EXECUTIVE SUMMARY - ENFORCEMENT MATTER Page 1 of 3 DOCKET NO.: 2005-1909-PST-E TCEQ ID: RN102041910 CASE NO.: 27350 RESPONDENT NAME: ECONO LUBE N' TUNE, INC.

ORDER TYPE:					
X 1660 AGREED ORDER	FINDINGS AGREED ORDER	FINDINGS ORDER FOLLOWING SOAH HEARING			
FINDINGS DEFAULT ORDER	IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER				
_AMENDED ORDER	EMERGENCY ORDER				
CASE TYPE:					
AIR	MULTI-MEDIA (check all that apply)	INDUSTRIAL AND HAZARDOUS WASTE			
PUBLIC WATER SUPPLY	X_PETROLEUM STORAGE TANKS	OCCUPATIONAL CERTIFICATION			
WATER QUALITY	SEWAGE SLUDGE	UNDERGROUND INJECTION CONTROL			
MUNICIPAL SOLID WASTE	RADIOACTIVE WASTE	DRY CLEANER REGISTRATION			
SITE WHERE VIOLATION(S) OCCURRED: 9003 Huebner Road, San Antonio, Bexar County TYPE OF OPERATION: Automotive repair, maintenance, and oil change facility					
SMALL BUSINESS: X Yes	No				
OTHER SIGNIFICANT MATTERS: Ther	e has been one complaint filed.				
INTERESTED PARTIES: No one other than the ED and the Respondent has expressed an interest in this matter. A complaint has been received, but the complainant has not indicated that he wishes to protest this action or speak at agenda.					
COMMENTS RECEIVED: The Texas Regi	ister comment period expired on October 22, 20	007. No comments were received.			
CONTACTS AND MAILING LIST: TCEQ Attorney: Mr. Barham Richard, Litigation Division, MC 175, (512) 239-0107 Ms. Jennifer Cook, Litigation Division, MC 175, (512) 239-1873 TCEQ Enforcement Coordinator: Mr. Kent Heath, Enforcement Division, MC 219, (512) 239-4575 TCEQ Regional Contact: Mr. Tom Haberle, San Antonio Regional Office, MC R-13, (210) 403-4050 Respondent: Mr. Paul Baratta, Director of Property Management, Econo Lube N' Tune, Inc., 128 South Tryon, Suite 900, Charlotte, NC 28202 Respondent's Attorney: Not represented by counsel on this enforcement matter.					

RESPONDENT NAME: ECONO LUBE N' TUNE, INC.

DOCKET NO.: 2005-1909-PST-E

VIOLATION SUMMARY CHART: VIOLATION INFORMATION PENALTY CONSIDERATIONS CORRECTIVE ACTIONS TAKEN/REQUIRED **Ordering Provisions:** Type of Investigation: Total Assessed: \$6,825 1. Immediately, the Respondent shall begin X Complaint Total Deferred: \$0 ___ Routine maintaining all records pertaining to the UST system, in accordance with 30 Tex. ADMIN. CODE Enforcement Follow-up Total Paid to General Revenue: \$6.825 Records Review §334.10. The Respondent has paid the full amount 2. Within 30 days, the Respondent shall: Date of Complaints Relating to this Case: of the administrative penalty. September 27, 2005 Site Compliance History Classification a. Submit documentation that demonstrates acceptable financial assurance for taking Dates of Investigation Relating to this Case: High X Average Poor corrective action and for compensating September 30, 2005 third parties for bodily injury and property Person Compliance History damage caused by accidental releases Date of NOE Relating to this Case: Classification High X Average Poor arising from the operation of petroleum October 7, 2005 USTs: b. Install or implement a release detection Background Facts: Major Source: Yes X No method for the UST system; c. Submit an amended UST registration to Applicable Penalty Policy: The EDPRP was filed on March 22, 2007. The indicate the current ownership status of September 2002 Respondent signed an Agreed Order on August 3, 2007. the UST system; and Mark the top of each fill tube or nonremovable point in the immediate area of The Respondent in this case does not owe any other the fill tube of each UST. penalties according to the Administrative Penalty Database Report. 3. Within 45 days, the Respondent shall submit written certification and detailed documentation PST to demonstrate compliance. 1. Failed to demonstrate acceptable financial assurance for taking corrective action and for compensating third parties for bodily injury property damage caused by accidental releases arising from the operation of petroleum USTs [30 Tex. ADMIN. CODE §37.815(a) and (b)]. 2. Failed to provide a method of release detection which is capable of detecting a release from any portion of the UST system which contained regulated substances including the tanks, piping, and other underground ancillary equipment [30 TEX. ADMIN. CODE §334.50(a)(1)(A) and Tex. WATER CODE §26.3475(c)(1)]. 3. Failed to make records readily accessible and available upon request by agency personnel [30 Tex. ADMIN. CODE §334.10(b)]. 4. Failed to amend the registration within 30 days of any change or additional information concerning the UST system [30 Tex. ADMIN. CODE §334.7(d)(3)].

