

COMMENTS RECEIVED: The *Texas Register* comment period expired on January 29, 2007. No comments were received.

CONTACTS AND MAILING LIST:

TCEQ Attorney: Ms. Lena Roberts, Litigation Division, MC 175, (512) 239-0019; Ms. Jennifer Cook, Litigation Division, MC 175, (512) 239-1873

TCEQ Enforcement Coordinator: Mr. Terry Murphy, Enforcement Division, Air Section, MC 149, (512) 239-5025

TCEQ Regional Contact: Mr. Sam Barrett, DFW Regional Office, MC R-4, (817) 588-5903

Respondent: Mr. Donald Savage, Owner, 6801 Greenacres Drive, North Richland Hills, TX 76180-2614

Respondent's Attorney: Not represented by counsel.

RESPONDENT'S NAME: DONALD SAVAGE DBA REDI-STRIP
DOCKET NO.: 2005-0913-IHW-E

VIOLATION SUMMARY CHART:

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p>Type of Investigation: <input type="checkbox"/> Complaint <input type="checkbox"/> Routine <input checked="" type="checkbox"/> Enforcement Follow-up <input type="checkbox"/> Records Review</p> <p>Date(s) of Complaints Relating to this Case: None</p> <p>Date(s) of Investigation(s) Relating to this Case: January 31, 2005</p> <p>Date(s) of NOV(s)/NOE(s) Relating to this Case: April 27, 2005 (NOE)</p> <p>Background Facts: An EDRP was filed on November 14, 2005. The Respondent did not answer. The regional investigator visited the Facility and noted that it was abandoned. Soon thereafter, LD was notified from the TCEQ investigator that the Respondent had relocated and provided the new address for his residence. An Amended Petition was filed on October 11, 2006 noting the new address for the Respondent. The Respondent received the amended petition on October 12, 2006 as evidenced by the signature on the certified mail receipt card. The Respondent has not filed an answer or otherwise responded to either the initial EDRP or the Amended Petition.</p> <p>A Default Order was scheduled to be considered by the Commission on June 13, 2007. The Respondent appeared at the June 13, 2007 agenda and requested the Commission to afford him some additional time to locate a potentially liable third party. Immediately afterward, the Respondent met with the Litigation attorney, the Enforcement Coordinator, and the Deputy Director of the Office of Legal Services, who instructed the Respondent to submit weekly telephonic reports to the Litigation attorney regarding his progress in locating the third party. A follow-up letter was sent to the Respondent on June 21, 2007. On July 5, 2007, the Litigation attorney contacted the Respondent by telephone, at which time the Respondent informed the Litigation attorney that he was mailing the third-party information the next day (July 6, 2007). As of the current date, the information has not been received by the Litigation Division and Respondent has failed to maintain contact or submit any of the requested information.</p> <p>The Respondent in this case does not owe any other penalties according to the Administrative Penalty Database Report.</p> <p>IHW:</p> <ol style="list-style-type: none"> Failed to conduct a hazardous waste determination and waste classification [30 TEX. ADMIN. CODE § 335.62 and 40 CFR § 262.11]. Failed to prevent discharge of pollutants to concrete and soil [30 TEX. ADMIN. CODE § 335.4 and TEX. WATER CODE § 26.121]. Failed to limit storage of hazardous waste to the applicable accumulation time [30 TEX. ADMIN. CODE §335.69(b)]. 	<p>Total Assessed: \$31,500</p> <p>Total Deferred: \$0 <input type="checkbox"/> Expedited Settlement <input type="checkbox"/> Financial Inability to Pay</p> <p>Total Due to General Revenue: \$31,500</p> <p>This is a Default Order. The Respondent has not actually paid any of the assessed penalty but will be required to do so under the terms of this proposed Order.</p> <p>Site Compliance History Classification: <input type="checkbox"/> High <input checked="" type="checkbox"/> Avg. <input type="checkbox"/> Poor</p> <p>Person Compliance History Classification: <input type="checkbox"/> High <input checked="" type="checkbox"/> Avg. <input type="checkbox"/> Poor</p> <p>Major Source: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>Applicable Penalty Policy: September 2002</p>	<p>Ordering Provision(s)</p> <p>The TCEQ Remediation Division has performed the clean-up at the site because TCEQ was unable to contact the Respondent and the hazardous waste had the potential to travel off-site and into the Trinity River Basin and Trinity Aquifer.</p>



