

EXECUTIVE SUMMARY - ENFORCEMENT MATTER

DOCKET NO.: 2007-0047-PST-E **TCEQ ID:** RN101723997 **CASE NO.:** 32210

RESPONDENT NAME: Dondi and Donna Tipton dba Tipton Texaco and Harvey and Beth Tipton dba Tipton Texaco

ORDER TYPE:		
<input checked="" type="checkbox"/> 1660 AGREED ORDER	<input type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING
<input type="checkbox"/> FINDINGS DEFAULT ORDER	<input type="checkbox"/> SHUTDOWN ORDER	<input type="checkbox"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
<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: Tipton Texaco, 779 North 1st Street, Timpson, Shelby 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 Respondents have expressed an interest in this matter.</p> <p>COMMENTS RECEIVED: The <i>Texas Register</i> comment period expired on June 4, 2007. No comments were received.</p> <p>CONTACTS AND MAILING LIST: TCEQ Attorney/SEP Coordinator: None TCEQ Enforcement Coordinator: Ms. Deana Holland, Enforcement Division, Enforcement Team 1, MC 169, (512) 239-2504; Mr. Steven Lopez, Enforcement Division, MC 219, (512) 239-1896 Respondent: Mr. Dondi Tipton, Co-Owner, Tipton Texaco, and Ms. Donna Tipton, 329 County Road 4919, Timpson, Texas 75975 Mr. Harvey Tipton, Co-Owner, Tipton Texaco, and Ms. Beth Tipton, Co-Owner, 4942 County Road 4916, Timpson, Texas 75975 Respondent's Attorney: Not represented by counsel on this enforcement matter</p>		

DOCKET NO.: 2007-0047-PST-E

VIOLATION SUMMARY CHART:

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p>Type of Investigation: <input type="checkbox"/> Complaint <input checked="" type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input checked="" type="checkbox"/> Records Review</p> <p>Date(s) of Complaints Relating to this Case: None</p> <p>Dates of Investigations Relating to this Case: October 25, 2006 and January 11, 2007</p> <p>Date of NOE Relating to this Case: December 22, 2006 (NOE)</p> <p>Background Facts: These were routine investigations. Three violations were documented. Dondi and Donna Tipton are in Bankruptcy. Harvey and Beth Tipton are not.</p> <p>WASTE</p> <p>1) Failed to provide written notice of any change or additional information to the Commission within 30 days from the date of the occurrence of the change or addition, or within 30 days of the date on which the owners or operators first becomes aware of the change or addition. Specifically, the Tiptons did not update the registration information to reflect the current out of service status of the underground storage tanks ("USTs") [30 TEX. ADMIN. CODE § 334.7(d)(3)].</p> <p>2) Failed to provide corrosion protection for the UST system [30 TEX. ADMIN. CODE § 334.49(a)(1) and TEX. WATER CODE § 26.3475(d)].</p> <p>3) Failed to pay outstanding UST fees and associated late fees for TCBEQ Financial Assurance Account No. 0058928U for fiscal year 2004 and 2005 [30 TEX. ADMIN. CODE § 334.22(a) and TEX. WATER CODE § 5.702].</p>	<p>Total Assessed: \$3,745</p> <p>Total Deferred: \$749 <input checked="" type="checkbox"/> Expedited Settlement <input type="checkbox"/> Financial Inability to Pay</p> <p>SEP Conditional Offset: \$0</p> <p>Total Paid (Due) to General Revenue: \$112 (remaining \$2,884 to be paid in 28 monthly payments of \$103 each)</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>Ordering Provisions:</p> <p>The Order will require the Respondents to:</p> <p>a. Within 30 days after the effective date of this Agreed Order:</p> <ul style="list-style-type: none"> i. Submit an amended registration to indicate the current operational status of the UST system; ii. Install and implement a corrosion protection method for the UST system at the Facility; iii. Submit payment for outstanding fees, including any associated penalties and interest; and <p>b. Within 45 days after the effective date of this Agreed Order, submit written certification and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provisions a.i. through a.iii.</p>



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision December 8, 2006

DATES	Assigned	3-Jan-2007		
	PCW	11-Jan-2007	Screening	11-Jan-2007
		EPA Due		

RESPONDENT/FACILITY INFORMATION			
Respondent	Dondi and Donna Tipton dba Tipton Texaco and Harvey and Beth Tipton dba Tipton Texaco		
Reg. Ent. Ref. No.	RN101723997		
Facility/Site Region	10-Beaumont	Major/Minor Source	Minor

CASE INFORMATION			
Enf./Case ID No.	32210	No. of Violations	3
Docket No.	2007-0047-PST-E	Order Type	1660
Media Program(s)	Petroleum Storage Tank	Enf. Coordinator	Deana Holland
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	\$3,500
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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	7% Enhancement	Subtotals 2, 3, & 7	\$245
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Notes: Enhancement for one NOV with same or similar violations and one NOV without same or similar violations.

