

**EXECUTIVE SUMMARY - ENFORCEMENT MATTER**  
**DOCKET NO.: 2006-0925-PST-E TCEQ ID: RN101490936 CASE NO.: 30060**  
**RESPONDENT NAME: BLUFF SPRINGS FOOD MART, INC.**  
**DBA BLUFF SPRINGS FOOD MART NO. 2**

<b>ORDER TYPE:</b>		
<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	

<b>CASE TYPE:</b>		
<input type="checkbox"/> AIR	<input type="checkbox"/> MULTI-MEDIA (check all that apply)	<input type="checkbox"/> INDUSTRIAL 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

**SITE WHERE VIOLATION(S) OCCURRED:** 10810 North Lamar, Austin, Travis County

**TYPE OF OPERATION:** Convenience store with retail sales of gasoline

**SMALL BUSINESS:**  Yes  No

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

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

**COMMENTS RECEIVED:** The *Texas Register* comment period expired on December 8, 2008. No comments were received.

**CONTACTS AND MAILING LIST:**

**TCEQ Attorney:** Ms. Laurencia Fasoyiro, Litigation Division, MC R-12, (713) 422-8914  
 Ms. Lena Roberts, Litigation Division, MC 175, (512) 239-0019

**TCEQ Enforcement Coordinator:** Ms. Cheryl Thompson, Waste Enforcement Section, MC R-4, (817) 588-5886

**TCEQ Regional Contact:** Mr. Barry Kalda, Austin Regional Office, MC R-11, (512) 339-2929

**Respondent:** Mr. Tariq Majeed, President and Director, Bluff Springs Food Mart, Inc., 7612 Bluff Springs Road, Austin, TX 78744

**Respondent's Attorney:** Respondent not represented by counsel.

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p><b>Type of Investigation:</b></p> <p><input type="checkbox"/> Complaint  <input checked="" type="checkbox"/> Routine  <input type="checkbox"/> Enforcement Follow-up  <input type="checkbox"/> Records Review</p> <p><b>Date of Complaint Relating to this Case:</b> None</p> <p><b>Date of Investigation Relating to this Case:</b> May 12, 2006</p> <p><b>Date of NOE Relating to this Case:</b> June 22, 2006</p> <p><b>Background Facts:</b> The EDP RP was filed and mailed to the Respondent at its last known address on February 26, 2007, via certified mail, return receipt requested, and via first class mail, postage prepaid. According to the return receipt "green card", Respondent received notice of the EDP RP on February 27, 2007, as evidenced by the signature on the card.</p> <p>Respondent failed to file an answer to the EDP RP, failed to request a hearing, and failed to schedule a settlement conference.</p> <p><b>Current Compliance Status:</b> The Respondent ceased ownership and operation of the Facility since August 27, 2007.</p> <p><b>PST:</b></p> <p>1. Failed to demonstrate 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 underground storage tanks (USTs) [30 TEX. ADMIN. CODE § 37.815 (a) and (b)].</p> <p>2. Failed to test the line leak detectors at least once per year for performance and operational reliability and failed to reconcile inventory control records on a monthly basis [30 TEX. ADMIN. CODE § 334.50(b)(2)(A)(i)(III) and (d)(1)(B)(ii) and TEX. WATER CODE § 26.3475(a)].</p>	<p><b>Total Assessed:</b> \$4,500</p> <p><b>Total Deferred:</b> \$0</p> <p><input type="checkbox"/> Expedited Order  <input type="checkbox"/> Financial Inability to Pay  <input type="checkbox"/> SEP Conditional Offset</p> <p><b>Total Due to General Revenue:</b> \$4,500</p> <p>This is a Default Order. The Respondent has not actually paid any of the assessed penalty but will be required to do so under the terms of this Order.</p> <p><b>Site Compliance History Classification</b>  <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p><b>Person Compliance History Classification</b>  <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p><b>Major Source:</b> <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p><b>Applicable Penalty Policy:</b> September 1, 2002</p>	<p><b>Ordering Provisions:</b> The Executive Director does not recommend any ordering provisions because the Respondent no longer owns or operates the Facility.</p>



# Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision May 19, 2005

<b>DATES</b>	Assigned	26-Jun-2006	Screening	29-Jun-2006	EPA Due	
	PCW	01-Oct-2006				

<b>RESPONDENT/FACILITY INFORMATION</b>	
Respondent	Bluff Springs Food Mart, Inc. dba Bluff Springs Food Mart No. 2
Reg. Ent. Ref. No.	RN101490936
Facility/Site Region	11-Austin <
Major/Minor Source	Minor Source <

<b>CASE INFORMATION</b>			
Enf./Case ID No.	30060	No. of Violations	2
Docket No.	2006-0925-PST-E	Order Type	1660 <
Media Program(s)	Petroleum Storage Tank <	Enf. Coordinator	Cheryl Thompson
Multi-Media		EC's Team	Enforcement Team 4 <
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$10,000

## Penalty Calculation Section

**TOTAL BASE PENALTY (Sum of violation base penalties)** Subtotal 1 \$4,500

**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 \$0

Notes No previous enforcement actions within the last five years.