DATES	Assigned	25-Apr-2005	Screening	13-May-2005	EPA Due	
	PCW	19-May-2005				

RESPONDENT/FACILITY INFORMATION	
Respondent	Donald Savage dba Redi-Strip
Reg. Ent. Ref. No.	RN100566280
Facility/Site Region	4-Dallas/Fort Worth
Major/Minor Source	Major Source

CASE INFORMATION			
Enf./Case ID No.	25526	No. of Violations	3
Docket No.	2005-0913-IHW-E	Order Type	1660
Media Program(s)	Industrial and Hazardous Waste	Enf. Coordinator	Cari Bing
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	\$30,000
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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	5% Enhancement	Subtotals 2, 3, & 7	\$1,500
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Notes: The respondent received one NOV for the same violation.

Culpability	No	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 has not achieved compliance.

Economic Benefit	0% Enhancement	Subtotal 6	\$0
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Total EB Amounts	\$3,022	*Capped at the Total EB \$ Amount
Approx. Cost of Compliance	\$60,000	

SUM OF SUBTOTALS 1-7	Final Subtotal	\$31,500
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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: \$31,500

STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$31,500
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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: No deferral offered for non-expedited settlement.

PAYABLE PENALTY	\$31,500
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Screening Date 13-May-2005

Docket No. 2005-0913-IHW-E

PCW

Respondent: Donald Savage dba Redi-Strip

Policy Revision 2 (September 2002)

Case ID No. 25526

PCW Revision May 10, 2005

Reg. Ent. Reference No. RN100566280

Media [Statute] Industrial and Hazardous Waste

Enf. Coordinator Cari Bing

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written NOV's with same or similar violations as those in the current enforcement action (number of NOV's meeting criteria)	1	5%
	Other written NOV's	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 disclosed)	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) 5%

>> 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

The respondent received one NOV for the same violation.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 5%

Screening Date: 13-May-2005 Docket No. 2005-0913-IHW-E **PCW**
 Respondent: Donald Savage dba Redi-Strip Policy Revision 2 (September 2002)
 Case ID No. 25526 PCW Revision May 10, 2005
 Reg. Ent. Reference No. RN100566280
 Media [Statute] Industrial and Hazardous Waste
 Enf. Coordinator: Cari Bing
 Violation Number: 1
 Primary Rule Cite(s): 30 Tex. Admin. Code § 335.62
 Secondary Rule Cite(s): 40 Code of Federal Regulation § 262.11
 Violation Description: Failed to conduct a hazardous waste determination and waste classifications.

Base Penalty

>> Environmental, Property and Human Health Matrix

		Harm			
Release		Major	Moderate	Minor	
OR	Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>	Percent <input type="text" value="50%"/>
	Potential	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	

>> Programmatic Matrix

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

Matrix Notes: Failure to perform a hazardous waste determination can result in the exposure of a significant amount of contaminants which may exceed levels that are protective of human health and 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	<input type="text"/>
semiannual	<input type="text"/>
annual	<input type="text"/>
single event	<input checked="" type="checkbox"/>

Violation Base Penalty

One single event is recommended based on documentation of the violation during the January 31, 2005 investigation.

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: Donald Savage dba Redi-Strip
Case ID No.: 25526
Reg. Ent. Reference No.: RN100566280
Media [Statute]: Industrial and Hazardous Waste
Violation No.: 1

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)	\$31,000	31-Jan-2005	15-Jan-2006	1.0	\$1,482	n/a	\$1,482

Notes for DELAYED costs: Estimated cost to complete hazardous waste determinations, calculated from the date of investigation, January 31, 2005, to the estimated date of compliance, January 15, 2006.

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 \$31,000
TOTAL \$1,482

Screening Date 13-May-2005 **Docket No.** 2005-0913-IHW-E **PCW**
Respondent Donald Savage dba Redi-Strip *Policy Revision 2 (September 2002)*
Case ID No. 25526 *PCW Revision May 10, 2005*
Reg. Ent. Reference No. RN100566280
Media [Statute] Industrial and Hazardous Waste
Enf. Coordinator Cari Bing
Violation Number 2
Primary Rule Cite(s) 30 Tex. Admin. Code § 335.4
Secondary Rule Cite(s) Tex. Water Code § 26.121
Violation Description Failed to prevent discharge of pollutants to concrete and soil. Specifically, a dark stained spot against the south wall near the easternmost tank on the facility floor was observed. Soil samples taken outside of the building on the southeast corner showed high levels of cadmium, chromium and lead. This facility is located in the Trinity River Basin, 0.8 miles from the Trinity River West Fork, segment 0841, 0.45 miles from Mountain Creek, approximately 3 miles from Mountain Creek Lake and Over the Trinity Aquifer.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

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

>> Programmatic Matrix

		Major	Moderate	Minor	
Falsification					Percent

Matrix Notes Human health or the environment has been exposed to insignificant amounts of pollutants that do not exceed levels that are protective of human health and the environment.

