

DOCKET NO.: 2005-0868-PST-E TCEQ ID: RN101435600 CASE NO.: 25456

RESPONDENT NAME: NAME INVESTMENT, INC. DBA HIGHWAY STOP

ORDER TYPE:		
<input type="checkbox"/> 1660 AGREED ORDER	<input type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING
<input checked="" type="checkbox"/> FINDINGS DEFAULT ORDER	<input type="checkbox"/> SHUTDOWN ORDER	<input type="checkbox"/> IMMINENT AND SUBSTANTIAL 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: 11102 Interstate Highway 37, Corpus Christi, Nueces County</p> <p>TYPE OF OPERATION: Convenience store with retail sale of gasoline.</p> <p>SMALL BUSINESS: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>OTHER SIGNIFICANT MATTERS: There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.</p> <p>INTERESTED PARTIES: No one other than the ED and the Respondent has expressed an interest in this matter.</p> <p>COMMENTS RECEIVED: The <i>Texas Register</i> comment period expired on October 6, 2008. No comments were received.</p> <p>CONTACTS AND MAILING LIST: TCEQ Attorney: Ms. Jacquelyn Boutwell, Litigation Division, MC 175, (512) 239-5846 Ms. Lena Roberts, Litigation Division, MC 175, (512) 239-0019 TCEQ Enforcement Coordinator: Mr. Wallace Myers, Water Enforcement Section, MC 128, (512) 239-6580 TCEQ Regional Contact: Mr. Brad Genzer, Regional Waste Section Manager, MC R-14, (361) 825-3106 Respondent: Mr. Nadir Dhamani, President, Name Investment, Inc., 112 N. Ave. C., Gregory, Texas 78359 Respondent's Attorney: Not represented by counsel on this enforcement matter.</p>		

VIOLATION SUMMARY CHART:

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p>Type of Investigation: <input type="checkbox"/> Complaint <input checked="" type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input type="checkbox"/> Records Review</p> <p>Date of Complaint Relating to this Case: None</p> <p>Date of Investigation Relating to this Case: March 11, 2005</p> <p>Date of NOE Relating to this Case: April 21, 2005</p> <p>Background Facts: The EDPRP was filed on February 8, 2006. Both the certified and first class mail were returned. The EDPRP was refiled on May 7, 2008, when an alternate address became available. According to the return receipt "green card" the Respondent received notice of the EDPRP on May 12, 2008. There was no answer or hearing request in response to the EDPRP.</p> <p>Current Compliance Status: The Respondent no longer owns the Facility. The current owner has registered the USTs as "out of service."</p> <p>PST:</p> <p>1. Failed to provide a method, or a combination of methods, of release detection which were capable of detecting a release from any portion of the UST system which contains regulated substances including tanks, piping, and any other underground ancillary equipment [30 TEX. ADMIN. CODE § 334.50(a)(1)(A) and TEX. WATER CODE § 26.3475(a) and (c)(1)].</p> <p>2. Failed to conduct proper inventory control procedures [30 TEX. ADMIN. CODE § 334.48(c)].</p> <p>3. Failed to equip the UST system with proper overfill prevention equipment [30 TEX. ADMIN. CODE § 334.51(b)(2)(C) and TEX. WATER CODE § 26.3475(c)(2)].</p>	<p>Total Assessed: \$7,500</p> <p>Total Deferred: \$0 <input type="checkbox"/> Expedited Settlement <input type="checkbox"/> Financial Inability to Pay <input type="checkbox"/> SEP Conditional Offset</p> <p>Total Due to General Revenue: \$7,500</p> <p>This is a Default Order. The Respondent has not paid any of the assessed penalty and shall be required to pay the total amount due under the terms of this proposed Order.</p> <p>Site Compliance History Classification <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Person Compliance History Classification <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Major Source: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>Applicable Penalty Policy: September 2002</p>	<p>Technical Requirements: The Respondent no longer owns the Facility.</p>

Penalty Calculation Worksheet (PCW)
 Policy Revision 2 (September 2002) PCW Revision May 10, 2005



DATES Assigned
 PCW Screening EPA Due

RESPONDENT/FACILITY INFORMATION

Respondent
 Reg. Ent. Ref. No.
 Facility/Site Region Major/Minor Source

CASE INFORMATION

Enf./Case ID No. No. of Violations
 Docket No. Order Type
 Media Program(s) Inf. Coordinator
 Multi-Media EC's Team
 Admin. Penalty \$ Limit Minimum Maximum

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties) Subtotal 1

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History 0% Enhancement Subtotals 2, 3, & 7