RESPONDENT NAME: ECONO LUBE N' TUNE, INC. DOCKET NO.: 2005-1909-PST-E

5. 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 [30 Tex. ADMIN. CODE §334.8(c)(5)(C)].	

Page 1 of 12 09/07/07 H:\ENFORCE\BRichard\PST\Econo Lube N'Tune, Inc\En Penalty Calculation Worksheet (PCW	
Policy Revision 2 (September 2002)	PCW Revision May 19, 2005
TCEQ	
DATES Assigned 07-Nov-2005	
PCW 21-Jun-2006 Screening 15-Nov-2005 EPA Due	
RESPONDENT/FACILITY INFORMATION	
Respondent Econo Lube N'Tune, Inc.	
Reg. Ent. Ref. No. RN102041910	
Facility/Site Region 13-San Antonio < Major/Minor Source	e Minor Source

CASE INFORMATION	07050		<u> </u>	and the second of the second	5 M 1 M	- 1920 - 1. 1299 - 125 - 125 - 125 - 125 - 125 - 125 - 125 - 125 - 125 - 125 - 125 - 125 - 125 - 125 - 125 - 1 Fe	
Enf./Case ID No.				No	. of Violations		
1	2005-1909-P			- I	Order Type		<
Media Program(s)	Petroleum St	orage rank		< En		Thomas Greimel	- 1
Multi-Media		1		* * * * * * * * * * * * * * * * * * *	EC's Team	Enforcement Team 3	<,
Admin. Penalty \$ Li	mit Minimum	<u></u> \$0	Maximum	\$10,000		THE SECOND CONTRACTOR OF THE CONTRACTOR OF THE SECOND CONTRACTOR OF THE	
TOTAL BASE PEN ADJUSTMENTS (+	IALTY (Sur -/-) TO SUB btained by multipl istory Enhance No	Penann of violation of violatio	alty Calcula on base pena se Penalty (Subtotal 1 5% one NOV with sai	ation Secondities) by the indicated Enhancement me or similar versions.	percentage. Subt	Subtotal 1 otals 2, 3, & 7 Subtotal 4	\$6,500 \$325
Good Faith Ef Extraordinary Ordinary N/A	fort to Comp Before NOV X	NOV to EDPRP/	Settlement Offer	Reduction		Subtotal 5	\$0
Notes		The respon	dent is not yet in	compliance.	,	·	
	nefit otal EB Amounts st of Compliance		7]	Enhancement* *Capped at the T	Fotal EB \$ Amount	Subtotal 6	\$0
SUM OF SUBTOTA	ALS 1-7				BEG ELSO	inal Subtotal	\$6,825
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Notes			· 				
					Final Pe	nalty Amount	\$6,825
STATUTORY LIMIT	Γ ADJUSTN	/ENT			Final Asse	ssed Penalty	\$6,825
DEFERRAL					Reduction	Adjustment	\$0
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Notes		This is	not an expedited	d case.		•	
_			a in Post Constitution of the second	78 March 18 11 8 12 8 12 1		t we the second of	

Screening Date 15-Nov-2005

Docket No. 2005-1909-PST-E

5%

Respondent Econo Lube N'Tune, Inc.