Adjustment -\$7,500

Base Penalty Subtotal \$2,500

Violation Events

Number of Violation Events 2

mark only one use a small x

daily	
monthly	
quarterly	X
semiannual	
annual	
single event	

Violation Base Penalty \$5,000

Two quarterly events are recommended calculated from the investigation date, January 31, 2005, to the screening date, May 13, 2005.

Economic Benefit (EB) for this violation Statutory Limit Test

Estimated EB Amount \$291

Violation Final Penalty Total \$5,250

This violation Final Assessed Penalty (adjusted for limits) \$5,250

Economic-Benefit Worksheet

Respondent: Donald Savage dba Redi-Strip
 Case ID No: 25526
 Reg. Ent. Reference No: RN100566280
 Media [Statute]: Industrial and Hazardous Waste
 Violation No: 2

Percent Interest	Years of Depreciation
5.0	15

Item	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	\$5,000	31-Jan-2005	01-Apr-2006	1.2	\$291	n/a	\$291
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs: Estimated costs to complete site assessment and remediation of contaminated soil calculated from the date of investigation, January 31, 2005, to the date of estimated compliance, April 01, 2006.

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 \$5,000
TOTAL \$291

Screening Date 13-May-2005

Docket No. 2005-0913-IHW-E

PCW

Respondent Donald Savage dba Redi-Strip

Policy Revision 2 (September 2002)

Case ID No. 25526

PCW Revision May 10, 2005

Reg. Ent. Reference No. RN100566280

Media [Statute] Industrial and Hazardous Waste

Enf. Coordinator Carl Bing

Violation Number 3

Primary Rule Cite(s) 30 Tex. Admin. Code § 335.69(b)

Secondary Rule Cite(s)

Violation Description Failed to limit storage of hazardous waste to the applicable accumulation time.

Base Penalty \$10,000

Environmental, Property and Human Health Matrix

		Harm			
Release		Major	Moderate	Minor	
OR	Actual				Percent 50%
	Potential	X			

Programmatic Matrix

		Major	Moderate	Minor	
Falsification					Percent

Matrix Notes

Failure to properly dispose of hazardous waste within the applicable accumulation time can result in the exposure of a significant amount of contaminants which may exceed levels that are protective of human health and the environment.

Adjustment -\$5,000

Base Penalty Subtotal \$5,000

Violation Events

Number of Violation Events 4

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

Violation Base Penalty \$20,000

Four monthly events are recommended calculated from the investigation date, January 31, 2005, to the screening date, May 13, 2005.

Economic Benefit (EB) for this violation Statutory Limit Test

Estimated EB Amount \$1,249

Violation Final Penalty Total \$21,000

This violation Final Assessed Penalty (adjusted for limits) \$21,000

Economic Benefit Worksheet

Respondent: Donald Savage dba Redi-Strip
 Case ID No: 25526
 Reg. Ent. Reference No: RN100566280
 Media [Statute]: Industrial and Hazardous Waste
 Violation No: 3

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	\$24,000	31-Jan-2005	15-Feb-2006	1.0	\$1,249	n/a	\$1,249
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs: Estimated costs to remove and properly dispose of hazardous liquids and sludge, calculated from the date of investigation, January 31, 2005, to the date of estimated compliance, February 15, 2006.

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 \$24,000

TOTAL \$1,249

Compliance History

Customer/Respondent/Owner-Operator: CN602290462 SAVAGE, DONALD Classification: Average Rating: 0.600
Regulated Entity: RN100566280 REDI-STRIP Classification: Average Site Rating: 0.60
ID Number(s):
Location: 6070 VAN HISE DR, DALLAS, TX, 75212
TCEQ Region: REGION 04 - DFW METROPLEX
Date Compliance History Prepared: May 27, 2005
Agency Decision Requiring Compliance History: Enforcement
Compliance Period: May 05, 2000 to May 05, 2005
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History
Name: Cari Bing Phone: (512) 239-1445

Site Compliance History Components

1. Has the site been in existence and/or operation for the full five year compliance period? No
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 03/05/2003 (26516)
- 2 09/12/2003 (248662)
- 3 04/22/2005 (346741)
- 4 08/05/2003 (147537)
- 5 02/03/2004 (260909)

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

Date: 08/08/2003 (147537)

Self Report? NO

Classification: Moderate

Citation: 30 TAC Chapter 335, SubChapter A 335.4[G]

30 TAC Chapter 335, SubChapter C 335.62

Description: Failure to handle and store industrial solid waste in a manner so as to prevent the discharge or imminent threat of discharge into or adjacent to the waters of the state, or to prevent the creation a nuisance or endangerment of the public health and welfare.