**Culpability** No <| 0% Enhancement Subtotal 4 \$0

Notes The respondent does not meet the culpability criteria.

**Good Faith Effort to Comply** 0% Reduction Subtotal 5 \$0

Before NOV    NOV to EDPRP/Settlement Offer

Extraordinary		
Ordinary		
N/A	X	(mark with a small x)

Notes The respondent does not meet the good faith criteria.

**Economic Benefit** 0% Enhancement\* Subtotal 6 \$0

\*Capped at the Total EB \$ Amount

Total EB Amounts	\$1,425
Approx. Cost of Compliance	\$2,800

**SUM OF SUBTOTALS 1-7** Final Subtotal \$4,500

**OTHER FACTORS AS JUSTICE MAY REQUIRE**  Adjustment \$0

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

Notes

**Final Penalty Amount** \$4,500

**STATUTORY LIMIT ADJUSTMENT** Final Assessed Penalty \$4,500

**DEFERRAL**  Reduction Adjustment \$0

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

Notes Deferral is not recommended due to settlement termination.

**PAYABLE PENALTY** \$4,500

**Screening Date** 29-Jun-2006 **Docket No.** 2006-0925-PST-E **PCW**  
**Respondent** Bluff Springs Food Mart, Inc. dba Bluff Springs Food Mart No. 2 *Policy Revision 2 (September 2002)*  
**Case ID No.** 30060 *PCW Revision May 19, 2005*  
**Reg. Ent. Reference No.** RN101490936  
**Media [Statute]** Petroleum Storage Tank  
**Enf. Coordinator** Cheryl Thompson

**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 ( <i>number of NOVs meeting criteria</i> )	0	0%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability ( <i>number of orders meeting criteria</i> )	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 ( <i>number of judgements or consent decrees meeting criteria</i> )	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 ( <i>number of counts</i> )	0	0%
Emissions	Chronic excessive emissions events ( <i>number of events</i> )	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 ( <i>number of audits for which notices were</i>	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 ( <i>number of audits for which violations were disclosed</i> )	0	0%
Other	<i>Please Enter Yes or No</i>		
	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**

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

Screening Date 29-Jun-2006

Docket No. 2006-0925-PST-E

PCW

Respondent Bluff Springs Food Mart, Inc. dba Bluff Springs Food Mart No. 2 Policy Revision 2 (September 2002)

Case ID No. 30060

PCW Revision May 19, 2005

Reg. Ent. Reference No. RN101490936

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Cheryl Thompson

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"/>
Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>	

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
<input type="text"/>	<input checked="" type="checkbox"/>	<input type="text"/>	<input type="text"/>	<input type="text" value="10%"/>

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

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 Bluff Springs Food Mart, Inc. dba Bluff Springs Food Mart No. 2  
 Case ID No. 30060  
 Reg. Ent. Reference No. RN101490936  
 Media [Statute] 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
<b>Delayed Costs</b>							
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

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**Avoided Costs**

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

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)	\$1,300	12-May-2005	12-May-2006	1.0	\$65	\$1,300	\$1,365

Notes for AVOIDED costs

Estimated cost to provide financial assurance for the petroleum USTs for the 12 months preceding the date of the record review.
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Approx. Cost of Compliance \$1,300

TOTAL \$1,365

Screening Date 29-Jun-2006

Docket No. 2006-0925-PST-E

PCW

Respondent Bluff Springs Food Mart, Inc. dba Bluff Springs Food Mart No. 2 Policy Revision 2 (September 2002)

Case ID No. 30060

PCW Revision May 19, 2005

Reg. Ent. Reference No. RN101490936

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Cheryl Thompson

Violation Number

Primary Rule Cite(s)

Secondary Rule Cite(s)

Violation Description

Failed to test the line leak detectors at least once per year for performance and operational reliability and failed to reconcile inventory control records on a monthly basis which are sufficiently accurate to detect a release which equals or exceeds the sum 1% of flow through plus 130 gallons.

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

Estimated EB Amount

Statutory Limit Test

Violation Final Penalty Total

This violation Final Assessed Penalty (adjusted for limits)

### Economic Benefit Worksheet

Respondent Bluff Springs Food Mart, Inc. dba Bluff Springs Food Mart No. 2

Case ID No. 30060

Reg. Ent. Reference No. RN101490936

Media [Statute] Petroleum Storage Tank

Violation No. 2

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
<b>Delayed Costs</b>							
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)	\$1,500	12-May-2006	28-Feb-2007	0.8	\$60	n/a	\$60

Notes for DELAYED costs: Estimated cost to conduct inventory volume measurements and to reconcile inventory control records. Estimated cost to have the line leak detectors tested. Date required is date of inspection and final date is projected date of compliance.