Case ID No. 27350

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

Reg. Ent. Reference No. RN102041910

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Thomas Greimel

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Other written NOVs Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria) 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 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) Consent Decrees Any 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 without a denial of liability, of this state or the federal government Any adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government Any oriminal convictions of this state or the federal government (number of counts) Emissions Chronic excessive emissions events (number of events) 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 Disclosures of violations under the Texas Environmental, Health, and	Component	Number of	Enter Number Here	Adjust.
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Disclosures of violations under the Texas Environmental, Health, and	Audito	under the Texas Environmental, Health, and Safety Audit Privilege Ac		0%
which violations were disclosed)	Audits	Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits fo which violations were disclosed)		0%

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

		Adjustment Percentage (Subtotal 2)	5%
>> Repeat Violator (Subt	otal 3)		
No	<	Adjustment Percentage (Subtotal 3)	0%
>> Compliance History F	erson Classific	ation (Subtotal 7)	
Average Performer	<	Adjustment Percentage (Subtotal 7)	0%
>> Compliance History S	ummary		
Compliance History Notes	Enha	ncement due to one NOV with same or similar violations.	

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

	Page 3 of 12 09/07	/07 H:\ENI	FORCE\BF	Richard\PS	ST\Econo Lube N'Tune, Inc\Enf.	Docs\Econo	-PCW2.qpw
	Screening Dat	e 15-Nov-20	05	Do	cket No. 2005-1909-PST-E	er ansamment in die neumen wert in einbermeer meterstaar de entwe	PCW -
	Responder	t Econo Lub	e N'Tune,	lnc.		Policy Rev	ision 2 (September 2002)
	Case ID No	. 27350				PC	W Revision May 19, 2005
Reg	. Ent. Reference No	RN102041	910		·		
	Media [Statute] Petroleum	Storage Ta	ank			
	Enf. Coordinate	r Thomas G	reimel				
	Violation Number	<u> </u>					1
	Primary Rule Cite(s		30 T	ex. Admin	. Code § 37.815(a) and (b)		
	Secondary Rule Cite()					
THE TAX OF	Violation Descriptio	corrective	action and	d for comp sed by ac	ceptable financial assurance for ensating third parties for bodily cidental releases arising from the etroleum USTs.	injury and	
					Ba	ase Penalty[\$10,000
>>	Environmental, P	operty and	d Human Harm	Health	Matrix	1994 1994 113	
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OR	Actu						
	Potenti	ii []			Percent	_	
>>	Programmatic Ma	friv					
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		x			Percent 10%	6	
	Matrix Notes	100%	of the rule	requireme	ent was not met.		
	<u> </u>	\					
	tan dikan di dianggan di d				Adjustmen	t -\$9,000	
					Base Penal	ty Subtotal [\$1,000
	Violation Events						-
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	Number of Viola	tion Events [1				
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		monthly					*
	mark only on	The Section of the Section 18			Violation Ba	se Penalty	\$1,000
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		single event	х				
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	One sir				ecommended based upon the vestigation.		•
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	Economic Benefit	(EB) for th	is violat	ion	Statutory Limit	Test	
	. Estimated l	B Amount [\$683		Violation Final Pe	nalty Total	\$1,050
			-		al Annon and the Hold Co. Co.		4/ 0==
1815 St 14			This viol	ation Fina	al Assessed Penalty (adjusted	i tor limits)	\$1,050
	erene en		skiling divili				