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
DONALD SAVAGE
DBA REDI-STRIP,
RN100566280

§
§
§
§
§
§

BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

DEFAULT ORDER
DOCKET NO. 2005-0913-IHW-E

At its _____ agenda, the Texas Commission on Environmental Quality, ("Commission" or "TCEQ") considered the Executive Director's Preliminary Report and Petition filed pursuant to TEX. WATER CODE chs. 7 and 26, TEX. HEALTH & SAFETY CODE ch. 361; 40 CODE OF FEDERAL REGULATIONS ("CFR") ch. 262, 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 Donald Savage dba Redi-Strip ("Mr. Savage").

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

FINDINGS OF FACT

1. Mr. Savage owns a former auto body paint stripping facility located at 6070 Van Hise Drive, Dallas, Dallas County, Texas (the "Facility").
2. The Facility involves the management and the disposal of industrial hazardous wastes as defined in TEX. HEALTH & SAFETY CODE ch. 361.
3. During an inspection on January 31, 2005, a TCEQ Dallas/Fort Worth Regional Office investigator documented that Mr. Savage violated the following requirements:
 - a. Failed to conduct a hazardous waste determination and waste classifications;
 - b. Failing to prevent discharge of pollutants to concrete and soil. Specifically, a dark stained spot against the south wall near the easternmost tank on the facility floor was observed. Soil samples taken outside the building on the southeast corner showed high levels of cadmium, chromium and lead. This Facility is located in the Trinity River Basin, 0.8 miles from the Trinity River West Fork, segment 0841, 0.45 miles from Mountain Creek, approximately three miles from Mountain

Creek Lake and over the Trinity Aquifer; and

- c. failed to limit storage of hazardous waste to the applicable accumulation time.
4. Mr. Savage received notice of the violations on or about April 27, 2005.
5. The Executive Director recognizes that the State Lead Section in the TCEQ Remediation Division has implemented all corrective measures at the Facility in response to this enforcement action.
6. 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 Donald Savage dba Redi-Strip" (the "EDFARP") in the TCEQ Chief Clerk's office on November 14, 2005.
7. By letter dated November 14, 2005, sent via certified mail, return receipt requested, and via first class mail, postage prepaid, the Executive Director served Mr. Savage with notice of the EDPRP. According to the return receipt "green card", Mr. Savage received notice of the EDPRP on November 22, 2005, as evidenced by the signature on the card. In addition, the first class mail has not been returned, indicating that Mr. Savage received notice of the EDPRP.
8. 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 Donald Savage dba Redi-Strip" (the "EDFARP") in the TCEQ Chief Clerk's office on October 11, 2006.
9. By letter dated October 11, 2006, sent via certified mail, return receipt requested, and via first class mail, postage prepaid, the Executive Director served Mr. Savage with notice of the EDFARP. According to the return receipt "green card", Mr. Savage received notice of the EDFARP on October 12, 2006, as evidenced by the signature on the card. In addition, the first class mail has not been returned, indicating that Mr. Savage received notice of the EDFARP.
10. More than 20 days have elapsed since Mr. Savage received notice of the EDPRP and the EDFARP, provided by the Executive Director. Mr. Savage 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. Savage is subject to the jurisdiction of the TCEQ pursuant to TEX. WATER CODE chs. 7 and 26, TEX. HEALTH & SAFETY CODE ch. 361, and the rules of the Commission.
2. As evidenced by Finding of Fact No. 3.a., Mr. Savage failed to conduct a hazardous waste determination and waste classification, in violation of 30 TEX. ADMIN. CODE § 335.62 and 40 CFR § 262.11.
3. As evidenced by Finding of Fact No. 3.b., Mr. Savage failed to prevent discharge of pollutants to concrete and soil in violation of 30 TEX. ADMIN. CODE § 335.4 and TEX. WATER CODE § 26.121.
4. As evidenced by Finding of Fact No. 3.c., Mr. Savage failed to limit storage of hazardous waste to the applicable accumulation time in violation of 30 TEX. ADMIN. CODE §335.69(b).
5. As evidenced by Finding of Fact No. 6, 7, 8 and 9 the Executive Director has timely served Mr. Savage with proper notice of the EDPRP and EDFARP, as required by TEX. WATER CODE § 7.055 and 30 TEX. ADMIN. CODE § 70.104(a).
6. As evidenced by Finding of Fact No. 10, Mr. Savage has failed to file a timely answer to either the EDPRP or 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. Savage and assess the penalty recommended by the Executive Director.
7. Pursuant to TEX. WATER CODE § 7.051, the Commission has the authority to assess an administrative penalty against Mr. Savage for violations of the Texas Water Code and the Texas Health and Safety Code within the Commission's jurisdiction; for violations of rules adopted under such statutes; or for violations of orders or permits issued under such statutes.
8. An administrative penalty in the amount of thirty-one thousand five hundred dollars (\$31,500.00) is justified by the facts recited in this Order, and considered in light of the factors set forth in TEX. WATER CODE § 7.053.