Culpability	No	0% Enhancement	Subtotal 4	\$0
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Notes: The Respondents do not meet the culpability criteria.

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

Notes: The Respondents do not meet the good faith criteria.

Subtotal 6	0% Enhancement*	\$0
Total EB Amounts	\$601	*Capped at the Total EB \$ Amount
Approx. Cost of Compliance	\$10,100	

SUM OF SUBTOTALS 1-7	Final Subtotal	\$3,745
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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 \$3,745

STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$3,745
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DEFERRAL	20% Reduction	Adjustment	-\$749
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Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes:

Deferral offered for expedited settlement.

PAYABLE PENALTY	\$2,996
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Screening Date 11-Jan-2007

Docket No. 2007-0047-PST-E

PCW

Respondent Dondi and Donna Tipton dba Tipton Texaco and Harvey

Policy Revision 2 (September 2002)

Case ID No. 32210

PCW Revision December 8, 2006

Reg. Ent. Reference No. RN101723997

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Deana Holland

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)	1	5%
	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 judgments or consent decrees meeting criteria)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (number of counts)	0	0%
Emissions	Chronic excessive emissions events (number of events)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which notices were submitted)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which violations were disclosed)	0	0%
<i>Please Enter Yes or No</i>			
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) 7%

>> 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 NOV with same or similar violations and one NOV without same or similar violations.

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

Screening Date 11-Jan-2007

Docket No. 2007-0047-PST-E

PCW

Respondent Dondi and Donna Tipton dba Tipton Texaco and Harvey and Bett

Policy Revision 2 (September 2002)

Case ID No. 32210

PCW Revision December 8, 2006

Reg. Ent. Reference No. RN101723997

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Deana Holland

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code § 334.7(d)(3)

Violation Description Failed to provide written notice of any change or additional information to the Commission within 30 days from the date of the occurrence of the change or addition, or within 30 days of the date on which the owners or operators first becomes aware of the change or addition. Specifically, the Respondents did not update the registration information to reflect the current out of service status of the USTs.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

Release	Harm			Percent
	Major	Moderate	Minor	
Actual				0%
Potential				

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
	x			10%

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

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events 1 Number of violation days 78

mark only one with an 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 25, 2006 investigation.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$4

Violation Final Penalty Total \$1,070

This violation Final Assessed Penalty (adjusted for limits) \$1,070

Economic Benefit Worksheet

Respondent: Dondi and Donna Tipton dba Tipton Texaco and Harvey and Beth Tipton dba Tipton Texaco
Case ID No.: 32210
Reg. Ent. Reference No.: RN101723997
Media: Petroleum Storage Tank
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
No commas or \$							

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	25-Oct-2006	1-Sep-2007	0.9	\$4	n/a	\$4

Notes for DELAYED costs

The estimated cost to amend or update the UST registration. 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

\$4

Screening Date 11-Jan-2007

Docket No. 2007-0047-PST-E

PCW

Respondent Dondi and Donna Tipton dba Tipton Texaco and Harvey and Beth

Policy Revision 2 (September 2002)

Case ID No. 32210

PCW Revision December 8, 2006

Reg. Ent. Reference No. RN101723997

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Deana Holland

Violation Number 2

Rule Cite(s) 30 Tex. Admin. Code § 334.49(a)(1) and Tex. Water Code § 26.3475(d)

Violation Description Failed to provide corrosion protection for the UST system, as documented during the October 25, 2006 investigation.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

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

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
				0%

Matrix Notes Human health or the environment could be exposed to significant amounts of pollutants which may exceed levels that are protective of human health and environmental receptors.