H:\ENFORCE\BRichard\PST\Econo Lube N'Tune, Inc\Enf. Docs\Econo-PCW2.qpw Page 4 of 12 09/07/07 **Economic Benefit Worksheet** Respondent Econo Lube N'Tune, Inc. Case ID No. 27350 Reg. Ent. Reference No. RN102041910 Media [Statute] Petroleum Storage Tank Percent Years of Violation No. 1 Interest Depreciation 5.0 15 Date Onetime FB Item Cost Required Date Saved Costs Amount Description No commas or \$ **Delayed Costs** 0.0 \$0 \$0 Equipment \$0 Buildings 0.0 \$0 \$0 \$0 0.0 \$0 \$0 \$0 Other (as needed) 0.0 \$0 \$0 \$0 Engineering/construction 0.0 \$0 n/a \$0 Land 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 0.0 \$0 n/a Other (as needed) \$0 Notes for DELAYED costs ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs) **Avoided Costs** Disposal \$0 0.0 \$0 \$0 \$0 Inspection/Reporting/Sampling 0.0 \$0 \$0 \$0 Supplies/equipment 0.0 \$0 \$0 \$0 \$650 30-Sep-2004 30-Sep-2005 Financial Assurance [2] 1.0 \$33 \$650 \$683 0.0 ONE-TIME avoided costs [3] \$0 \$0 \$0 0.0 \$0 Other (as needed) \$0 \$0 Estimated cost to provide financial assurance for one petroleum UST (\$650 per tank). Date Required is one year prior to the investigation date. Final Date is the date of investigation. Notes for AVOIDED costs TOTAL Approx. Cost of Compliance \$650 \$683

Page 5 of 12 09	/07/07 H:\ENFORCE\BRid	chard\PST\Econo Lube N'Tur	ne, Inc\Enf. Docs\Ecc	ono-PCW2.qpw
Screening D	ate 15-Nov-2005	Docket No. 2005-190	09-PST-E	PCW
Respond	ent Econo Lube N'Tune, In	C.	Policy l	Revision 2 (September 2002)
;	No. 27350			PCW Revision May 19, 2005
Reg. Ent. Reference l				
	ɪte] Petroleum Storage Tan	ık ·		•
	tor Thomas Greimel			
Violation Num		x. Admin. Code § 334.50(a)(1)(Δ)	
Primary Rule Cite Secondary Rule Cite	· ·	x. Water Code § 26.3475(c)(
Violation Descript	Failed to provide a detecting a release from regulated substances ancillary equipment.	method of release detection was any portion of the UST sysincluding the tanks, piping ar Specifically, at the time of the monitor was not functioning	which is capable of stem which contained other underground investigation, the	
	•		Base Penal	ty \$10,000
>> Environmental,	Property and Human I	Health Matrix		
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OR Ad	ctual X	Percent	25%	• !
r ote		. 0.00111	1070	•
>> Programmatic N	Natrix			
Falsifica	ation Major Moderate	Minor		
		Percent	i	•
Matrix Notes Hu	ount of pollutants which woul	ent could be exposed to a sig ld exceed levels that are prote nvironmental receptors.	nificant ective of djustment -\$7,50	·
		Ва	ase Penalty Subtota	\$2,500
				· ¥4.
Violation Events				
Number of Vid	olation Events 1			:
,	dally nonthly		1.0 B B	
mark only use a sma	74.500 Village	Vic	olation Base Penalt	y \$2,500
		ended from the September 30 vember 15, 2005 screening da		
Economic Benef	it (EB) for this violatio	n Statutor	y Limit Test	
Estimated	d EB Amount \$9	Violation	n Final Penalty Tota	\$2,625
	This violati	on Final Assessed Penalty	(adjusted for limits	\$2,625

ONE-TIME avoided costs [3]