9. TEX. WATER CODE §§ 5.102 and 7.002 authorize the Commission to issue orders and make determinations necessary to effectuate the purposes of the statutes within its jurisdiction.

ORDERING PROVISIONS

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

1. Mr. Savage is assessed an administrative penalty in the amount of thirty-one thousand five hundred dollars (\$31,500.00) for violations of TEX. WATER CODE chs. 7 and 26, TEX. HEALTH & SAFETY CODE ch. 361 and rules of the TCEQ. The payment of this administrative penalty and Mr. Savage'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: Donald Savage dba Redi-Strip; Docket No. 2005-0913-IHW-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. All relief not expressly granted in this Order is denied.
3. The provisions of this Order shall apply to and be binding upon Mr. Savage. Mr. Savage is ordered to give notice of this Order to personnel who maintain day-to-day control over the Site operations referenced in this Order.
4. 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. Savage if the Executive Director determines that Mr. Savage has not complied with one or more of the terms or conditions in this Order.

5. 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.
6. 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.

Donald Savage dba Redi-Strip
DOCKET NO. 2005-0913-IHW-E
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SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

AFFIDAVIT OF SHANNON L. STRONG

STATE OF TEXAS §
 §
COUNTY OF TRAVIS §

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

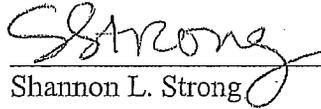
On behalf of the Executive Director of the Texas Commission on Environmental Quality, I filed the “Executive Director’s Preliminary Report and Petition Recommending that the Texas Commission on Environmental Quality Enter an Enforcement Order Assessing an Administrative Penalty Against and Requiring Certain Actions of Donald Savage dba Redi-Strip” (the “EDPRP”) with the Office of the Chief Clerk on November 14, 2005.

I sent the EDPRP to Mr. Savage at his last known address on November 14, 2005 via certified mail, return receipt requested, and via first class mail, postage prepaid. According to the return receipt “green card”, Mr. Savage received notice of the EDPRP on November 22, 2005, as evidenced by the signature on the card. The first class mail has not been returned, indicating the respondent received notice of the EDFARP, in accordance with 30 TEX. ADMIN. CODE § 70.104(c)(2).

On behalf of the Executive Director of the Texas Commission on Environmental Quality, I 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 Donald Savage dba Redi-Strip” (the “EDFARP”) with the Office of the Chief Clerk on October 11, 2006.

I sent the EDFARP to Mr. Savage at his last known address on October 11, 2006 via certified mail, return receipt requested, and via first class mail, postage prepaid. According to the return receipt “green card”, Mr. Savage received notice of the EDFARP on October 12, 2006, as evidenced by the signature on the card. The first class mail has not been returned, indicating the respondent received notice of the EDFARP, in accordance with 30 TEX. ADMIN. CODE § 70.104(c)(2).

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

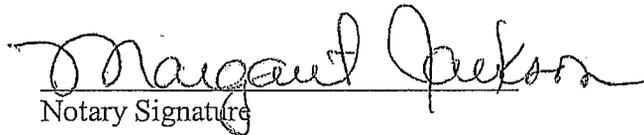


Shannon L. Strong
Attorney
Texas Commission on Environmental Quality

Before me, the undersigned authority, on this day personally appeared Shannon L. Strong, 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 11 day of December A.D., 2006.




Notary Signature