Notes

Culpability No 0% Enhancement Subtotal 4

Notes

Good Faith Effort to Comply 0% Reduction Subtotal 5

	Before NOV	NOV to EDRP/Settlement Offer
Extraordinary	<input type="text"/>	<input type="text"/>
Ordinary	<input type="text"/>	<input type="text"/>
N/A	x	<i>(mark with a small x)</i>

Notes

Economic Benefit 0% Enhancement* Subtotal 6

Total EB Amounts *Capped at the Total EB \$ Amount
 Approx. Cost of Compliance

SUM OF SUBTOTALS 1-7 Final Subtotal

OTHER FACTORS AS JUSTICE MAY REQUIRE Adjustment

Reduces or enhances the Final Subtotal by the indicated percentage. (Enter number only; e.g. -30 for -30%.)

Notes

Final Penalty Amount

STATUTORY LIMIT ADJUSTMENT Final Assessed Penalty

DEFERRAL 0% Reduction Adjustment

Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes

PAYABLE PENALTY

Screening Date 09-May-2005

Docket No. 2005-0868-PST-E

PCW

Respondent Name Investment Inc. dba Highway Stop

Policy Revision 2 (September 2002)

Case ID No. 25456

PCW Revision May 10, 2005

Reg. Ent. Reference No. RN101435600

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Sandy VanCleave

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written NOVs with same or similar violations as those in the current enforcement action (number of NOVs meeting criteria)	0	0%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (number of judgements or consent decrees meeting criteria)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (number of counts)	0	0%
Emissions	Chronic excessive emissions events (number of events)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which notices were)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which violations were disclosed)	0	0%
<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) 0%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Average Performer

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance History Notes: No change due to average performer classification.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 0%

Screening Date 09-May-2005

Docket No. 2005-0868-PST-E

PCW

Respondent Name Investment Inc. dba Highway Stop

Policy Revision 2 (September 2002)

Case ID No. 25456

PCW Revision May 10, 2005

Reg. Ent. Reference No. RN101435600

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Sandy VanCleave

Violation Number 1

Primary Rule Cite(s) 30 Tex. Admin. Code § 334.50(a)(1)(A)

Secondary Rule Cite(s) Tex. Water Code § 26.3475(a) and (c)(1)

Violation Description Failed to provide a method, or combination of methods, of release detection which shall be capable of detecting a release from any portion of the underground storage tank ("UST") system which contains regulated substances including the tanks, piping, and other underground ancillary equipment.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

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

>> Programmatic Matrix

		Major	Moderate	Minor	
Falsification					Percent

Matrix Notes Human health or the environment will or could be exposed to significant amount of pollutants which would exceed levels that are protective to human health or the environment.

Adjustment -\$7,500

Base Penalty Subtotal \$2,500

Violation Events

Number of Violation Events 1

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

Violation Base Penalty \$2,500

One quarterly event is recommended for the time frame from the date of the investigation, March 11, 2005, to the date of screening, May 9, 2005.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$11

Violation Final Penalty Total \$2,500

This violation Final Assessed Penalty (adjusted for limits) \$2,500

Economic Benefit Worksheet

Respondent Name Investment Inc. dba Highway Stop

Case ID No. 25456

Reg. Ent. Reference No. RN101435600

Media [Statute] Petroleum Storage Tank

Violation No. 1

Percent Interest 5.0
Years of Depreciation 15

Item Description	Item Cost No commas or \$	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Delayed Costs							
Equipment	\$500	11-Mar-2005	01-Jul-2005	0.3	\$1	\$10	\$11
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 a method of release detection for the UST system. Date required is date of investigation. Final date is the date the Facility began to use statistical inventory reconciliation as the method of inventory control.

Item Description	ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)	Yrs	Interest Saved	Onetime Costs	EB Amount
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

TOTAL

Screening Date 09-May-2005

Docket No. 2005-0868-PST-E

PCW

Respondent Name Investment Inc. dba Highway Stop

Policy Revision 2 (September 2002)

Case ID No. 25456

PCW Revision May 10, 2005

Reg. Ent. Reference No. RN101435600

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Sandy VanCleave

Violation Number

Primary Rule Cite(s)

Secondary Rule Cite(s)

Violation Description

Base Penalty

>> Environmental, Property and Human Health Matrix

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

>> Programmatic Matrix

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

Matrix Notes

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 checked="" type="checkbox"/>
	semiannual	<input type="text"/>
	annual	<input type="text"/>
single event		<input type="text"/>

Violation Base Penalty

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 Name Investment Inc. dba Highway Stop
 Case ID No. 25456
 Reg. Ent. Reference No. RN101435600
 Media [Statute] Petroleum Storage Tank
 Violation No. 2

Percent Interest 5.0
 Years of Depreciation 15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Delayed Costs							
Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs

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

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)	\$500	11-Mar-2005	08-Jun-2005	1.0	\$25	\$500	\$525

Notes for AVOIDED costs

Estimated cost for conducting proper inventory control procedures. Date required is date of investigation. Final date is the date the Respondent submitted inventory control records to show compliance.