Approx. Cost of Compliance

Other (as needed)
Notes for AVOIDED costs

\$0

0.0

\$0

\$9

Page 7 of 12 09/07/	07 H:\ENFORCE\BRich	nard\PST\Econo Lube N'Tune, Inc\Enf. I	Docs\Econo	PCW2.qpw
Screening Date	≥ 15-Nov-2005	Docket No. 2005-1909-PST-E		PCW
Responden	t Econo Lube N'Tune, Inc		Policy Revi	sion 2 (September 2002)
Case ID No	•		PCI	V Revision May 19, 2005
Reg. Ent. Reference No				
	Petroleum Storage Tank			į
Enf. Coordinator	() () () () () () () () () ()			•
Primary Rule Cite(s		Fex. Admin. Code § 334.10(b)		1
Secondary Rule Cite(s	·			
Violation Description	Failure to make records agency personnel. S	readily accessible and available upon r pecifically, the respondent did not maint he UST system including release detec rnership information at the Facility.	tain any 📗	
		Bas	se Penalty[\$10,000
>> Environmental, Pr	operty and Human H Harm	ealth Matrix		
Release		Minor		
OR Actua			1	
Potentia		Percent	l	
>> Programmatic Mat	rix	AND SECULAR SE		
Falsification	AND DESCRIPTION OF THE PROPERTY OF THE PARTY	vinor	,	
	X	Percent 10%		
	,		i	
Matrix Notes	100% of the rule rec	quirement was not met.		
L		Adjustment	-\$9,000	
	٠	Base Penalty	/ Subtotal [\$1,000
Violation Events				; ;
Number of Viola	tion Events 1			
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	daily			
mark only one	monthly quarterly	Violation Bas	e Penalty	\$1,000
use a small x	RESERVATION OF THE PROPERTY OF			
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	single event X			
One sir		investigation date of September 30, 005.		
L	(EB) for this violation	ing alger films and action and algebraic feeting of the state of the s	est	
Estimated E		Violation Final Pen	a mining to be a second and a second a second and a second a second and a second and a second and a second and a second an	\$1,050
Lamatea L				
	This violatio	on Final Assessed Penalty (adjusted t	for limits)	\$1,0 <u>50</u>

ONE-TIME avoided costs [3]

Notes for AVOIDED costs

Approx. Cost of Compliance

Other (as needed)

\$1,000

0.0

0.0

\$0

\$0

\$0

\$0

TOTAL

\$0

\$0

\$37

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Screening Date	15-Nov-2005	Docket No. 2005-1909-PST-E	PCW
_	Econo Lube N'Tune, Inc.		Policy Revision 2 (September 2002)
Case ID No.	27350		PCW Revision May 19, 2005
Reg. Ent. Reference No.	RN102041910	•	
Media [Statute]	Petroleum Storage Tank		
Enf. Coordinator	1		
Violation Number		Admin Onder (2004 7(4)/2)	
Primary Rule Cite(s)		k. Admin. Code § 334.7(d)(3)	
Secondary Rule Cite(s)			
Violation Description	change or additional Specifically, the responde	o amend the registration within 30 days I information concerning the UST syste ent did not update the registration to re ership status of the UST system.	em.
		Bas	e Penalty \$10,000
	Burel and the state of the stat	est. Establisher vice en establishe de sede en mil omnibromente promitablishe som engazette a 150 dec. Mette mon	
>> Environmental, Pro	operty and Human Hea	alth Matrix	
D-1	Harm	·	·
Release OR Actual	Major Moderate Mir	101	
Potential		Percent	
i (1905) 1907 - Paris III de la companya di Maria (1905) 1908 - Paris II de la companya di Maria (1905)	***************************************	The offense of the translations from which the	-
>> Programmatic Mat			
Falsification	Major Moderate Min	Percent 10%	1. Cup
		10,000	· ·
Matrix Notes The	respondent failed to meet	100% of the rule requirement.	
NIGHTA TROICE	, reopendent failed to meet		The state of the s
		Adjustment	-\$9,000
		Base Penalty	Subtotal \$1,000
Violation Events			
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Number of Violati	on Events 1		** WE
	daily		L. Minney.
mark only one use a small x	monthly, i quarterly semiannual annual	Violation Bas	e Penalty \$1,000
1	single event X		
One sin	gle event is recommended I investig	based on the September 30, 2005 gation.	
Economic:Benefit (EB) for this violation	:Statutory/Limit To	est
Estimated El	3 Amount \$4	Violation Final Pena	alty Total \$1,050
	This violation	Final Assessed Penalty (adjusted f	or limits) \$1,050
	iiis violation	i i mai Assesseu Fellatty (aujusteu i	οι mmο) ψ1,000