Adjustment \$7,500

\$2,500

Violation Events

Number of Violation Events 1 78 Number of violation days

mark only one with an x	daily	
	monthly	
	quarterly	x
	semiannual	
	annual	
	single event	

Violation Base Penalty \$2,500

One quarterly event is recommended based on the investigation date of October 25, 2006 and the screening date of January 11, 2007.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$596

Violation Final Penalty Total \$2,675

This violation Final Assessed Penalty (adjusted for limits) \$2,675

Economic Benefit Worksheet

Respondent: Dondi and Donna Tipton dba Tipton Texaco and Harvey and Beth Tipton dba Tipton Texaco
Case ID No.: 32210
Reg. Ent. Reference No.: RN101723997
Media: 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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No commas or \$

Delayed Costs

Equipment	\$10,000	25-Oct-2006	1-Sep-2007	0.9	\$28	\$568	\$596
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 provide an adequate corrosion protection system. 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

\$10,000

TOTAL

\$596

Screening Date 11-Jan-2007

Docket No. 2007-0047-PST-E

PCW

Respondent Dondi and Donna Tipton dba Tipton Texaco and Harvey and Beth

Policy Revision 2 (September 2002)

Case ID No. 32210

PCW Revision December 8, 2006

Reg. Ent. Reference No. RN101723997

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Deana Holland

Violation Number 3

Rule Cite(s) 30 Tex. Admin. Code § 334.22(a) and Tex. Water Code § 5.702

Violation Description Failed to pay outstanding UST fees and associated late fees for TCEQ Financial Assurance Account No. 0058928U for fiscal year 2004 and 2005.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual				0%
	Potential				

>> Programmatic Matrix

Matrix Notes	Falsification	Harm			Percent
		Major	Moderate	Minor	
					0%

Adjustment \$10,000

Violation Events

Number of Violation Events [] Number of violation days []

mark only one with an x	daily	
	monthly	
	quarterly	
	semiannual	
	annual	
	single event	

Violation Base Penalty \$0

No penalty is recommended because penalty and interest will be assessed at the next billing.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$0

Violation Final Penalty Total \$0

This violation Final Assessed Penalty (adjusted for limits) \$0

Economic Benefit Worksheet

Respondent: Dondi and Donna Tipton dba Tipton Texaco and Harvey and Beth Tipton dba Tipton Texaco
Case ID No.: 32210
Reg. Ent. Reference No.: RN101723997
Media: Petroleum Storage Tank
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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No commas or \$

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

N/A

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

Compliance History

Customer/Respondent/Owner-Operator:	CN603196668 TIPTON, BETH	Classification: AVERAGE	Rating: 1.50
Regulated Entity:	RN101723997 TIPTON TEXACO	Classification: AVERAGE	Site Rating: 1.50
ID Number(s):	PETROLEUM STORAGE TANK REGISTRATION	REGISTRATION	31004
Location:	779 N 1ST ST, TIMPSON, TX, 75975	Rating Date: September 01 06	Repeat Violator: NO
TCEQ Region:	REGION 10 - BEAUMONT		
Date Compliance History Prepared:	June 13, 2007		
Agency Decision Requiring Compliance History:	Enforcement		
Compliance Period:	January 09, 2002 to January 09, 2007		

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

Name: Deana Holland Phone: N/A

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? | Yes |
| 3. If Yes, who is the current owner? | <u>N/A</u> |
| 4. If Yes, who was/were the prior owner(s)? | <u>Taylor Rial</u> |
| 5. When did the change(s) in ownership occur? | <u>01/11/2002</u> |

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 | 09/27/2002 | (146420) | |
| 2 | 04/22/2003 | (146494) | |
| 3 | 08/28/2003 | (146473) | |
| 4 | 04/12/2006 | (458642) | |
| 5 | 12/22/2006 | (517269) | |
- E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)
- | | | | |
|--------------|--|----------|--------------------------|
| Date: | 09/27/2002 | (146420) | |
| 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: | Failed to demonstrate FA beginning 8/9/02. | | |
| Date: | 04/12/2006 | (458642) | |
| Self Report? | NO | | Classification: Moderate |
| Citation: | 30 TAC Chapter 334, SubChapter A 334.7(d)(3) | | |
| Description: | Failure to amend, update, or change registration information. | | |
- 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

2018-2019

... N/A ...