Approx. Cost of Compliance

TOTAL

Screening Date 09-May-2005

Docket No. 2005-0868-PST-E

PCW

Respondent Name Investment Inc. dba Highway Stop

Policy Revision 2 (September 2002)

Case ID No. 25456

PCW Revision May 10, 2005

Reg. Ent. Reference No. RN101435600

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Sandy VanCleave

Violation Number

Primary Rule Cite(s)

Secondary Rule Cite(s)

Violation Description

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="25%"/>
	Potential	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	

>> Programmatic Matrix

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

Matrix Notes

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 checked="" type="checkbox"/>
	semiannual	<input type="text"/>
	annual	<input type="text"/>
	single event	<input type="text"/>

Violation Base Penalty

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 Name Investment Inc. dba Highway Stop
 Case ID No. 25456
 Reg. Ent. Reference No. RN101435600
 Media [Statute] 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
Delayed Costs							
Equipment	\$5,000	11-Mar-2005	30-Jun-2006	1.3	\$22	\$435	\$456
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 proper overfill prevention equipment for the underground storage tank system. Date required based on the investigation date. Final date based on the projected compliance date.

Item Description	ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)	Yrs	Interest Saved	Onetime Costs	EB Amount
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 **\$456**

Compliance History

Customer/Respondent/Owner-Operator: CN601681463 Name Investment, Inc. Classification: AVERAGE Rating: 3.010
Regulated Entity: RN101435600 HIGHWAY STOP Classification: AVERAGE Site Rating: 3.01
ID Number(s): PETROLEUM STORAGE TANK REGISTRATION 15841
REGISTRATION
Location: 11102 IH 37 Access, Corpus Christi, Nueces County, TX Rating Date: 9/1/04 Repeat Violator: NO
TCEQ Region: REGION 14 - CORPUS CHRISTI
Date Compliance History Prepared: August 12, 2005
Agency Decision Requiring Compliance History: Enforcement
Compliance Period: August 12, 2000 to August 12, 2005
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History
Name: Sandy VanCleave Phone: (512) 239-0667

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? Name Investment Inc.
4. If Yes, who was/were the prior owner(s)? Corner City Stop
5. When did the change(s) in ownership occur? 03/03/2003

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 06/15/2005 (395372)
2 04/25/2005 (373856)

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

N/A

- F. Environmental audits.

N/A

- G. Type of environmental management systems (EMSs).

N/A

- H. Voluntary on-site compliance assessment dates.

N/A

- I. Participation in a voluntary pollution reduction program.

N/A

J. Early compliance.

N/A

Sites Outside of Texas

N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
NAME INVESTMENT, INC. DBA
HIGHWAY STOP;
RN101435600**

§
§
§
§
§

**BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY**

DEFAULT ORDER

DOCKET NO. 2005-0868-PST-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 and the rules of the TCEQ, which requests appropriate relief, including the imposition of an administrative penalty. The respondent made the subject of this Order is Name Investment, Inc. dba Highway Stop ("Name Investment").

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

FINDINGS OF FACT

1. Name Investment owned and operated a convenience store with retail sales of gasoline, located at 11102 Interstate Highway 37 in Corpus Christi, Nueces County, Texas (the "Facility").
2. The USTs at the Facility contained regulated substances as defined in the Commission's rules. The USTs are not exempt or excluded from regulation under the Texas Water Code or the rules of the Commission.
3. During an investigation conducted on March 11, 2005, an investigator from the TCEQ Corpus Christi Regional Office documented that Name Investment:
 - a. Failed to provide a method, or a combination of methods, of release detection which were capable of detecting a release from any portion of the UST system which contains regulated substances including tanks, piping, and any other underground ancillary equipment;