Page 10 of 12 09/07/07 H:\ENFORCE\BRichard\PST\Econo Lube N'Tune, Inc\Enf. Docs\Econo-PCW2.qpw **Economic Benefit Worksheet** Respondent Econo Lube N'Tune, Inc. Case ID No. 27350 Reg. Ent. Reference No. RN102041910 Media [Statute] Petroleum Storage Tank Percent Years of Interest Depreciation Violation No. 4 5.0 EΒ Final Onetime Date Yrs Interest Item Saved Costs Amount Cost Required Date Description No commas or \$ **Delayed Costs** 0.0 Equipment \$0 Buildings 0.0 \$0 \$0 \$0 \$0 Other (as needed) 0.0 \$0 0.0 \$0 \$0 Engineering/construction 0.0 \$0 \$0 0.0 ,'n/a Record Keeping System \$0 \$0 n/a \$0 0.0 Training/Sampling 0.0 \$0 ın/a \$0 Remediation/Disposal 0.0 \$0 \$0 Permit Costs \$100 | 30-Sep-2005 | 30-Jun-2006 | Other (as needed) 0.7 \$4 Estimated cost to provide an amended and corrected registration form. Date Required is the Notes for DELAYED costs date of investigation and the Final Date is the estimated date of compliance. ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs) **Avoided Costs** \$0 0.0 \$0 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]

ONE-TIME avoided costs [3]

Approx. Cost of Compliance

Other (as needed)
Notes for AVOIDED costs

\$100

\$0

\$0

\$4

\$0

\$0

\$0

\$0

TOTAL

0.0

0.0

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Screening Date	15-Nov-2005	Docket No. 2005-1909-PST-E	PCW
Respondent	Econo Lube N'Tune, Inc.		Policy Revision 2 (September 2002)
Case ID No.		1,	PCW Revision May 19, 2005
Reg. Ent. Reference No.			
	Petroleum Storage Tank	• • •	•
Enf. Coordinator			:
Violation Number Primary Rule Cite(s)		Admin. Code § 334.8(c)(5)(C)	
Secondary Rule Cite(s)	00 Tex. 7	Admin. Odde 3 354.0(c)(3)(C)	
Violation Description	the tank number is permanthe the fill tube or to a nonre	ensure that a legible tag, label, or ma nently applied upon or affixed to eithe movable point in the immediate area JST registration and self-certification	r the top of of the fill
		Ва	se Penalty \$10,000
Hogelet phone (11 mailt) da la	nanch kennangan di anggantangan sakengan		
>> Environmental, Pro	pperty and Human Hea Harm	alth Watrix	
Release	Major Moderate Min	or .	:
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			- 1
Matrix Notes The	respondent failed to meet	100% of the rule requirement.	
			<u>.</u>
		Adjustment	-\$9,000
		P Parall	0.14.4.1
		Base Penalt	y Subtotal \$1,000
Violation Events			
Number of Violati	on Events . 1		
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	daily. monthly		` <u>.</u>
mark only one	guarterly	Violation Ba	se Penalty \$1,000
use a small x	semiannual.		
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One sin	gle event is recommended t	pased on the September 30, 2005	· .
	investig	ation.	
Economic Benefit (EB) for this violation	Statutory Limit	rest
Estimated EE	3 Amount \$4	Violation Final Per	nalty Total \$1,050
	erate of a seri	Final Appeared Provide to discrete	for limits)
	inis violation	Final Assessed Penalty (adjusted	for limits) \$1,050