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
<b>Avoided Costs</b>							
ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)							
Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs:

Approx. Cost of Compliance **\$1,500** TOTAL **\$60**

# Compliance History Report

Customer/Respondent/Owner-Operator: CN600779698 BLUFF SPRINGS FOOD MART, INC. Classification: Rating:  
Regulated Entity: RN101490936 BLUFF SPRINGS FOOD MART No. 2 Classification: Average by Site Rating  
by default  
ID Number(s): PETROLEUM STORAGE TANK REGISTRATION 45723  
REGISTRATION  
Location: 10810 N LAMAR BLVD, AUSTIN, TX, 78753 Rating Date: 9/1/2008 Repeat Violator: NC  
TCEQ Region: REGION 11 - AUSTIN  
Date Compliance History Prepared: October 31, 2008  
Agency Decision Requiring Compliance History: Enforcement  
Compliance Period: June 29, 2001 to June 29, 2006  
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History  
Name: Cheryl Thompson Phone: (817) 588-5886

## Site Compliance History Components

1. Has the site been in existence and/or operation for the full five year compliance period? Yes
2. Has there been a (known) change in ownership of the site during the compliance period? No
3. If Yes, who is the current owner? N/A
4. If Yes, who was/were the prior owner(s)? N/A
5. When did the change(s) in ownership occur? N/A

## Components (Multimedia) for the Site :

- A. Final Enforcement Orders, court judgements, and consent decrees of the state of Texas and the federal government.  
N/A
  - B. Any criminal convictions of the state of Texas and the federal government.  
N/A
  - C. Chronic excessive emissions events.  
N/A
  - D. The approval dates of investigations. (CCEDS Inv. Track. No.)  
1 06/22/2006 (464402)
  - 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  
BLUFF SPRINGS FOOD MART,  
INC. DBA BLUFF SPRINGS FOOD  
MART NO. 2;  
RN101490936

§  
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BEFORE THE  
TEXAS COMMISSION ON  
ENVIRONMENTAL QUALITY

**DEFAULT ORDER**  
**DOCKET NO. 2006-0925-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 Bluff Springs Food Mart, Inc. dba Bluff Springs Food Mart No. 2 ("Bluff Springs").

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

**FINDINGS OF FACT**

1. Bluff Springs owned and operated a convenience store with retail sales of gasoline at 10810 North Lamar in Austin, Travis County, Texas (the "Facility").
2. Bluff Spring's underground storage tanks ("USTs") are not exempt or excluded from regulation under the Texas Water Code or the rules of the Commission. Bluff Spring's USTs contain a regulated petroleum substance as defined in the rules of the Commission.
3. During an inspection conducted on May 12, 2006, a TCEQ Austin Regional Office investigator documented that Bluff Springs:
  - a. Failed to demonstrate 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; and
  - b. Failed to test the line leak detectors at least once per year for performance and operational reliability and failed to reconcile inventory control records on a monthly basis which are sufficiently accurate to detect a release which equals or exceeds the sum 1% of flow through plus 130 gallons.

4. Bluff Springs received notice of the violations on or about June 27, 2006.
5. The Executive Director recognizes that Bluff Springs ceased ownership and operation of the Facility on August 27, 2007.
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 Bluff Springs Food Mart, Inc. dba Bluff Springs Food Mart No. 2" (the "EDPRP") in the TCEQ Chief Clerk's office on February 26, 2007.
7. By letter dated February 26, 2007, sent via certified mail, return receipt requested, and via first class mail, postage prepaid, the Executive Director served Bluff Springs with notice of the EDPRP. According to the return receipt "green card", Bluff Springs received notice of the EDPRP on February 27, 2007, as evidenced by the signature on the card.
8. More than 20 days have elapsed since Bluff Springs received notice of the EDPRP, provided by the Executive Director. Bluff Springs 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, Bluff Springs is subject to the jurisdiction of the TCEQ pursuant to TEX. WATER CODE chs. 7 and 26 and the rules of the Commission.
2. As evidenced by Finding of Fact No. 3.a., Bluff Springs failed to demonstrate 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 violation of 30 TEX. ADMIN. CODE § 37.815(a) and (b).
3. As evidenced by Finding of Fact No. 3.b., Bluff Springs failed to test the line leak detectors at least once per year for performance and operational reliability and failed to reconcile inventory control records on a monthly basis which are sufficiently accurate to detect a release which equals or exceeds the sum 1% of flow through plus 130 gallons, in violation of 30 TEX. ADMIN. CODE § 334.50(b)(2)(A)(i)(III) and (d)(1)(B)(ii) and TEX. WATER CODE § 26.3475(a).