Compliance History

Customer/Respondent/Owner-Operator:	CN600925234 TIPTON, DONDI	Classification: AVERAGE	Rating: 1.50
Regulated Entity:	RN101723997 TIPTON TEXACO	Classification: AVERAGE	Site Rating: 1.50
ID Number(s):	PETROLEUM STORAGE TANK REGISTRATION	REGISTRATION	31004
Location:	779 N 1ST ST, TIMPSON, TX, 75975	Rating Date: September 01 06	Repeat Violator: NO
TCEQ Region:	REGION 10 - BEAUMONT		
Date Compliance History Prepared:	June 13, 2007		
Agency Decision Requiring Compliance History:	Enforcement		
Compliance Period:	January 09, 2002 to January 09, 2007		

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

Name: Deana Holland Phone: 239-2504

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? | Yes |
| 3. If Yes, who is the current owner? | <u>N/A</u> |
| 4. If Yes, who was/were the prior owner(s)? | <u>Taylor Rial</u> |
| 5. When did the change(s) in ownership occur? | <u>01/11/2002</u> |

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 | 09/27/2002 | (146420) | |
| 2 | 04/22/2003 | (146494) | |
| 3 | 08/28/2003 | (146473) | |
| 4 | 04/12/2006 | (458642) | |
| 5 | 12/22/2006 | (517269) | |
- E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)
- | | | | |
|--------------|--|----------|--------------------------|
| Date: | 09/27/2002 | (146420) | |
| 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: | Failed to demonstrate FA beginning 8/9/02. | | |
| Date: | 04/12/2006 | (458642) | |
| Self Report? | NO | | Classification: Moderate |
| Citation: | 30 TAC Chapter 334, SubChapter A 334.7(d)(3) | | |
| Description: | Failure to amend, update, or change registration information. | | |
- 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.

Compliance History

Customer/Respondent/Owner-Operator:	CN603196650 TIPTON, DONNA	Classification: AVERAGE	Rating: 1.50
Regulated Entity:	RN101723997 TIPTON TEXACO	Classification: AVERAGE	Site Rating: 1.50
ID Number(s):	PETROLEUM STORAGE TANK REGISTRATION	REGISTRATION	31004
Location:	779 N 1ST ST, TIMPSON, TX, 75975	Rating Date: September 01 06	Repeat Violator: NO
TCEQ Region:	REGION 10 - BEAUMONT		
Date Compliance History Prepared:	June 13, 2007		
Agency Decision Requiring Compliance History:	Enforcement		
Compliance Period:	January 09, 2002 to January 09, 2007		

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

Name: Deana Holland Phone: 239-2504

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? | Yes |
| 3. If Yes, who is the current owner? | <u>N/A</u> |
| 4. If Yes, who was/were the prior owner(s)? | <u>Taylor Rial</u> |
| 5. When did the change(s) in ownership occur? | <u>01/11/2002</u> |

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 | 09/27/2002 | (146420) | |
| 2 | 04/22/2003 | (146494) | |
| 3 | 08/28/2003 | (146473) | |
| 4 | 04/12/2006 | (458642) | |
| 5 | 12/22/2006 | (517269) | |
- E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)
- | | | | |
|--------------|--|----------|--------------------------|
| Date: | 09/27/2002 | (146420) | |
| 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: | Failed to demonstrate FA beginning 8/9/02. | | |
| Date: | 04/12/2006 | (458642) | |
| Self Report? | NO | | Classification: Moderate |
| Citation: | 30 TAC Chapter 334, SubChapter A 334.7(d)(3) | | |
| Description: | Failure to amend, update, or change registration information. | | |
- 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

Compliance History

Customer/Respondent/Owner-Operator:	CN603130642 TIPTON, HARVEY	Classification: AVERAGE	Rating: 1.50
Regulated Entity:	RN101723997 TIPTON TEXACO	Classification: AVERAGE	Site Rating: 1.50
ID Number(s):	PETROLEUM STORAGE TANK REGISTRATION	REGISTRATION	31004
Location:	779 N 1ST ST, TIMPSON, TX, 75975	Rating Date: September 01 06	Repeat Violator: NO
TCEQ Region:	REGION 10 - BEAUMONT		
Date Compliance History Prepared:	June 13, 2007		
Agency Decision Requiring Compliance History:	Enforcement		
Compliance Period:	January 09, 2002 to January 09, 2007		

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

Name: Deana Holland Phone: 239-2504

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? | Yes |
| 3. If Yes, who is the current owner? | N/A |
| 4. If Yes, who was/were the prior owner(s)? | <u>Taylor Rial</u> |
| 5. When did the change(s) in ownership occur? | <u>01/11/2002</u> |