Page 12 of 12 09/07/07

Approx. Cost of Compliance

H:\ENFORCE\BRichard\PST\Econo Lube N'Tune, Inc\Enf. Docs\Econo-PCW2.qpw

\$4

TOTAL

Compliance History

Republic	Cuslome	r/Respondent/Owner-O _l	perator:	CN600249965	Econo Lui	be N'Tune, Inc.		Classification: AVERAGE	Rating: 3,43
RCGISTNATION Regular RCGISTNATION Regular RCGISTNATION Regular	Regulate	d Entity:		RN102041910	ECONO I	UBE N TUNE 145	i	Classification: AVERAGE	Site Rating: 2.00
According Acc	ID Numbe	er(s):			ORAGE TAN	IK .	REGISTRA	ATION	53387
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Sites Outside of Texas

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



IN THE MATTER OF AN	§	BEFORE THE
ENFORCEMENT ACTION	\$ §	
CONCERNING	§	TEXAS COMMISSION ON
ECONO LUBE N' TUNE, INC.	§	
RN102041910	§	ENVIRONMENTAL QUALITY

AGREED ORDER DOCKET NO. 2005-1909-PST-E

I. JURISDICTION AND STIPULATIONS

At its agenda, the Texas Commission on Environmental Quality
("Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement
action regarding Econo Lube N' Tune, Inc. ("Econo Lube") under the authority of TEX. WATER CODE
ch. 7 and 26. The Executive Director of the TCEQ, represented by the Litigation Division, and
Econo Lube appear before the Commission and together stipulate that:

- 1. Econo Lube owns an automotive repair, maintenance and oil change facility located at 9003 Huebner Rd., San Antonio, Bexar County, Texas (the "Facility").
- 2. This Agreed Order is entered into pursuant to Tex. WATER CODE §§ 7.051 and 7.070. The Commission has jurisdiction of this matter pursuant to Tex. WATER CODE § 5.013 because it alleges violations of Tex. WATER CODE ch.26 and TCEQ rules.
- 3. The Commission and Econo Lube agree that the Commission has jurisdiction to enter this Agreed Order, and that Econo Lube is subject to the Commission's jurisdiction.
- 4. Econo Lube received notice of the violations alleged in Section II ("Allegations") on or about August 18, 2005.
- 5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by Econo Lube of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
- 6. An administrative penalty in the amount of six thousand eight hundred twenty-five dollars (\$6,825.00) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). Econo Lube has paid six thousand eight hundred twenty-five dollars (\$6,825.00) of the administrative penalty.

- 7. Any notice and procedures which might otherwise be authorized or required in this action are waived in the interest of a more timely resolution of the matter.
- 8. The Executive Director of the TCEQ and Econo Lube 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 Econo Lube has 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

Econo Lube is alleged to have violated:

- 1. 30 Tex. Admin. Code §37.815(a) and (b) by failing to demonstrate acceptable financial assurance for taking corrective action and for compensating third parties for bodily injury property damage caused by accidental releases arising from the operation of petroleum USTs;
- 2. 30 Tex. Addin. Code §334.50(a)(1)(A) and Tex. Water Code §26.3475(c)(1) by failing to provide a method of release detection which is capable of detecting a release from any portion of the UST system which contained regulated substances including the tanks, piping, and other underground ancillary equipment;
- 3. 30 Tex. Admin. Code §334.10(b) by failing to make records readily accessible and available upon request by agency personnel;
- 4. 30 Tex. Admin. Code §334.7(d)(3) by failing to amend the registration within 30 days of any change or additional information concerning the UST system;
- 5. 30 Tex. Admin. Code §334.8(c)(5)(C) by failing 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.