4. As evidenced by Finding of Fact Nos. 6 and 7, the Executive Director has timely served Bluff Springs with proper notice of the EDPRP, as required by TEX. WATER CODE § 7.055 and 30 TEX. ADMIN. CODE § 70.104(a).
5. As evidenced by Finding of Fact No. 8, Bluff Springs 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 Bluff Springs and assess the penalty recommended by the Executive Director.
6. Pursuant to TEX. WATER CODE § 7.051, the Commission has the authority to assess an administrative penalty against Bluff Springs for violations of the Texas Water Code and the Texas Health and Safety Code within the Commission's jurisdiction; for violations of rules adopted under such statutes; or for violations of orders or permits issued under such statutes.
7. An administrative penalty in the amount of four thousand five hundred dollars (\$4,500.00) is justified by the facts recited in this Order, and considered in light of the factors set forth in TEX. WATER CODE § 7.053.
8. TEX. WATER CODE §§ 5.102 and 7.002 authorize the Commission to issue orders and make determinations necessary to effectuate the purposes of the statutes within its jurisdiction.

### ORDERING PROVISIONS

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

1. Bluff Springs is assessed an administrative penalty in the amount of four thousand five hundred dollars (\$4,500.00) for violations of TEX. WATER CODE chs. 7 and 26 and rules of the TCEQ. The payment of this administrative penalty and Bluff Springs' compliance with all the terms and conditions set forth in this Order completely resolve the matters set forth by this Order in this action. The Commission shall not be constrained in any manner from requiring corrective actions or penalties for other violations which are not raised here. All checks submitted to pay the penalty imposed by this Order shall be made out to the "Texas Commission on Environmental Quality". The administrative penalty assessed by this Order shall be paid within 30 days after the effective date of this Order and shall be sent with the notation "Re: Bluff Springs Food Mart, Inc. dba Bluff Springs Food Mart No. 2; Docket No. 2006-0925-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 Bluff Springs. Bluff Springs is ordered to give notice of this Order to personnel who maintain day-to-day control over the Facility operations referenced in this Order.
4. If Bluff Springs fails to comply with any of the Ordering Provisions in this Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, Bluff Springs' failure to comply is not a violation of this Order. Bluff Springs shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. Bluff Springs shall notify the Executive Director within seven days after Bluff Springs 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 Order or in any plan, report, or other document submitted pursuant to this Order, upon a written and substantiated showing of good cause. All requests for extensions by Bluff Springs shall be made in writing to the Executive Director. Extensions are not effective until Bluff Springs receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
6. The Executive Director may refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings without notice to Bluff Springs if the Executive Director determines that Bluff Springs has not complied with one or more of the terms or conditions in this Order.
7. This Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Order, whichever is later.
8. The Chief Clerk shall provide a copy of this Order to each of the parties. By law, the effective date of this Order shall be the date the Order is final, as provided by 30 TEX. ADMIN. CODE § 70.106(d) and TEX. GOV'T CODE § 2001.144.

**SIGNATURE PAGE**

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

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For the Commission

**AFFIDAVIT OF LAURENCIA N. FASOYIRO**

STATE OF TEXAS           §  
  §  
COUNTY OF HARRIS       §

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

On behalf of the Executive Director of the Texas Commission on Environmental Quality, I filed the “Executive Director’s Preliminary Report and Petition Recommending that the Texas Commission on Environmental Quality Enter an Enforcement Order Assessing an Administrative Penalty Against and Requiring Certain Actions of Bluff Springs Food Mart, Inc. dba Bluff Springs Food Mart No. 2” (the “EDPRP”) with the Office of the Chief Clerk on February 26, 2007.

I sent the EDPRP to Bluff Springs at its last known address on February 26, 2007 via certified mail, return receipt requested, and via first class mail, postage prepaid. According to the return receipt “green card”, Bluff Springs received notice of the EDPRP on February 27, 2007, as evidenced by the signature on the card.

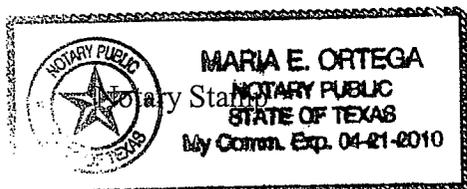
More than 20 days have elapsed since Bluff Springs received notice of the EDPRP. Bluff Springs failed to file an answer to the EDPRP, failed to request a hearing, and failed to schedule a settlement conference”.



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Laurencia N. Fasoyiro  
Attorney  
Texas Commission on Environmental Quality

Before me, the undersigned authority, on this day personally appeared Laurencia N. Fasoyiro, 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 17 day of Oct, A.D., 2008.



\_\_\_\_\_  
Notary Signature