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 | 09/27/2002 | (146420) |
| 2 | 04/22/2003 | (146494) |
| 3 | 08/28/2003 | (146473) |
| 4 | 04/12/2006 | (458642) |
| 5 | 12/22/2006 | (517269) |
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- | | | | | |
|--------------|--|----------|-----------------|----------|
| Date: | 09/27/2002 | (146420) | | |
| 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: | Failed to demonstrate FA beginning 8/9/02. | | | |
| Date: | 04/12/2006 | (458642) | | |
| Self Report? | NO | | Classification: | Moderate |
| Citation: | 30 TAC Chapter 334, SubChapter A 334.7(d)(3) | | | |
| Description: | Failure to amend, update, or change registration information. | | | |
- 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
DONDI AND DONNA TIPTON DBA
TIPTON TEXACO AND
HARVEY AND BETH TIPTON DBA
TIPTON TEXACO
RN101723997

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BEFORE THE

TEXAS COMMISSION ON

ENVIRONMENTAL QUALITY

AGREED ORDER
DOCKET NO. 2007-0047-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 Dondi and Donna Tipton dba Tipton Texaco ("the Dondi Tiptons") and Harvey and Beth Tipton dba Tipton Texaco ("the Harvey Tiptons"), collectively referred to as "The Tiptons", under the authority of TEX. WATER CODE chs. 5, 7, and 26. The Executive Director of the TCEQ, through the Enforcement Division, and the Tiptons appear before the Commission and together stipulate that:

1. The Tiptons own a convenience store with retail sales of gasoline at 779 North 1st Street in Timpson, Shelby County, Texas (the "Facility").
2. The Tiptons' four underground storage tanks ("USTs") are not exempt or excluded from regulation under the TEX. WATER CODE or the rules of the Commission.
3. The Commission and the Tiptons agree that the Commission has jurisdiction to enter this Agreed Order, and that the Tiptons are subject to the Commission's jurisdiction.
4. The Tiptons received notice of the violations alleged in Section II ("Allegations") on or about December 27, 2006.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by the Tiptons of any violation alleged in Section II ("Allegations"), nor of any statute or rule.

6. An administrative penalty in the amount of Three Thousand Seven Hundred Forty-Five Dollars (\$3,745) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Harvey Tiptons have paid One Hundred Twelve Dollars (\$112) of the administrative penalty and Seven Hundred Forty-Nine Dollars (\$749) is deferred contingent upon the Tiptons' 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 the Tiptons fail to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require the Tiptons to pay all or part of the deferred penalty. So long as 11 USC § 362(a), the automatic stay, is in effect as a result of the Dondi Tiptons' bankruptcy (bankruptcy case number 03-90487, pending in the Eastern District of Texas), the Commission will not seek to collect this penalty from the Dondi Tiptons' without first approaching the United States Bankruptcy court where the Debtors' bankruptcy case is pending.

As to the Harvey Tiptons, the remaining amount of Two Thousand Eight Hundred Eighty-Four Dollars (\$2,884) of the administrative penalty shall be payable in 28 monthly payments of One Hundred Three Dollars (\$103) each. The next monthly payment shall be paid within 30 days after the effective date of this Agreed Order. The subsequent payments shall each be paid not later than 30 days following the due date of the previous payment until paid in full. If the Harvey Tiptons fail to timely and satisfactorily comply with the payment requirements of this Agreed Order, the Executive Director may, at the Executive Director's option, accelerate the maturity of the remaining installments, in which event the unpaid balance shall become immediately due and payable without demand or notice. In addition, the failure of the Harvey Tiptons to meet the payment schedule of this Agreed Order constitutes the failure by the Tiptons to timely and satisfactorily comply with all the terms of this Agreed Order.