- b. Failed to conduct proper inventory control procedures; and
 - c. Failed to equip the UST system with proper overfill prevention equipment.
4. Name Investment received notice of the violations on or about April 30, 2005.
 5. The Executive Director recognizes that Name Investment no longer owns the facility as of August 10, 2006, and the USTs are listed as temporarily removed from service in accordance with 30 TEX. ADMIN. CODE § 334.54.
 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 Name Investment, Inc. dba Highway Stop" (the "EDPRP") in the TCEQ Chief Clerk's office on May 7, 2008.
 7. By letter dated May 7, 2008, sent via certified mail, return receipt requested, and via first class mail, postage prepaid, the Executive Director served Name Investment with notice of the EDPRP. According to the return receipt "green card," Name Investment received notice of the EDPRP on May 12, 2008, as evidenced by the signature on the card.
 8. More than 20 days have elapsed since Name Investment received notice of the EDPRP, provided by the Executive Director. Name Investment failed to file an Answer to the EDPRP, 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 Name Investment's USTs are subject to the jurisdiction of the TCEQ pursuant to TEX. WATER CODE chs. 7 and 26, and the rules of the Commission.
2. As evidenced by Finding of Fact Number 3.a., Name Investment violated 30 TEX. ADMIN. CODE § 334.50(a)(1)(A) and TEX. WATER CODE § 26.3475(a) and (c)(1), by failing to provide a method, or a combination of methods, of release detection which were capable of detecting a release from any portion of the UST system which contains regulated substances including tanks, piping, and any other underground ancillary equipment.

3. As evidenced by Finding of Fact Number 3.b., Name Investment violated 30 TEX. ADMIN. CODE § 334.48(c), by failing to conduct proper inventory control procedures.
4. As evidenced by Finding of Fact Number 3.c., Name Investment violated 30 TEX. ADMIN. CODE § 334.51(b)(2)(C) and TEX. WATER CODE § 26.3475(c)(2), by failing to equip the UST system with proper overflow prevention equipment.
5. As evidenced by Finding of Fact Nos. 6 and 7, the Executive Director has timely served Name Investment with proper notice of the EDPRP, as required by TEX. WATER CODE § 7.055 and 30 TEX. ADMIN. CODE § 70.104(a).
6. As evidenced by Finding of Fact No. 8, Name Investment has failed to file a timely answer to the EDPRP, 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 Name Investment 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 Name Investment for violations of the Texas Water 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 seven thousand five hundred dollars (\$7,500.00) 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, BE IT ORDERED BY THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY that:

1. Name Investment is assessed an administrative penalty in the amount of seven thousand five hundred dollars (\$7,500.00) for violations of state statutes and rules of the TCEQ. The

payment of this administrative penalty and Name Investment's compliance with all the terms and conditions set forth in this Order completely resolve only 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: Name Investment, Inc. dba Highway Stop; Docket No. 2005-0868-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. All relief not expressly granted in this Order is denied.
3. The provisions of this Order shall apply to and be binding upon Name Investment.
4. The Executive Director may refer this matter to the Office of the Attorney General of the State of Texas for further enforcement proceedings without notice to Name Investment if the Executive Director determines that Name Investment is noncompliant with or in violation of any of the terms and conditions set forth in this Order.
5. This Order shall terminate five years from its effective date or when Name Investment demonstrates to the satisfaction of the Executive Director that it has corrected all of the violations noted herein.
6. The Chief Clerk shall provide a copy of this Order to each of the parties. By law, the effective date of this Order is the date this decision was rendered, pursuant to TEX. GOV'T CODE § 2001.144.

Name Investment, Inc. dba Highway Stop
TCEQ Docket No. 2005-0868-PST
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SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

AFFIDAVIT OF JACQUELYN BOUTWELL

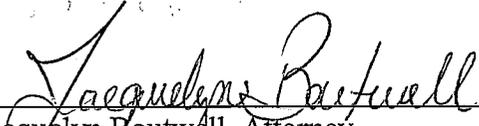
STATE OF TEXAS §
 §
COUNTY OF TRAVIS §

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

On behalf of the Executive Director of the Texas Commission on Environmental Quality, the “Executive Director’s Preliminary Report and Petition Recommending that the Texas Commission on Environmental Quality Enter an Enforcement Order Assessing an Administrative Penalty Against and Requiring Certain Actions of Name Investment, Inc. dba Highway Stop” (the “EDPRP”) was filed with the Office of the Chief Clerk on May 7, 2008.

The EDPRP was mailed to Name Investment at its last known address on May 7, 2008, via certified mail, return receipt requested, and via first class mail, postage prepaid. According to the return receipt “green card,” Name Investment received notice of the EDPRP on May 12, 2008, as evidenced by the signature on the card.

More than 20 days have elapsed since Name Investment received notice of the EDPRP. Name Investment failed to file an answer to the EDPRP, failed to request a hearing, and failed to schedule a settlement conference.



Jacquelyn Boutwell, Attorney
Texas Commission on Environmental Quality

Before me, the undersigned authority, on this day personally appeared Jacquelyn Boutwell, 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 31ST day of OCTOBER, A.D., 2008.



Notary Signature