III. DENIALS

Econo Lube generally denies each allegation in Section II ("Allegations").

IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that Econo Lube pay an administrative penalty as set forth in Section I, Paragraph 6, above. The payment of this administrative penalty and Econo Lube's compliance with all the terms and conditions set forth in this Agreed Order resolve only the Allegations in Section II. The Commission shall not be constrained in any manner from considering or requiring corrective action or penalties for violations which are not raised here. Administrative penalty payments shall be made payable to "Texas Commission on Environmental Quality" and shall be sent with the notation "Re: Econo Lube N' Tune, Inc., Docket No. 2005-1909-PST" 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. Econo Lube shall undertake the following technical requirements:
 - a. Immediately upon the effective date of this Agreed Order, Econo Lube shall begin maintaining all records pertaining to the UST system, in accordance with 30 Tex. ADMIN. CODE §334.10.
 - b. Within 30 days after the effective date of this Agreed Order, Econo Lube shall:
 - i. Submit documentation that demonstrates acceptable financial assurance for taking corrective action and for compensating third parties for bodily injury and property damage caused by accidental releases arising from the operation of petroleum USTs, in accordance with 30 Tex. Admin. Code §37.815;
 - ii. Install or implement a release detection method for the UST system, in accordance with 30 Tex. ADMIN. CODE §334.50;
 - iii. Submit an amended UST registration to indicate the current ownership status of the UST system in accordance with 30 Tex. ADMIN. CODE §334.7 to:

Petroleum Storage Tank Registration Team, MC 138

> Texas Commission on Environmental Quality P.O. Box 13807 Austin, TX 78711-3087

- iv. Mark the top of each fill tube or non-removable point in the immediate area of the fill tube of each UST, in accordance with 30 Tex. ADMIN. CODE §334.8.
- c. Within 45 days after the effective date of this Order, Econo Lube shall submit written certification and detailed supporting documentation, including photographs, receipts, and other records, to demonstrate compliance with ordering provision Nos. 2.a. through 2.b.iv. 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 sent to:

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

and

Tom Haberle, Waste Section Manager Texas Commission on Environmental Quality 14250 Judson Rd. San Antonio, Texas 78233-4480

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

- 4. If Econo Lube fails 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, Econo Lube's failure to comply is not a violation of this Agreed Order. Econo Lube shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. Econo Lube shall notify the Executive Director within seven days after Econo Lube becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
- 5. 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 Econo Lube shall be made in writing to the Executive Director. Extensions are not effective until Econo Lube receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
- 6. This Agreed Order, issued by the Commission, shall not be admissible against Econo Lube 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.
- 7. 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.
- 8. Under 30 Tex. Admin. Code § 70.10(b) and Tex. Gov't. Code § 2001.142, the effective date of this Agreed Order is the date of hand-delivery of the Order to Econo Lube, or three days after the date on which the Commission mails notice of the Order to Econo Lube, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

For the Commission

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

I, the undersigned, have read and understand the attached Agreed Order. I represent that 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 Econo Lube N' Tune, Inc.'s failure to timely pay the penalty amount, may result in:		
	 A negative impact on Econo Lube N' Tune, Inc.'s compliance history; Greater scrutiny of any permit applications submitted by Econo Lube N' Tune, Inc.; 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 Econo Lube N' Tune, Inc.; Automatic referral to the Attorney General's Office of any future enforcement actions against Econo Lube N' Tune, Inc.; and TCEQ seeking other relief as authorized by law. 		
	In addition, I understand that any falsification of any compliance documents may result in criminal		
	Paul Paultu Bignature 3/3/07 Date		
	Signature Date Date Director Property Mgm + Title		
	Authorized representative of		
	Econo Lube N' Tune, Inc.		