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 the Tiptons have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
9. 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 the Tiptons have not complied with one or more of the terms or conditions in this Agreed Order.
10. 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.
11. 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 of the Facility, the Tiptons are alleged to have:

1. Failed to provide written notice of any change or additional information to the Commission within 30 days from the date of the occurrence of the change or addition, or within 30 days of the date on which the owners or operators first becomes aware of the change or addition, in violation of 30 TEX. ADMIN. CODE § 334.7(d)(3), as documented during an investigation conducted on October 25, 2006. Specifically, the Tiptons did not update the registration information to reflect the current out of service status of the USTs.
2. Failed to provide corrosion protection for the UST system, in violation of 30 TEX. ADMIN. CODE § 334.49(a)(1) and TEX. WATER CODE § 26.3475(d), as documented during an investigation conducted on October 25, 2006.
3. Failed to pay outstanding UST fees and associated late fees for TCEQ Financial Assurance Account No. 0058928U for fiscal year 2004 and 2005, in violation of 30 TEX. ADMIN. CODE § 334.22(a) and TEX. WATER CODE § 5.702, as documented during a record review conducted on January 11, 2007.

III. DENIALS

The Tiptons generally deny each allegation in Section II ("Allegations").

IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that the Tiptons be assessed an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and the Tiptons' 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 may be made payable to "TCEQ" and sent with the notation "Re: Dondi and Donna Tipton dba Tipton Texaco and Harvey and Beth Tipton dba Tipton Texaco, Docket No. 2007-0047-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 Tiptons are jointly and severally liable for the violations documented in this Agreed Order, and are jointly and severally liable for timely and satisfactory compliance with all terms and conditions of this Agreed Order.
3. It is further ordered that the Tiptons shall undertake the following technical requirements:
 - a. Within 30 days after the effective date of this Agreed Order:
 - i. Submit an amended registration to indicate the current operational status of the UST system, in accordance with 30 TEX. ADMIN. CODE § 334.7 to:

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Registration and Reporting Section
Permitting & Remediation Support Division, MC-138
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

- ii. Install and implement a corrosion protection method for the UST system at the Facility, in accordance with 30 TEX. ADMIN. CODE § 334.49; and
 - iii. Submit payment for outstanding fees, including any associated penalties and interest and with the notation, "Dondi and Donna Tipton dba Tipton Texaco and Harvey and Beth Tipton dba Tipton Texaco, Account No. 0058928U", to the address listed in Paragraph 1 of this section.
- b. Within 45 days after the effective date of this Agreed Order, submit written certification as described below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision Nos. 3.a.i. through 3.a.iii.

The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

The certification shall be submitted to:

Order Compliance Team
Enforcement Division, MC 149A
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

with a copy to:

Waste Section Manager
Beaumont Regional Office
Texas Commission on Environmental Quality
3870 Eastex Freeway
Beaumont, Texas 77703-1892

4. The provisions of this Agreed Order shall apply to and be binding upon the Tiptons. The Tiptons are ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.

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5. If the Tiptons fail to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, the Tiptons' failure to comply is not a violation of this Agreed Order. The Tiptons shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The Tiptons shall notify the Executive Director within seven days after the Tiptons become aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
6. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by the Tiptons shall be made in writing to the Executive Director. Extensions are not effective until the Tiptons receive written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
7. This Agreed Order, issued by the Commission, shall not be admissible against the Tiptons 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.
8. 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.
9. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to the Tiptons, or three days after the date on which the Commission mails notice of the Order to the Tiptons, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.
10. In view of the fact that the imposition of these ordering provisions is an exercise of the TCEQ's police and regulatory power, the relief sought by the TCEQ is specifically excepted from the bankruptcy automatic stay by virtue of 11 USC § 362(b)(4), and the Dondi Tiptons are required to comply with State law pursuant to 28 USC § 959(b).

...the ... of ...

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission



For the Executive Director

4/27/07
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.

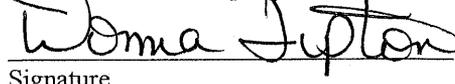


Signature

040107
Date

DONDI TIPTON
Name (Printed or typed)
Authorized Representative of
Dondi and Donna Tipton dba Tipton Texaco

Co-owner
Title



Signature

040107
Date

DONNA TIPTON
Name (Printed or typed)
Authorized Representative of
Dondi and Donna Tipton dba Tipton Texaco

wife & Co-owner
Title

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

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SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

For the Executive Director

6/27/07

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.

Harvey Tipton
Signature

040107
Date

HARVEY TIPTON
Name (Printed or typed)
Authorized Representative of
Harvey and Beth Tipton dba Tipton Texaco

Co-owner
Title

Beth Tipton
Signature

040107
Date

BETH TIPTON
Name (Printed or typed)
Authorized Representative of
Harvey and Beth Tipton dba Tipton Texaco

Wife of Co-owner
Title

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.

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